

The Shelton Planning and Zoning Commission held a special meeting on March 23, 2012 at 7:00 p.m., Auditorium, 54 Hill Street, Shelton, CT. The Chairman reserved the right to take items out of sequence.

Commissioners Present: Chairperson Ruth Parkins (via Skype)
Commissioner Joan Flannery
Commissioner Virginia Harger
Commissioner Elaine Matto
Commissioner Thomas McGorty
Commissioner Anthony Pogoda
Commissioner Nancy Dickal (alternate)
Commissioner Josh Kopac (alternate/arrived 7:02 p.m.)

Staff Present: Richard Schultz, P&Z Administrator
Anthony Panico, Consultant (via phone)
Patricia Garguilo, Court Stenographer
Karin Tuke, Recording Secretary

Tapes (2), correspondence and attachments on file in the City/Town Clerk's Office and the Planning and Zoning Office and on the City of Shelton Website www.cityofshelton.org

CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL

Mr. Schultz informed Chairperson Parkins (via Skype from Washington D.C.) that six Commission members were present, Anthony Panico was present on the telephone, and they were ready to begin the meeting.

Chairperson Ruth Parkins (via Skype) called the special meeting to order at 7:01 p.m. with the Pledge of Allegiance and a roll call of members. She explained that she was conducting the meeting via Skype from Washington D.C.

Commissioner Kopac arrived at 7:02 p.m.

Chair Parkins reviewed the procedures for a public hearing and indicated that tonight's meeting would be a continuation of the public hearing from March 13, 2012.

APPLICATION #12-01 PETITION OF STEVEN BELLIS ON BEHALF OF SHELPET, LLC FOR MODIFICATION OF STATEMENT OF USES AND STANDARDS AND BASIC DEVELOPMENT PLANS FOR PDD #2 (SHELTON SQUARE SHOPPING CENTER: FREE-STANDING AUTOMOBILE FUELING FACILITY WITH CANOPY), 900 BRIDGEPORT AVENUE, (MAP 9, LOT 15) – CONTINUED FROM 3/13/12 MEETING

Mr. Schultz indicated that there was no new correspondence.

Chair Parkins asked if there were any questions or comments from the Commissioners at this time before opening the hearing to the public.

Comm. Flannery asked for clarification about the time it will take for people to pump gas with the ten pumps. She recalled the discussion and thinks it would take longer.

Atty. Steven Bellis, representing the applicant, Shelpet, LLC addressed the Commission. Atty. Bellis indicated that he was going to do a rebuttal portion now and answer the questions that the Commission had. He asked if the Commission had concluded the public portion before he does his rebuttal.

Mr. Schultz responded that the rebuttal should be last.

Comm. Matto stated that she had a comment and added that they may be going over it tonight. She indicated that she had a question about the site plan for the gas station and added that she was familiar with a couple of other typical operations at other Stop & Shop stores and Costco. She commented that at those locations, you can drive into them and kind of scan the whole area to see what is going on before entering. Depending upon how much traffic there is you can determine if you want to go in. She indicated that she wasn't sure, with the layout, landscaping for this site, and the narrow approach, if it would result in being in a queue and being unable to get out of it.

Atty. Bellis responded that he was going to go over that. He added that he was not avoiding either one of the commissioner's questions. He commented that when the engineer explains it with his diagrams, it will be easier for him to articulate a response than without a drawing. He promised that he would be answering both of their questions.

Chair Parkins commented that this public hearing is really for the modification for the Statement of Uses and not for approving the detailed design at this time. There is still time, if this is approved, for them to come back with a detailed design and it can be discussed at that time. She added that she wanted to clarify that this public hearing is just for the Statement of Uses.

Atty. Bellis asked if anyone was going to comment from the public or if he should go forward with his rebuttal.

Bruce Scull, 37 Independence Drive, Shelton addressed the Commission. Mr. Scull commented that Atty. Bellis just said that they would be (inaudible due to technical difficulties)

Due to technical difficulties with audio and visual transmission on Skype, Comm. Flannery suggested that Vice Chairman Tony Pogoda conduct the meeting tonight.

Mr. Scull stated that he resided in Shelton and commented that Atty. Bellis just stated that he would be presenting information, possibly new diagrams. Mr. Scull asked if it would be different from what was presented at the last meeting because he would like to see that before he makes his presentation. He asked if there had been any changes made since the last meeting.

Atty. Bellis commented that he would be giving a rebuttal so he would only be rebutting comments made.

Mr. Scull indicated that Atty. Bellis stated that he wanted to present something but if he's rebutting than he must be rebutting with something that is different from what was presented in the original application.

Atty. Bellis responded to Mr. Scull that he could not engage in a dialogue with him because he can only address the Commission.

Comm. Harger asked Mr. Scull, since he claimed he had something to present, who he was representing.

Mr. Scull responded that he owns the Gulf Station in Huntington Center. He is not a traffic engineer but he is an expert about traffic in and out of a gas station. He has an analysis that he's done for the Commission to look at the numbers presented to them previously to see if they make sense. He doesn't think that they make sense but they are already challenging the presentation from last time. He asked again if they have something different than what was presented previously.

Chair Parkins asked Mr. Scull to address the Commission and not the audience.

Comm. Pogoda responded that he is but he is trying to speak to both ends.

Mr. Scull restated that if there is information that is different from what was presented at the last meeting, he thinks they need to hear that before he presents his information.

Chair Parkins asked if there was anyone else in the audience that would like to address the Commission on this application.

Charles D. Smith, 671 Aspen Lane, Orange, CT and a property owner on Bridgeport Avenue and other locations in Shelton addressed the Commission. He recalled that the Commission kept the public hearing open last time because he wanted to conduct an independent traffic study. Mr. Smith indicated that he tried diligently and contacted nine traffic engineers. Four of them have conflict with Stop & Shop so they could not do it; three others do not do opposition work; one was in a bad accident and unable to work; one other was in Florida and wanted to wait until the spring. He added that none of those options were going to work and all of the studies would take 4 to 6 weeks. It is a more involved process than he originally realized; however, he appreciates the courtesy that the Commission afforded him. He apologized for not being able to get that done.

Mr. Smith indicated that he did have one thing that he would like to present. He commented last time that he is a Certified Public Accountant and that this application had a negative tax impact on the City of Shelton. He added that he didn't want to just say that without being able to support it. Mr. Smith stated that some people may be familiar with property taxes, assessment forms for businesses that get filed with the City and that's how the taxes are determined and how to collect, etc.

Mr. Smith stated that he had copies for everyone on the Commission, if he is allowed to hand them out. Mr. Schultz distributed copies to the Commission members.

Mr. Smith indicated that he knows that the Chair can't see these documents at the present time and he apologized for not having a flip chart. He commented that he went to the Assessor's Office, and the second page is the field card for the property in question at 900 Bridgeport Avenue. He stated that it reflects the Landon Building for every year from 2000 to 2011. He scheduled that out based upon the value on the field card, based upon the 70% assessment that it is assessed at multiplied by the mil rate. He indicated that he used the constant mil rate of what it currently is, 18.57 just so that he would be comparing apples to apples.

Mr. Smith stated that when you do that calculation for the period 2000 – 2011 it is \$181,680.52 that the City of Shelton would collect on this property. He added that is what would have happened. He did not take into consideration any equipment that would have been in the Chamber of Commerce offices or the bank building. Maybe it would have been in the neighborhood of \$100K but he didn't have that information so he didn't bring it into his calculations. He added that he determined that if the land and the building are there, it is \$181,000 and change.

Mr. Smith referenced the last page of the hand-out and commented that based completely on the field card – all factual, no assumptions – he did the land piece because it specifies that on the field card. He stated that again, at the 70% of assessment and at an 18.57 mil rate constant, that comes out to \$68,000 for the land over that period of 2000 to 2011. Mr. Smith stated that the variable piece is what the gas station equipment – not the demolition of the building, not the paving or concrete – but what is the equipment that would be listed on the assessment report that is presented. The cost of the project - and not in a disparaging manner to the folks at Stop & Shop - would be done by professionals because this is a big corporation. They are going to put the equipment that is actual equipment on the assessment form.

Mr. Smith commented that the main premise of his discussion is that, in looking at the field card, they will see that the real estate appreciates from where it was in 2000. Every five years there is revaluation and typically, it goes up, except for the last few years of recession that they've had; whereas, the equipment is always depreciating. He did his best to determine the costs if they take the building down and put in the gas station pumps, canopy and kiosk there. He does these for other gas stations and those numbers

are usually in the \$150K range of equipment. Because this is going to be brand new, and he's sure that they are going to do it in a first class manner, he went online to get prices and came up with \$275K worth of equipment. He increased that to \$350K because he's sure that there are things that he did not think of or take into consideration.

Mr. Smith referenced the information on the third page of the hand-out labeled "New Gas Station Equipment." He put \$350K as the value of the equipment. The depreciation factors seen there are exactly as they are on every assessment form in every town in the State of Connecticut. This one happens to be right off of the City of Shelton's form. He applied the depreciation for each year as it would be – and as they can see, it decreases each year. He pointed out the net value, the 70% assessment, the assessed value, the mil rate and the property tax. Mr. Smith indicated that this gas station equipment, valued at \$350K would generate about \$29K in taxes over the life of it. If they add that to the \$68K that they get for the land, it would be \$96K - \$97K over that time versus \$181K on the land and building – not even considering any equipment that would be in that building.

Mr. Smith concluded that they can see that it is a rather a significant shortfall for the City of Shelton that this application would present in tax revenue. He added that the City of Shelton happens to have a great mil rate and it is better shape than most communities but given school budgets, etc. there is a lot of pressure on cities and towns to maintain their tax revenue.

Mr. Smith speculated that maybe he was wrong about the \$350K for equipment. So, he indicated that he ran the numbers at \$450K, \$550K, all the way up to \$1M+ and he still couldn't get it to break even. He might have to go a billion plus to break even – but he knows that they aren't putting a billion dollars worth of equipment there. It is a canopy, dispensers, tanks in the ground, a kiosk, etc. He thought the \$350K was generous. Every \$100,000 of equipment adds \$8,000 of tax revenue over the life of it so they have about a \$90,000 dollar difference. They would need to add in excess of \$1M to his \$350K estimate.

Mr. Smith commented that he realizes that is not what the Commission would base their total decision on – it is one factor. The other factors would be the revenue, the environment, the traffic, replacing office/professional jobs with kiosk jobs, and boxing themselves into a corner and not having the ability for future development that might be in the best interests for the City. Mr. Smith concluded his comments and added that he appreciated the Commission affording him the opportunity to speak and thanked them.

Chair Parkins thanked Mr. Smith.

Mr. Smith offered to answer any questions they may have about his calculations or numbers.

Comm. Matto asked about the figure over \$1M in relation to the equipment so this \$350K (inaudible due to technical difficulties). She commented that it seemed that there was a much higher figure mentioned last time they were here. She asked how many gas pumps that \$350,000 would apply to. She asked how many pumps there would be – eight.

Mr. Schultz responded ten.

Comm. Matto asked if that amount would be for those ten pumps.

Mr. Smith responded that the number for the canopy and the ten pumps would be about \$140,000. Those are the numbers that he got online. He added that he tripled it because he was trying – in his number here – because there is also concrete, paving, and some other stuff that wouldn't be on their equipment but he wanted to present what he believed to be fair.

Mr. Smith added that Bruce Scull just handed him something. He indicated that last week Atty. Bellis represented \$1.5M. He didn't know if Atty. Bellis was saying that was just equipment or if it included other costs such as permits that won't end up on property

tax rolls. He added that there is also the demolition of the existing building which wouldn't be on the property tax rolls and there's excavation. There are a lot of things that are part of the cost of the project to Stop & Shop but the City of Shelton will not collect property taxes on that for the next 10 or 11 years. He thanked the Commission again.

Chair Parkins referenced that she was able to hear quite clearly when speakers use the microphone. She requested that anyone asking questions or making comments to please use the microphone. She asked if there was anyone else in the audience who would like to speak regarding this proposal.

Irving Steiner, 23 Partridge Lane, Shelton addressed the Commission. Mr. Steiner stated that this Commission received a letter from John Troutman, Ecological Consultant and got his opinion on the tentative application. He asked if this was still tentative or is it now an official application.

Mr. Schultz responded that it is a conceptual application.

Mr. Steiner indicated that when it becomes an official application...

Mr. Schultz clarified that it is an application but it is conceptual in nature. If the Commission approves this Step #1, then detailed plans will have to be submitted for another action by the Commission. It is an official application.

Mr. Steiner commented that this Ecological Consultant who does represent us – he picked up on his letter that the Commission has in their possession and it refers to the application of Best Management Practices required if this installation should be accepted, which they are against. In any event, it's fully detailed in his letter under the second paragraph but he's not going to read it. It is in the Commission's possession.

Comm. Flannery asked Mr. Steiner to read it because she doesn't recall seeing it.

Mr. Steiner stated that the letter he has is official. They have it in their documents. He referenced the Best Management Practices, and added that if this is accepted, he feels they have to be applied to this installation.

Comm. Flannery indicated that she had not seen it.

Chair Parkins asked Mr. Steiner if he was submitting a letter on behalf of John Troutman.

Mr. Steiner responded that it was read at the previous meeting and he has a copy of it. It mentions Best Management Practices and it is detailed in two items underneath the second paragraph. He indicated that was all he had to say and he thanked the Commission.

Comm. Flannery asked if it was ever read into the record.

Mr. Schultz responded it was read into the record verbatim at the opening of the hearing.

Bruce Scull, 37 Independence Drive, Shelton addressed the Commission. Mr. Scull stated that he previously asked if the opposing group had any additional information to present that was new prior to tonight's meeting. He added that he did not get a response.

Comm. Pogoda asked Mr. Scull to address the Commission and speak into the microphone.

Mr. Scull asked again if there would be any additional information presented that they have not been made aware of.

Chair Parkins responded not that she is aware of.

Mr. Scull stated that he would take her response as a "no." He continued to say that he came to this meeting two weeks ago and as he mentioned, he owns the Gulf Station in

Huntington Center. He came here because he was curious as to what was going on with this proposal to put a high volume, discount gas station in the shopping center next to Stop & Shop. He stated that he listened to this proposal and the traffic numbers that these people presented to the Commission didn't make sense to him and he's owned a gas station for six years now.

Mr. Scull indicated that he has been to many of these places. He's been to many Stop & Shop stations, Costco stations, and BJ stations and when he goes there, he sees a lot of traffic. The numbers that they are presenting do not seem to correlate with what he sees when he goes to these stations. The volumes seem to be much higher. He indicated that he had something that he would like to hand out to all the Commissioners. He also put up a presentation board with the same information as the hand out.

Mr. Scull showed what the applicant had presented to the Commission with the traffic survey that says that during their peak traffic hours that would have 69 cars per hour. He asked if everyone saw that on the first page of the chart. He commented that this is from the Institute of Transportation Engineers (ITE) and he showed the average that they use for all gas stations with 10 hoses. It does not take into account that these stations are high volume, discount gas stations like Stop & Shop, Costco and BJ's. He indicated that a regular gas station like a Cumberland Farms, a Gulf Station, a Mobil or an Exxon would be different. In today's environment with \$4.00/gallon gasoline, if you have a discount of even just 10¢, then the volumes are going to be dramatically different. Mr. Scull commented that this was a high volume station that is being presented to them. Also, the part where he underlined, where they say that they have no weekend numbers, he added that they don't know what is going to happen on the weekends, so they took the weekday numbers and transposed them to the weekend numbers. He asked them to remember that point.

Mr. Scull commented that they say that the peak hours are the p.m. hours and Saturday. He asked what p.m. meant – would it be 4:00 or 5:00 p.m. or 7:00 p.m. and Saturdays – it is what it is, but that is what they are saying.

Mr. Scull referenced his hand-out which includes pictures he took last Sunday between 12 p.m. and 2:00 p.m. on a Sunday afternoon – not during the week, or on a Saturday. Everyone of these sites was filled and they were stacked two, three, four, and five cars on a Sunday afternoon. This was not mentioned in the traffic survey that they received. Mr. Scull commented that they are making a lot of assumptions on the numbers they presented to the Commission. They're goal is to make their numbers look lower because they know that the Commission has an issue with the traffic coming in and out of this station.

Mr. Scull stated that all of these stations are what he would call at 100% at capacity. Every fueling position is filled and every – and there are 2 to 4 cars stacked – that's 100% capacity as far as he's concerned. He asked what that means to them for the station that they are asking the Commission to approve in Shelton.

Mr. Scull indicated that if they use the assumption that the average fill-up is five minutes which they said at the last meeting, that would be 12 cars an hour per hose times 10 hoses. That is 120 cars per hour that would fill up. Based on the numbers that they showed on a traffic survey, they said that their capacity is 58 cars per hour at the peak. The number he said was 69 cars an hour but the Commission knows based upon the numbers that he's showing, it is 120. They would like the Commission to think that the volumes are going to be low but in actuality – and he referenced his photos taken on a Sunday afternoon – it is going to be packed.

Mr. Scull referenced his next chart showing the site and he added that he's taken their drawings and he stacked cars in their drawing. He commented that his concern is that once cars stack two or three an hour, for whatever reason, they are now stacking cars into the access ways. They have two access roads that they need to be aware of – the crossroad from Stop & Shop and the access road from Bridgeport Avenue. He indicated that there are two reasons why this would happen. The first would be that when people pull into a gas station, they will stop wherever they feel like it. They aren't going to fill

in perfect stacks. They say that there are ten and they'll fill ten but they'll fill into the first or second pump that they go into. He asked them to trust him on this because he watches it happen every day. So, once two people pull in, they back it up. There is not enough room to stack it. If there were 3 or 4 or 5, maybe that's their (inaudible) – there is not enough room here to stack it.

Mr. Scull referenced the picture that he provided for Stop & Shop in Ansonia. He pointed out a car on the right side of the photo which was waiting to pull into the pumps. He indicated that was the access road out of the shopping center. It is not part of the pumping facility. It is the access road; so, the way that this Stop & Shop gas station was designed – and approved by their Zoning – they can stack one car deep and then they will flow over into the access road. He added that would block the access road by that person waiting to get into the gas pumps.

Mr. Scull indicated that his second example was the Stop & Shop in Milford. He pointed out the pump on the left in the photo and added that there was one person pumping gas. He commented that one of the Commissioners had asked about the hoses that extend around the cars.

Comm. Flannery responded yes, that was her question.

Mr. Scull stated that it is a great idea. He has it in his station but nobody uses it. People will pull in based upon where the pump meets up with the side of their car. So in this example, there is one car pumping gas and directly next to it, there are two other cars waiting - so stacking is not a science. It is going to be different all the time so they are going to have a lot of people stacking. He commented that here in Shelton they don't have a lot of road to do that.

Mr. Scull indicated that he had one last comment. He mentioned that in the minutes from the last meeting, the traffic engineer for Stop & Shop said there would be a tanker coming in every two or three days. He commented that says that their volumes are going to run from 29 to 4400 gallons a day. He added that those numbers don't make sense. Mr. Scull referenced the numbers that he just showed them and asked if this station that they are asking to have approved operates for just three hours at 100% capacity, they will pump 3600 gallons. He asked them how many tankers a day do they think are really going to roll through that station.

Mr. Scull commented that he wanted to be absolutely clear here that Stop & Shop wants the Commission to change the zoning in this shopping center to allow a high volume, discount gasoline station to be constructed on that site. It appears to him that they cannot support the traffic in that location. He thanked the Commission.

Chair Parkins asked if Mr. Scull could please leave his display boards that he brought for the public, so she and Staff could review it.

Mr. Scull indicated that he would leave them here.

Mr. Schultz commented to the Chair that concludes the comments.

Chair Parkins responded OK and indicated that she would appreciate him leaving those presentation boards and the paperwork as well that she will review. She added that she seems to have lost video capability but still has the audio. She asked if there was anyone else from the audience that would like to speak regarding this proposal.

Mr. Schultz responded yes, and he would work on getting the video back up.

Nancy Steiner, 23 Partridge Lane, Shelton addressed the Commission. Mrs. Steiner commented that it is quite a good thing that they had a tax guy – a tax expert to come and talk about the tax situation so the Commission has all that to (inaudible...)

Chair Parkins indicated that she was having technical difficulties in hearing the speaker.

Mrs. Steiner continued in a louder voice that it was good that they had a tax expert who is familiar with gas station finances and taxes to provide important figures about tax revenue for Shelton to collect. She commended that speaker for doing that.

Mrs. Steiner commented that having a gas station owner here who talked about traffic and asked, if he doesn't know about it, then who else does? She added that the photos were helpful and they are something else for P&Z to bite and chew on. She thinks that is great. Mrs. Steiner commented that they also have Mr. John Troutman who the Commission knows from other applications. He respects Mr. Troutman's observations and she recommended that they pay careful attention to everything that he has to say.

Mrs. Steiner stated that, as they all know, when they have a conceptual application going on; it ends up, in her opinion, taking on a life of its own if it is approved. She reiterated that it takes on a life of its own and it makes it a short step to the actual approval. She commented that the Commission has been here longer than her but some of them haven't been because there was a time when she was here for every single meeting every month so she had a wonderful opportunity to observe and she knows that these conceptual approvals do take on a life of their own and it is a short step to approval many times.

Mrs. Steiner commented that Planning & Zoning by State Statute has the right to regulate natural resources such as watercourses. She added that Mr. Troutman did discuss the water. The Commission has to protect the water and she understands that when there is a first rain on that fuel pad, and if it rains one inch per hour, there is certain size tank or galley that has to accept this run-off. The run-off is not just from gasoline drops but other things that will be on that fuel pad and they have to be sure that there are enough galleys for that fuel pad to accept one inch of rain per hour.

Mrs. Steiner stated that they have to take into account if there is an acute spill where there would be gallons and gallons of gasoline – and, as they know, that does happen and that's life. There could be an acute spill and there is also the chronic discharge. She recalled the last time she filled up her gas tank, a few drops fell and she was upset from her penny-saving point of view – so it can happen no matter how careful you try to be. She indicated that her major concern is of the water being tainted by the fuel. She wants to make sure that if the Commission endorses this gas station on a conceptual level that her recommendation would be to deny it unless the conditions - the highest standard best practices - are included in the conceptual plan. This application, even though it is conceptual, she recalls quite a few remarks about the beautiful shrubs – and she loves shrubs so she's happy to hear about it – but there was really no discussion about topography, catch basins or any technical stuff. She commented that she supposes that would be included more in the next application if this is approved. She strongly recommended that the Commissioners pay attention to making sure that if Shelpet puts this gas station in, that they put enough galleys in and make it safe for the land around there because there are nearby watercourses that can be affected. This is not a little thing; it is a big thing.

Mrs. Steiner commented that as Mr. Pavlucik stated at the last meeting, they already have twelve gas stations in Shelton. Sometimes to save money, she will go to the Stop & Shop in Milford or the Stop & Shelton in Ansonia – if her purchases get to a point of saving her some money. She added that she is always sorry that she ends up going there because it is always a jungle – and she's retired so she doesn't have to go on the weekends. She goes there during the week and during the week these discount places are crowded then as well. She thanked the Commission for listening. She applauded the Commission for trying to be technically up-to-date on everything by doing this, but she commented that she thinks it needs a lot more work.

Chair Parkins asked for clarification as to Mrs. Steiner's last comment.

Mrs. Steiner responded that every journey begins with a single step and she considers this to be their first step in this technical journey. She applauds that they are trying to do this but as an observer, and since this is a really important application; she'd prefer that Chair Parkins and Mr. Panico were here. She thanked the Commission again.

Chair Parkins stated that all of the comments are on tape which will be listened to as well as being transcribed. She asked Rick about the status of the video.

Mr. Schultz responded that he's been working on it but it is a signal strength issue.

Chair Parkins asked if there were any other members of the public who would like to speak on this application.

Mr. Schultz indicated that the Steve Bellis was ready to give his rebuttal.

Comm. Flannery asked if that means that they're closing the public portion.

Atty. Bellis responded that it doesn't close until he gives his rebuttal.

Chair Parkins asked Atty. Bellis to speak clearly into the microphone.

Atty. Stephen Bellis, on behalf of the Applicant, Shelpet, LLC addressed the Commission.

Mr. Scull, from the audience, asked if the information that was just put up was new and if it was presented at the last meeting.

Atty. Bellis asked the Commission to please ask this gentleman to sit down.

Comm. Pogoda informed Mr. Scull that Atty. Bellis could not answer him. All questions are to be directed to the Commission.

Atty. Bellis stated for the record that this was the rebuttal portion of his application. He commented that he thinks, for the record, that Mr. Scull makes it clear that he represents the interests of a competitor, which is the Gulf Station. He stated that he thought some of the other speakers were not as forthright as Mr. Scull, so he appreciates him coming right out and saying that. Atty. Bellis indicated that some of the other speakers had interests in some of the other gas stations in town. With that being said, he wanted to begin his remarks by reminding the Commission about a pretty important case in zoning law called Daughters vs. St. Paul. It is an appellate court case that basically says that conclusions by lay persons, without supporting expert evidence, are not a sufficient reason to deny a permit. He asked the Commission to keep that in mind and added that everyone has a right to speak; everyone has a right to their opinions. He has no problem with that but they are deciding if something meets their zoning regulations and that is when they have to rely on whether the expert evidence that is submitted meets with the zoning regulations.

Atty. Bellis commented that there was talk about there being 12 gas stations in town. He took a two mile radius from the proposed site and showed this on an aerial photograph. He commented that basically within two miles there is one gas station – the BP on Old Stratford Road. There are a couple of gas stations right at the two mile area – AJ's Auto near Sikorsky with a Mobil and Sunoco. He added that the Gulf Station belonging to Mr. Scull is obviously just outside of two miles in Huntington Center. He stated that within that two mile radius and in drawing a circle around the whole proposed site, there is only one gas station. He indicated that he was bringing this up because

Comm. Flannery asked why he made it two miles and why he didn't make it three miles.

Atty. Bellis responded that the reason he did that was because he is relying on some facts. Some of the facts are that there are 40,000 people that live in Shelton but there are also 18,000 to 20,000 people that commute to Shelton and work in Shelton. He checked with the STC on that and with the Mayor's Office and Rick could probably even confirm the 18,000 to 20,000 commuters that come in to Shelton.

Mr. Schultz commented yes, that is an approximate.

Atty. Bellis continued that those people come into Shelton and a majority of them work in the Bridgeport Avenue corridor. There are not going to go to Stratford or Milford to get their gas. He indicated that the reason he was saying that is because a lot of them are coming up Route 8, if they are from lower Fairfield County and they are going to get off at Exit 11 and turn right onto Bridgeport Avenue – that's where the Stop & Shop is located. No one is going to go all the way down – if they work at the Scinto Towers or work on the Bridgeport Avenue corridor – they aren't going to drive that far away from the workplace. Atty. Bellis stated that they have an obligation not only to the citizens of this town for convenience but also for the commuters that come into town.

Atty. Bellis commented about why this would be a benefit to the town. He indicated that Stop & Shop has a program where they do give a reduction, up to \$2.20/gallon, if you shop at Stop & Shop and that is a benefit to the town and the people that live and work here. He stated that was the reason why he did a two mile radius.

Comm. Flannery indicated that the only reason she was asking is because they are just a smidgen away from two Gulf stations that she uses. There is a Exxon Station up there and a Gulf Station by AJ's Auto. He has AJ's Auto there but he doesn't show the Gulf Station next door which is the one that she uses.

Atty. Bellis responded that there are gas stations and they are listed. He is just giving representative examples of what is approximately two miles; it was just an arbitrary limit.

Comm. Flannery stated that there is also the other Gulf Station which used to be an Exxon that is right there... She commented that he's saying that there is only one but there are actually about five in that area.

Atty. Bellis responded no, there is only one within two miles of there.

Comm. Flannery stated that there are about five within 2 1/8th of a mile – that is her point.

Atty. Bellis responded OK, if you go outside two miles, yes there are other ones and he pointed those out. He wasn't trying to deceive anyone.

Comm. Flannery indicated that she sees it as trying to deceive the public because it is just a smidgen over two miles because there are four other gas stations there which she uses.

Atty. Bellis responded that he wasn't trying to deceive anyone.

Comm. Flannery added that she lives in that area.

Atty. Bellis commented that he is talking about people who are coming up to work in the Bridgeport Avenue corridor.

Comm. Flannery stated yes, that is where she lives.

Atty. Bellis stated that it is a matter of semantics...

Chair Parkins stated that they should let the applicant finish with his summary rather than getting into a debate with him – that might be helpful.

Atty. Bellis continued that there is a need for a gas station in that area and that is what he is trying to point out. He wanted to talk a little bit about some of the points that had been made and he introduced John Plante who is with Langan Engineering which is the same engineering firm that they had before. He indicated that John will address some of the concerns that they had with the storm drainage in case of a spill and he'll discuss the traffic flow. He asked John to put up his presentation charts and he gave him the microphone.

8:30 p.m. End of Tape 1A

John Plante, Professional Engineer and Traffic Engineer with Langan Engineering and Environmental Services, New Haven, CT addressed the Commission. Mr. Plante stated that they have worked with Stop & Shop on this program from its infancy. They were the company that developed the one up the street in Seymour, CT which was one of the first facilities in the state. He indicated that he wanted to start with some answers to some of the questions from the last meeting and mix in some of the comments just made tonight.

Mr. Plante stated that first of all, to clarify watersheds, there was a discussion that this site was in the watersheds of the Trap Falls Reservoir and the Beaver Dam Lake. He showed a graphic and pointed out a purple line to depict a break in the watershed and the location of their site. He explained that the water from that site drains to the Far Mill River and then to the Housatonic; therefore, it is not within the watershed of the reservoirs.

Mr. Plante showed another graphic which was an enlargement of the Shopping Center. He pointed out the location of the proposed site for the fueling facility and he showed the various drainage systems which have been developed as part of the Bridgeport Avenue corridor. Mr. Plante noted a blue area on the graphic depicting the detention ponds at the various centers and the connectivity of those detention ponds with these orange lines, or pipes, that show the interconnectivity on both sides of Bridgeport Avenue of the drainage systems. He explained that water really comes from one end of the watershed and works its way across the street towards the shopping center, back across the street to Shop Rite, along Bridgeport Avenue and back across. Mr. Plante indicated that all this area goes through a detention pond on this property adjacent to Route 8 and then through a culvert under Route 8. He stated that there is a significant amount of drainage features and added that he was showing this to show them which way it drains. It does not drain towards the reservoirs.

Mr. Plante commented that there had also been some discussion about Best Management Practices being used. Stop & Shop is in full agreement with that approach. Stop & Shop actually develops these fueling facilities in several states and they apply the standards from each state, which are different; they aren't all the same. They apply the standards and add those up cumulatively into their facilities. So their facilities in every state have features that aren't even required in the State such as safety features and environmental protections.

Mr. Plante showed another presentation board with a bulleted list of the safety features that are incorporated into this design. He stated that they realize that this isn't the detailed design process and hopefully, they will get into that at the next stage. However, it is a multi-tiered system that isn't found at existing gas stations in the marketplace. They take it very seriously – water quality, protection from spills, spill prevention, spill reaction, etc. Mr. Plante indicated that if they have any questions on that, he can get into a little more detail about it. He concluded that Stop & Shop firmly support and believe, encourage and incorporate into their design best management practices for storm water quality and environmental protection.

Mr. Plante stated that the next discussion was traffic. He showed an aerial graphic of the site. He indicated that a trip generation comparison was presented to the Commission and as it was pointed out, the industry standard is the use of ITE traffic engineering standards accepted by the DOT for trip generation. Mr. Plante stated that what they saw was a comparison of what the existing facility was, which was a bank and office, versus a 10-pump fueling facility. He indicated that just by the raw numbers from the ITE, the existing facility generates slightly more traffic than the proposed fueling facility.

Mr. Plante indicated that they have actually done some counts. They recently did some counts up in Waterbury at an existing facility and those counts, unlike the numbers in the supposition that was presented, those counts support that ITE data. It is roughly about the same. Of course, every facility is different. They are averages, as was pointed out, and there are some that are dependent upon location such as Milford. Milford is on Route #1 which is a slightly higher trip generation because of the pass-bys. But one thing to remember which was missed by the previous presentation on traffic is that these trip

generation numbers and the cars that are seen there – although the DOT does not allow them to take credit for it, and when they do a traffic study relating to it they don't take credit for it - so what they do is accommodate what they feel is a conservative number. Mr. Plante indicated that a very significant percentage of the vehicles using these facilities are already there. They are supermarket customers and they are already in the center. They aren't new trips to the area and even in the pictures that they saw – and even though two of those pictures were discount wholesalers – which are a very different dynamic than a public gas station that this would be.

Mr. Plante indicated that this isn't a discount gas station. The pricing is not discounted except for customers of the supermarket that get a 10¢ credit for every \$100 they spend in the supermarket. It is those people that are already there, shop for their food, have their points, and drive over to the fuel station. They are already in the center and they don't have to go back out to Bridgeport Avenue, pull in for gas, and they leave just as they would if they had only gone to the supermarket. Mr. Plante stated that those numbers and the number of trips at the facility are a little distorted because those aren't new trips. In the gas stations, the State allows them to take a credit for pass-bys, which are people already on the road who pull in (i.e., people going by a gas station, already driving there, already on the road, work down the street, heading home). The State only allows them to take a 10% credit for that, which is low even based upon ITE Standards; but the State only allows 10% or 20% of the (inaudible) traffic of the road. They feel that the numbers that they present are...

Due to technical difficulties, asked the speaker to speak into the microphone.

Mr. Plante continued to say that they feel that these numbers are appropriate and there are two distinct things that they are talking about here. He said that they are talking about traffic, new traffic, the impact of traffic on this area which he thinks he just explained – just because there are cars at the fueling facility, it doesn't mean it is new traffic to the area. They found in this recent study, 25% of the people at the station come directly from the store which is right there, as well as people on the road who bypass the road and bypass the station to come in. Mr. Plante stated that they feel that these numbers are appropriate, but that is just from a traffic point of view. That can be accommodated and looked at and will be detailed in the next step.

Mr. Plante commented that then there is the traffic on the site, the queuing, the vehicles actually on the site, and how do move around and physically maneuver on the site. It is a different question; it is not a traffic question. It's an operational and design question. Mr. Plante stated that from a traffic point of view, they feel they have represented to the Commission what the true traffic aspect is. He reiterated that this isn't a discount store; it's not discounted like a BJ's. The pricing is the same; it is a discount for someone who has used another department – the supermarket.

Mr. Plante showed the proposed site plan and commented that there were some questions that came up about the operations of the facility. He indicated that this is the proposed plan that was presented last time showing one way circulation coming off the internal drive through the facility and then exiting out. He thinks that they explained why they were proposing it this way. It is purely for customer convenience. Customers coming off of Bridgeport Avenue or customers coming from the Supermarket – this is a more convenient location to come through and exit out through. It is their preferred approach. In this plan, they are significantly improving the landscaping. There is fairly minimal landscaping out there. Mr. Plante indicated that they were significantly increasing impervious area and that is another Best Management Practice - reducing pavement and coverage in this area. He stated that what they aren't doing is isolating this facility from visual corridors. He said that you will be able to drive through here and see if you want to or don't want to fuel your car at this location. It is not going to be isolated from any approaches to the facility; it will be visible. There will be significant improvements to the landscaping but it isn't buffered.

Mr. Plante stated that there was a point made at the last meeting about the buffering of the facility within the center from Bridgeport Avenue. This vegetated area here (he showed the area on the plan) is pretty thick and they are not planning on cutting any trees

down to make new corridors there. He thinks that was mentioned previously. He commented that again when preparing a facility on Route #1 in Milford versus one on Bridgeport Avenue within a shopping center, it is significantly different average daily trips running on those roads.

Mr. Plante showed a rendering of the facility and he thinks that there was a question about circulation and what they could do. First of all, he wanted to point out that Stop & Shop has over 100 of these facilities, and as they have grown in this program from the ones in Seymour and Ansonia, they have evolved how they operate, determined what does and does not work for their customers. Mr. Plante stated that what they are proposing here – and he can say that they wouldn't be proposing it if the person responsible for spending all this money and running wasn't pretty confident that it would work for them in development to operations. He commented that this rendering illustrates the queuing because there was some question and concern about how the queuing would work and if it would back up onto this internal driveway. He indicated that his graphic shows all 10 spaces occupied and 19 other cars waiting and getting into line. They are right, it does not always work perfectly. There is no one assigning spots to it but this allows for fully occupied, all pumps, as well as 19 other cars and still, without spilling over. Again, someone can always go around and avoid that. They feel that there are adequate spaces and also, these pumps, unlike some of the other stations which were discussed, there is space to go around somebody. So if someone is parked there but you want to leave and they are still filling up in the first parking space, there is enough space on every aisle adjacent to each pump to go around that car and move to another pump or exit the facility. Mr. Plante stated that these have been designed recognizing those circulation issues and that is what this illustrates. A significant amount of cars can be accommodated within the pad let alone within the Center without spilling out into Bridgeport Avenue. He thinks that is one thing that they can see on all of those pictures that were presented previously. They may be busy, but it is not a traffic issue; none of those show any spillover into the street that is impacting the ability for other circulation. He added that is what they are showing here - that they can accommodate a large number of people.

Mr. Plante stated that since the last meeting, they did those Waterbury counts. They also did the counts on how many vehicles were coming and how many were shared trips from the supermarket. They also timed the average time it took fill each car or an average for all the cars. It was more like three or four minutes. He thinks it was mentioned to be five minutes last time. It is right on that five minute or a little less. In no cases were there any observed issues with circulation or spill over of traffic at the Waterbury site. Mr. Plante stated that is the proposed site plan.

Mr. Plante provided another rendering in response to the request made to look at an alternate - flipping the facility. This shows just flipping the other way, allowing traffic to come in from the south and exit onto the internal driveway to the north. One other thing that he wanted to point out was that the plan that was shown by the opposition was an outdated plan. It wasn't a plan that was submitted and discussed at the last meeting.

Mr. Plante showed that this rendering shows the both the flipping of the facility, allowing people to come in here, which again would require customers coming off Bridgeport Avenue to come down in this way, or coming from the rest of the shopping center and coming around in here. He explained that it can be done but they don't think it is as convenient or necessary because it really doesn't change the configuration too much. He reiterated that it can be done though. He commented that one of the things that are shown in this plan was in response to the question if they can separate the truck from the fueling customers. He indicated that is what this drawing illustrates. They have done this at other locations by providing a pull-off for the truck outside the immediate pad of the facility. This shows the tank locations, where the truck pulls in and where the hoses pull over onto that. They have done that at other facilities so when they get into a detailed discussion that can be applied to either of the layouts.

Mr. Plante stated that in showing them the same kind of a queuing diagram, they can accommodate the same type and the same number of vehicles even if it was that busy.

There is adequate capacity and adequate room to accommodate a significant amount of vehicles.

Mr. Plante showed a photograph and stated that he wanted to show them a plan of Ansonia – an aerial view of the Ansonia facility and the New Haven facility. He pointed out the outline and locations of the canopy of the facility and the size of the area with three double-sided pumps for six fueling stations. He commented about the difference in the size of the footprint, particularly of the Ansonia one that was cited by an opposing speaker. He noted the difference in the footprint, in the evolution of the program allowing for more capacity, and more ability to circulate within the center. He wanted them to see that for a frame of reference.

Mr. Plante indicated that he wanted to provide some numbers to give some more facts to some of the discussion that had taken place earlier. He stated that on average, Stop & Shop expects a truck every second or third day on average for their facilities. Some facilities have more. He surmised that this facility might do one truck a day; if they estimated 60,000 gallons per week, one truck a day takes about 30 minutes for the truck to fuel. On average, his car takes 18 gallons but say 15 gallons for fill-up – at 60,000 gallons a week it would equate to 575 sales a day or 575 cars the whole day – if they did one tanker truck a day. Mr. Plante stated that those are the real numbers. Those are the numbers that put it in a little bit of perspective and he thinks, as they know, peak hours are usually – that's what they are, peak hours of use. The rest are spread out over the day. That is more of a realistic set of numbers to give them some perspective on what type of use is expected here.

Mr. Plante reiterated that this is not a discount – customers get price credits but as a public gas station – Stop & Shop has over 100 of these facilities and they've developed them. What they are seeing here is a high level of confidence that this works, not only for them but for the site. It is an appropriate use here and he thinks that they accommodate the use within this location and he thinks that he has addressed all the comments. He is available to answer any questions.

Atty. Bellis stated that he wanted to introduce Mr. Paul DuMont.

Comm. Pogoda stated that he has some questions for Mr. Plante.

Atty. Bellis responded OK, let's do that first.

Comm. Pogoda indicated that he had two questions. He commented that he may have heard it wrong and asked if Mr. Plante said that the existing facility which is a bank and offices was putting out more traffic than this gas station would put out.

Mr. Plante responded that based upon ITE Standards, the office and bank generates slightly more trips than ITE standards for a fueling facility, yes.

Comm. Pogoda stated that he seriously disagrees with him on that. He commented that he has been in this town long enough and he has been to that Stop & Shop often and to the shopping center often. He has watched that place and the bank that was there, even though he didn't avail himself to that bank. The Chamber of Commerce offices had really no traffic coming in or out of it and they were lucky if that bank had a car coming out of there every half hour. So for him say or ITE Standards to say, and he has no idea what they are and they may be applicable to some other facility, but they aren't applicable to this one as far as he's concerned. Comm. Pogoda indicated that he sees and he lives it on a daily basis.

Comm. Pogoda asked a second question if that was going to be one-way traffic on this one and the other one - as far as coming in or will somebody be able to come into that side drive and drive into the facility.

Mr. Plante responded that both alternatives are one-way traffic – that is what it shows. It could be two-way but they find that circulation pattern would work well for this location.

Comm. Pogoda responded that he didn't agree with that. Two-way would be an accident waiting to happen.

Mr. Plante responded to Comm. Pogoda's previous question and stated that he did not presume to say that's what amount of traffic was generated there before. He indicated that if they were to come in, if this was an undeveloped portion of the site, with an office and a bank of the same size that is there today, that is what they would be required to use for trip generation. He added that is all he was trying to do – give a comparison of apples to apples within the standard. They didn't do a traffic count here because that building is vacant so there was nothing to count. He indicated that they needed to compare it with something. This site has an STC certificate so when they talk to STC and the DOT that is the language they would have to use from a travel point. He doesn't presume to say that is exactly what is out here and he wanted to clarify that a little bit more and apologized. It is just a frame of reference. When they talk to STC about this project that is the language they will have to use with them, that's all.

Comm. Pogoda indicated that he had another question about Charlie Smith's facts and figures as far as the taxable property as it is now or as the fueling facility.

Atty. Bellis responded that the next gentleman to speak is going to address that. Mr. Plante is an engineer.

Comm. Matto stated that Mr. Plante made a point of saying that this was not a discount gas station like a BJ's or Costco but those are membership only clubs. She thinks he was trying to make the point that there would be less traffic because it is not discounted to the public. She asked if that was what he was trying to say as compared to Costco or a BJ's which is membership only facilities – and they are mobbed. Comm. Matto stated that she didn't understand what his point was there.

Mr. Plante responded that they are very different business models and they operate very differently. He indicated that he thinks that she can see that in the photographs that the opposition showed. The BJ's facilities have significantly more vehicles at them than seen at the Stop & Shop facilities. That is the nature of their business; that was all he was trying to say.

Comm. Matto indicated that when she looks at them, they are all pretty busy.

Comm. Flannery stated that she had a comment about BJ's. She has been there waiting for her gas and she feels that the peak is right after work. She indicated that the line will be up the street and around the corner at McDonald's waiting to get in there. She added that there will be 20 cars in front of her waiting to get in to BJ's – that's how bad it can get. Comm. Flannery stated that the peak is not Sunday afternoon but when people get out of work. She commented that even those pictures of Stop & Shop are mild compared to what it can be. Comm. Flannery indicated that when Wachovia, the bank that was there existed, that building had meetings upstairs twice a week and between the traffic from Burger King, Duchess, Shop Rite, Stop & Shop, and the delivery trucks, it was very, very, very congested. There was always a huge back-up of traffic because there is a traffic light at the Burger King intersection. Even now there is a lot of traffic. She commented that she doesn't know what they are going to do if they have all those cars from the gas pumps added to that traffic congestion.

Atty. Bellis asked if there were any other questions for Mr. Plante because he has another speaker.

Comm. Kopac indicated that he wanted to speak.

Mr. Schultz responded no, he can't because he's not sitting in.

Comm. Kopac asked to speak in the public portion then.

Comm. Flannery suggested he write her a note.

Mr. Schultz responded no you cannot do that.

Atty. Bellis asked if he could introduce his other speaker.

Mr. Schultz responded yes, do that.

Atty. Bellis introduced Paul DuMont who represents the owner of this piece of property.

Mr. Paul DuMont, representing the applicant, Shelpet LLC addressed the Commission. Mr. DuMont stated that he wanted to respond to a few of the comments that were raised during these proceedings by members of the community. He indicated that they've owned this property since June of last year. Prior to them taking title to this property, it was marketed for sale as a retail bank/office use unsuccessfully for approximately two years prior to them purchasing it. One of the major reasons for this is the obsolescence or the obsolete nature of the existing building. The building which was built in the early 1980's has no technological upgrades or window lines and can in no way be compared to the Class A office buildings that surround it.

Mr. DuMont stated that the current vacancy rate in the greater Shelton area office market is approximately 16%. There are two neighboring Class A office properties; one at 1000 Bridgeport Avenue and the other one on Armstrong Road. Each of these properties has a greater average vacancy than the market at 20% and 26%, respectively. Given this fact, he can't even imagine how long it would take to lease this building in its current form, if they could do it at all. The building is currently listed and was listed with a commercial listing service and, to date, they have not received one inquiry for office space. He reiterated that is since June of last year.

Mr. DuMont indicated that the few inquiries that they have received for a bank use were not interested due to the lack of visibility from Bridgeport Avenue due to the natural, woodland buffer that he's sure that the Commissioners would love to preserve. As a point of reference, Mr. Dumont indicated that the medical building at the other end of the property which was leased to St. Vincent's has been marketed for lease since 2007 with no takers.

Mr. DuMont commented on the matter of the assessed valuation of the prior office building versus the gas station facility. With all due respect to the gentleman who spoke earlier, he stated that he may be a CPA but he's not an assessor or an MIA appraiser. He had a discussion earlier with the Assessor regarding how the proposed facility would be valued. The town will derive a tax revenue from two separate streams from the proposed facility. Not unlike the current office building but independently two separate streams. One is from the real property assessment and the other is from personal property of the operator and the lease hold improvements. As for the real property portion of the revenue stream, the tax assessment, the Assessor will look mainly to the income generated by the land lease. Mr. Dumont stated that to think that by carving the land portion out of the prior assessment is not correct. They will need to – they will submit, of course, documenting the income and expense form to the Assessor and from their revenue, from the land lease, he will derive an income stream. Based upon an estimated capitalization rate that the Assessor quoted to him, it would appear that the new assessed value of the real property would be very close to the current bank assessment. It may differ slightly, but it is going to be very close.

Mr. DuMont indicated that with respect to the existing office building, they would argue that based on the rent – and again, they have tried to lease this for some time now – based on the rent that they think they could generate from that, they think it is over-assessed by about a third. With respect to the personal property tax portion which is paid by the operator, this would include things like the pumps, point of sale equipment, lease hold improvements. He stated that it is important that they understand that the lease hold improvements are everything that goes into that development. So, it is going to be the tanks, the canopy, the pumps, point of sale equipment, all of those things. Stop & Shop has told them that the facility, hard and soft, would cost probably \$1.5M. They think that the gentleman who spoke was correct probably when he said that the personal property portion of this is going to be around a million dollar range.

Mr. Dumont indicated that with that being said, it is fair to say that the town could see a revenue increase over the current use because everyone needs to remember that there is nobody paying property tax in there right now – the thing is vacant. Mr. Dumont thanked the Commission.

Comm. Pogoda asked if he could tell them what this new facility would generate in taxes as to what was being generated by the bank and offices at the time.

Mr. Dumont responded that he could only speak to the real portion of the property tax right now. Based on the current tax being paid on the property it is about \$16,500. He would estimate in the area of about \$14,000 would be paid for the real property portion of this property. Then they would need to take into account the \$1M worth of goodies that Stop & Shop is going to put into this thing. When those things are added together it is going to be, they think, greater than what is currently being received by the town.

Comm. Pogoda asked if the equipment that was going in there is going to be a million dollars. He added that he doesn't mean the construction portion. He's talking about the physical equipment going in. He asked if he was saying that it was going to cost \$1M.

Mr. Dumont responded that he really can't speak to that. He can only say that he was told that there is going to be around \$1.5M hard and soft, maybe a \$1M. The gentleman before eluded to a million dollars and it's not out of the realm of possibility - that is really all he can say about it.

Atty. Bellis stated that he thinks the key point on that is that you don't look at the land like they do residential land, they look at it from an income approach. So whatever money is generated there, that is how the Assessor calculates it. It is totally different from what they're accustomed to when they have just plain, old land.

Comm. Pogoda commented that they're assessing as far as what funds are generated.

Atty. Bellis responded yes.

Comm. Pogoda asked how they were going to do that. He asked if they are going to show the Assessor every single dollar taken in with each gallon of gas that is sold. He asked if that is what he was saying.

Mr. Dumont responded no, he can respond to that question. He commented that again, this particular facility is going to be structured as a land lease. They are going to charge a triple net sum to Stop & Shop for the use of their land. They will submit, as the owners, their income to the Assessor and he will develop, based on the income that they receive, an assessment for that piece of land.

Comm. Pogoda thanked Mr. Dumont.

Atty. Bellis indicated that he wanted to sum up the rebuttal. He reminded the Commission that this is just the initial concept – a modification of a PDD. There is an existing shopping center there. It has been there a long time. The shopping center is for the convenience of Shelton's residents whether they are shopping for food, clothing or gas, hopefully, at this particular gas station. It is not unreasonable to have a gas station here. If it were close to a residential area, and some other pre-existing gas stations in town are such as Mohegan Road and Huntington Center where there are residences. Atty. Bellis commented that this is a shopping center and people go to shopping centers to shop. They need gas. Absolutely, there are concerns that they can have with the directional flow of the traffic and they have presented two alternatives, but these are not locked in stone. This is an initial concept. He asked if it can work. Atty. Bellis stated that the answer is yes, it can work. It can keep 10 cars plus 19 others right on the pad. If done the other way, they might even have queuing without ever going on to Bridgeport Avenue. So, it does work. Atty. Bellis asked if a gas station needed there. He indicated that the answer is absolutely, yes. They have no gas station near Exit 11, there are people coming into town every day and people who live in that area that would like to be able to

use that gas station. It is a convenience. They have liquor stores in town. He asked if they needed liquor stores. A lot of people would say yes. They have a lot of them too.

Comm. Flannery added that they are at the max.

Atty. Bellis stated that you need gas stations and he can't think of a better place for a gas station than in a shopping center. It is already something that people are going to and using. He indicated that he understands that competitors are opposed to this but competition is good. It is good for us; it is not good for them. That is why they are so strenuously making this difficult for you. Atty. Bellis indicated that it was good for the town; it drives prices down. There is nothing wrong with having a gas station at Stop & Shop. He commented that he thinks that they will have a lot more input when they do their detailed development plans. Again, they have probably given more than they normally do at the initial concept plan, but that was because the Commission asked for it.

Atty. Bellis stated that he hopes they understand that all they're looking for now are the findings under 34.8 and if it is consistent with the intent PDD district. He stated that he thinks it is absolutely consistent. It is a shopping center and those people are going to shop for gas. He asked if the standards have been met and if they had been satisfied. He indicated that absolutely, they've been met. He asked if provisions would be taken with respect to sanitary water and sewage. Atty. Bellis indicated that they answer is yes, the Engineer said that they are going to use Best Management Practices. They will get into detail later when that comes up. Atty. Bellis asked if the proposal has an adverse impact on surrounding properties. He indicated no, it is a shopping center. It isn't near people's homes and it isn't going to adversely impact anything.

Atty. Bellis indicated that he doesn't understand why there is such resistance to this. Stop & Shop has been a great tenant for this town for years. This is PDD #2. Right now, they are into the #50's. They are asking for some other source of income to help that shopping center and it is also good for the town. Atty. Bellis indicated that he was really aghast as to why this is so difficult. he indicated that he would be glad to answer any questions that they have. Of course, there are going to be concerns and they have legitimate questions but those are addressed at the detailed development stage.

Comm. Flannery indicated that she was still confused. At one point, they said it was going to take six minutes for one person to go through to get gas and then tonight it was said that it would take three minutes to fuel up. She added that she thinks it is ten minutes, personally. She asked about people who may buy other things at the kiosk, like cigarettes.

Atty. Bellis responded no.

Comm. Flannery asked about gum, oil, washing fluid and the time it takes to pay with cash and things like that. She asked if they were still saying 94 cars at the peak. She commented that she's still confused by the numbers and she's curious about what happened to the other tenants. She knows that it is a recession and she asked why they can't just wait out the recession and get more tenants.

Atty. Bellis responded that she hit him with a lot of questions and he'll take them as best as he can remember them. He commented that the gentleman pointed out that there is a better office space, Class A space, not very far on either side of this building. When new tenants come, they are going to want the better space.

Comm. Flannery asked what better space.

Atty. Bellis responded that Class A space is better accommodations, higher rent, higher grade.

Comm. Flannery asked what buildings he was talking about.

Mr. DuMont responded that he spoke about two adjacent properties, a stone's throw from this facility. One is located at 1000 Bridgeport Avenue with a 20% vacancy and the other

is at Armstrong Park which has a 26% vacancy currently. They are both Class A properties. It is very difficult to compete with, really a Class B, even if they were to practically give it away.

Atty. Bellis commented that he also mentioned the St. Vincent's facility. It is right on the other side of the road. It has been vacant for 4 years. He can't say why people aren't going there – but they're not. So, now it is sitting there vacant and the building is deteriorating. A tenant that has been there since 1980, Stop & Shop, is asking for help. They want to have a Stop & Shop gas station because this particular facility is not working for them.

Atty. Bellis responded to the questions about time to fill up. He thinks they were just trying to give them some idea of how long it takes to fill up a car so they would have a rough idea of how long each car would be at that gas station before another car could pull out. They have all gotten gas. The big difference here is that they aren't going to a convenience store like on Old Stratford Road. There is no Dunkin' Donuts, there is no Subway, no convenience store to pick up milk. You are just getting your gas, filling up and leaving. He reiterated that he does not know exactly how long that takes.

Comm. Flannery commented that at BJ's it takes her 10 minutes.

Atty. Bellis responded that he really doesn't know how to comment on that. Some pumps are faster than others.

Comm. Kopac asked (inaudible)...

Mr. Schultz responded to Comm. Kopac that he couldn't talk because he's not a sitting member...

Comm. Flannery stated that Karen McGovern talked all the time.

Atty. Bellis stated that he didn't want to get into a feud. He knows that alternates are not supposed to comment. He apologized to Comm. Kopac...(inaudible)

Mr. Schultz reiterated to Comm. Kopac that if he isn't sitting in, he can't talk. He added that he was a regular member of the public.

Mr. Schultz informed Chair Parkins that there are two more comments from the public. He asked if she wanted to open that up.

Chair Parkins responded (inaudible)

Atty. Bellis stated that he would object to that. He indicated that this was a rebuttal and a rebuttal argument is the last word. He said that there should be no other discussions after the rebuttal, and that is by case law.

Chair Parkins commented that she recalled that at the first meeting that they indicated that if the Commission decides not to sell anything at that kiosk – the oil, wiper blades, or other things... She recalled that and asked if she was correct.

Atty. Bellis responded that there would be no convenience store. There is a kiosk where a gentleman sits to assist in accepting the cash.

Chair Parkins asked for clarification that it was strictly for payment.

Atty. Bellis responded yes, correct.

Comm. Flannery commented that there was going to be shelves out of washer fluid and stuff like that for sale too.

Mr. Plante, Langan Engineering, responded that their normal operations is to sell convenience items that are associated with the fueling facility – wiper fluid, oil, etc. in small kiosk. It is not a convenience store type thing; those are accessory sales.

Comm. Flannery responded that it would add another five minutes for that.

Comm. Matto commented that she wanted to answer Atty. Bellis's questions about why this may be so difficult, from her point of view. She stated that one thing is taking down, what is a perfectly good building, maybe it's not Class A, and that probably horrifies a lot of people, to put in a gas station. The other thing is that they have all seen these type of operations and they do tend to appear very crowded and chaotic.

Atty. Bellis responded that her point is well taken. He's not the owner of the property but apparently the owner feels that he can't make a living with office space in the condition the building is in now. He has to compete with better office spaces, better technology, better visibility from the road, and he can't do it. Atty. Bellis stated that he doesn't think that it is him – he thinks it is the market – that's why it is vacant. It isn't just his building that is vacant; the one on the other side of Stop & Shop has been vacant for four years. Atty. Bellis stated that he understands her concern that it is a bit unusual to tear down a building but if it is not serving its purpose, than what can they do?

Atty. Bellis added that they were all taken aback in Darien and New Canaan when they started ripping down people's houses to build other houses, but they were out of land and were forced to do it. Times have changed. This building is obsolete. It isn't to say that it is going to become a trend in their town but in this particular location, they are right next to a major shopping center. He understands her concern about that but that is why he has to say that it is not working.

Comm. Harger asked how it was determined that this would 10 pumps and not 8 or 6. She asked how they arrived at that number.

Atty. Bellis stated that was a good question that he'll have Mr. Plante answer.

Mr. Plante responded that it was arrived at – and this isn't his exact area of expertise – but, as he said, they have done over a 100 of these facilities. One of the reasons is to address the concerns that have been addressed tonight. The smooth operation of these facilities – more pumps allow for a smoother operating facility. Less pumps result in more queuing so that is one of the primary reasons. The other reason is understanding their market and also, understanding the size of the site. There is a reason that Seymour is the size that it is because there was only so much room.

Atty. Bellis asked if there were any more questions for them.

Mr. Schultz informed Chair Parkins that at this time, the applicant is asking the Commission at this time to close the public hearing. There are two residents that would still like to ask questions. He indicated that this would be her call.

Chair Parkins asked if they have already been up to the podium.

Mr. Schultz responded that Josh Kopac, as a resident, has not been.

Chair Parkins commented that she realizes that it is running late but she'll certainly give them an opportunity to speak (inaudible)

Josh Kopac addressed the Commission. Mr. Kopac indicated that he was speaking as a member of the public and not as a sitting member of the Commission. Mr. Kopac indicated that there were a few things that he had questions about. One was the discrepancy between Langan Engineering – Mr. Onderco stated to me at the last meeting that it would take 6 minutes to fuel. He wanted to know where the discrepancy comes from as for the three minutes and why there is a new member from Langan Engineering instead of Mr. Onderco who was here representing Atty. Bellis and the members of the new fueling facility.

Mr. Kopac asked about these other estimates such as 94 cars at the peak hour; he wondered if they still stand by those claims or if they were going to refute that as well.

Chair Parkins indicated that she was having some audio difficulties.

Atty. Bellis responded to Mr. Kopac that the other engineer at Langan Engineering had a commitment somewhere else in another town. Langan Engineering is a large engineering firm at Long Wharf in New Haven and John Plante is a member of that firm and has worked with other Stop & Shop's.

Atty. Bellis responded that in regard to his second point, it sort of follows Comm. Flannery's about the time. He thinks that John Plante said that they did a count up in Waterbury and on average it was 3 to 4 minutes. Again, each facility could be a little bit different as to how quickly the gas comes out of the pump. As Comm. Flannery stated, if someone leaves and goes to get milk...

Mr. Kopac commented that it was a good point about how fast the gas comes out of the pump. He asked if he knew the current speeds as far as (inaudible)

Atty. Bellis responded that he did not. Maybe Mr. Plante could answer that.

Mr. Plante responded that they wanted the A Team here tonight to answer any questions (*only kidding...*) He commented that he was also a traffic engineer - that is another area of his expertise and they felt that with the concerns which had been expressed at the last meeting, it deserved his attendance tonight.

Mr. Plante indicated that in regard to the speed of the pumps, based on information from Stop & Shop and their history - 8 ½ gallons per minute. So if you go 15 gallons - it's 2 minutes just pumping, but obviously there is also payment, cleaning the windows, etc. He added that the 3 - 4 minutes was an actual observation up at the Waterbury facility.

Mr. Kopac asked if it was the same speed at every Stop & Shop fueling facility.

Mr. Plante responded that as far as the new facility, the new pumps, that is the information he is provided.

Mr. Kopac asked if he still stands by the claim of 94 cars.

Mr. Plante responded sure, they still stand by that based upon the ITE standards. They also, again in the Waterbury count resulted in very similar results within 10 cars or so. Each site is a little different. These are averages and these are what they are required to use as part of the process they will have to go through with the STC. This is a major traffic generator, has a certificate, and they will need to follow their standards. Mr. Plante stated that they think these numbers don't really represent the fact that people in the shopping center are going to use this facility more so than what ITE gives them credit for and what DOT will allow. He stated that ITE allows 15% pass-by; DOT only gives them 10%. They observed just up in Waterbury, 25% of the cars using the facility came directly from the grocery store after shopping. They think they are appropriate numbers.

Atty. Bellis stated that traffic is an important thing when they're considering it on-site. If it is off-site congestion that they are worried about, the courts are clear that is not something that they can consider. Just so that they all remember, that is the Pansy decision, OK. If they are concerned about what is on site that is absolutely OK such as fueling and that kind of thing. He doesn't know why there is all this attention to those specific facts. They have a right to look at how the operation flows. They provided two alternatives to that and either one works. The cars can get in and get out. When they do the detailed development drawings, they can tweak entrances and change the direction of the traffic. They usually consult with Tony Panico and some other members of Staff at work sessions. It is always done, it is routine and they've been doing it that way for 25 years. A lot of these things come up when they have their detailed development plans. This is just the initial concept plan and that is all they should be talking about.

Mr. Schultz asked Bruce Scull if he wanted to speak.

Atty. Bellis asked if now they were going back to the public.

Mr. Schultz responded just quickly.

Atty. Bellis responded that he objects to that. They had rebuttal. He had a chance to speak. He added that he isn't going to get into a debate with people.

Mr. Schultz informed Chair Parkins that Atty. Bellis is asking (inaudible)

Chair Parkins commented yes (inaudible)

Mr. Schultz reiterated that Atty. Bellis is asking the Commission to close the hearing now with no more input.

Chair Parkins responded OK and asked if there were any further questions from the Commissioners. If there are no more questions, she'll ask for a motion to close the public hearing.

Atty. Bellis thanked the Chairperson.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was voted (5-1) to close the public hearing for Application #12-01. Comm. Flannery voted in opposition.

Comm. Flannery added that there was still someone who wanted to talk.

Mr. Schultz stated that the motion carried 5-1.

Chair Parkins responded OK and asked Mr. Schultz if they can't get Skype back – she has excellent coverage there so obviously it is an issue on that end...

Mr. Schultz stated yes, it is an issue here in the Auditorium.

Chair Parkins commented that although the audio is there, she would ask that Comm. Pogoda take over as Vice Chair only because she can't see the audience to see if anyone standing there. If there is a lull in time, it hard for her to distinguish what is going on.

Mr. Schultz responded OK, so noted.

At 9:00 p.m. Comm. Pogoda resumed the meeting as P&Z Vice Chairman.

APPLICATION #12-03 PETITION OF STEVEN BELLIS ON BEHALF OF BSL CT DEVELOPMENT, LLD FOR MODIFICATION OF STATEMENT AND USES AND STANDARDS AND BASIC DEVELOPMENT PLANS FOR PDD #52A AND APPROVAL OF DETAILED DEVELOPMENT PLANS (89-UNIT ASSISTED LIVING FACILITY), 708A BRIDGEPORT AVENUE (MAP 29, LOT 26)

P&Z Secretary Virginia Harger read the Call of the Hearing and two pieces of correspondence.

***See attached correspondence dated 3/23/12 to Richard Schultz, P&Z Administrator from James Tortora, Fire Marshal.**

***See attached correspondence dated 3/16/12 to Richard Schultz, P&Z Administrator from Robert Kulacz, City Engineer.**

Atty. Steven Bellis, representing the Applicant, BSL CT Development LLD addressed the Commission. Atty. Bellis indicated that he wanted to take care of some of the preliminary matters. He presented the notice given to owners within 200 feet of

the property. He sent them notice of tonight's hearing via certified mail and posted a sign regarding the hearing with a photograph of its posting. Atty. Bellis stated that they did file an application with the Wetlands for a discharge permit only. There are no wetlands on this property. The Wetlands Commission did not have a quorum at their last March meeting so he spoke to John Cooke. Mr. Cooke doesn't expect there to be any problems but it cannot be addressed until their April meeting.

Atty. Bellis indicated that they also applied for an application with the WPCA for the sewers and they made a referral to their consultant to review the plans to determine what the fees are to the town. As they know, they collect a certain amount of money for each unit for the discharge for the sewers. Again, he expects that they will have an answer for that at the April meeting.

Atty. Bellis stated that as they all may know, Split Rock Lot #2 is currently zoned a PDD #52A. The adjacent property, which is the Center at Split Rock, is also part of PDD #52A. Back on February 5, 2008, this Planning & Zoning Commission modified the Statement of Uses and Standards that was (inaudible) with 2A to include two things. One was to add a child daycare. The second was to have an assisted living facility including units for individuals 55+ years of age and/or individuals with a permanent disability and accessory uses related to the assisted living uses. Atty. Bellis indicated that has already been done.

Atty. Bellis clarified that they have already been granted the use of assisted living in this particular PDD in 2008. The reason that he is before the Commission tonight is, unlike the previous application, this is the second step. This is the Detailed Development Plan and under their regulations, under the PDD regulations, they are going to show them the site design, architecture, traffic and the Commissioners can ask any questions that they have.

Atty. Bellis indicated that they were also here because under the PDD regulations, they have a regulation called 34.1.4 and that allows them to make modifications to a PDD. They don't have to go the ZBA, but the P&Z, because PDD's are flexible. After they met with Staff and during work sessions, it was determined that they would like some parking standards. They are going to modify the PDD and add parking standards. Those parking standards, in this particular case, are going to be .75 spaces per unit within 200 feet of the site and Staff wanted a 1/2 car per unit on site. Atty. Bellis stated that is something that he would add in that was not part of the PDD #52A. He doesn't think that it is something that is unusual. They've had parking standards in their other zoning regulations so it isn't an unreasonable request and they're glad to do it.

Atty. Bellis indicated that the second modification that they are making is to one of the setbacks on Old Stratford Road. The setback that they are requesting is a 10 foot setback and under PDD's they can have modifications to setback lines. On this particular one, while he doesn't think it will be a problem is that – if they know Old Stratford Road and if they know this site – there is a significant area from where Old Stratford Road pavement ends and where the property line is. As a matter of fact it is 130 feet. The building is not 10 feet from Old Stratford Road, it is 130 feet from Old Stratford Road but because of the property line, they are having a 10 foot setback. He doesn't want anyone to think that they are 10 feet from Old Stratford Road.

Atty. Bellis stated that under a PDD there is a lot of flexibility to accommodate the proposed use so this is nothing out of the ordinary. The next thing he wanted to present was a contract. Whenever they have a PDD and there is going to be an owner of (inaudible)... The owner of the property is called Split Rock Lot 2 LLC but there is a purchaser and in this case it is Benchmark. Benchmark has entered into a purchase and sale agreement to buy the property from Split Rock Lot 2. So they are going to own this at the end of the day, if it is approved by this Commission.

Atty. Bellis indicated that the long and short of it is that a contract purchaser has a right, under their laws to make an application before them and that is what they are doing. Under their PDD they have standards. This was once an Office Park District and back when PDD #52A was adopted, there were regulations that had been set up at that time.

Atty. Bellis indicated that he was going to give them what is currently approved there and tell them how they are going to meet all those regulations. He did a summary sheet called Site Data with the area of the whole PDD, the floor area, the setbacks and parking. He reiterated that they are going to meet all those PDD standards.

Atty. Bellis stated that the next thing that they should consider when approving Detailed Development Plans is whether there is any shared parking easements or anything like that where the owner of the site has made an agreement with an adjacent property owner for them to use additional parking. In this particular case, in 2010, he had prepared what is called a reciprocal driveway parking and utility easement and what that means is that the owner or operators of Split Rock Lot 2 can use the common driveway through the shopping center. They can use all the underground utilities and share the parking. This was recorded on the Shelton Land Records in Volume 3143 at Page 222 so there is a written agreement on the shared parking. Therefore, by law, the adjacent property owner is allowed to park there.

Atty. Bellis stated that they could consider traffic and he has two exhibits to introduce. He has David Sullivan here from Malone and MacBroom to answer any questions. Basically, this is controlled as they probably know, because of the location on Bridgeport Avenue by the STC. The STC (State of Connecticut Department of Transportation) provided a letter indicating that the proposed assisted living facility is less intrusive than the planned office building. Atty. Bellis stated that the State has also supplied them with a letter independent of the STC where they have reviewed this and agrees that it is adequate. He requested to add these pieces of correspondence to the record. He asked that any specific traffic questions be addressed to Dave Sullivan.

Atty. Bellis indicated that he would start with the site design – that is a finding that they have made that the site is adequately designed to handle the assisted living facility. Before doing that he wanted the Commission to hear a little bit about who Benchmark is and who is coming in to this town. They are going to be buying this property and be in the community for a long time. He introduced Mr. Bill Cook, from Oxford, who works for Benchmark to say a few words about Benchmark regarding their operations.

Mr. Bill Cook, Director of Project Management, Benchmark Senior Living addressed the Commission. Mr. Cook indicated that they are very excited to present these plans to the Commission. Benchmark Senior Living is coming up on about 15 years in business. It began with one property and they are now currently at 46 properties – soon to be 47, hopefully. They actually have a project very similar to this – ground-up construction under development in Bedford, New Hampshire. That building is currently tracking for a Lead Gold Certification as well; they are very cognizant of energy efficiency and design. It is important to note from their perspective that they aren't developers who happen to be assisted living people. They are an owner and a management company who specializes in this business who also develops. What that means is that they keep their properties when they develop them. They have not sold anything. They have either acquired or built. It is their intention to be here for the long haul. They run these facilities and that is what they do; it is where their staff is the best at what they do. Mr. Cook indicated that he wanted to point that out as opposed to a developer just looking to build a building and try to flip it and make some money. He added that is not what they are interested in.

Mr. Cook provided a brief overview of their operations and offered to answer any questions. He explained that Benchmark have market rate, private pay units in the building. they have 89 units shown and of those 89 units it is a combination of studios, one-bedrooms and two-bedrooms. The vast majority are studios and one-bedroom units. Of those 89 units, 20 of those units are dedicated to what they call their Harbor Unit, which is a specific unit; it is a memory care unit devoted to people with early stage dementia or Alzheimer's. It is a secure unit meaning that it actually has locks on the doors for the safety of the residents. Many of the residents are physically in good shape but need to be in a secure environment which is most of the reason that they are brought in to them. They have reached a point where they can no longer be cared for by their family or at home and this is a safer environment. In addition to that, it is heavily based

around programming and quality of life for the resident. They have additional staff that they employ for that unit. It is based much more about caring for the residents, getting them out and getting them to do activities as opposed to just having them stay in their rooms.

Mr. Cook stated that overall, the average age of their resident in their building is 88 years old. They have their share of people that really are assisted and do need help to get through. Lastly, he pointed out that their operation is truly a 24-7, 365 day operation. To maintain staffing levels for the year they employ between 70 and 100 people on the books. He clarified that they don't have that many people on Staff all at once. The highest point of their actual staff in the building would be about 25 – 30 employees. But in order to maintain the full staff, year round, nights, vacation, etc., it's about 70 to 100. They employ a good number of local people.

Mr. Cook stated that based upon some of the other conversations he heard earlier about tax implications, he wanted to point out that of the 15 current properties that they own in Connecticut, their average tax paid per property is around \$250,000/year to the towns (it varies from town to town, obviously). Mr. Cook offered to answer questions that they have.

Comm. Matto asked if they had any facilities in the area that they may have heard of.

Mr. Cook responded that they have many of them. Middle Brook Farms in Trumbull; Coachman's Square in Woodbridge; Carriage Green in Milford; a facility in Hamden; Village of Brookfield Commons; Ridgefield Crossings.

Atty. Bellis responded that many of them were purchased as opposed to this one which will be a new construction.

Comm. Flannery indicated that she had a question but wasn't certain if he would be the correct person to ask.

Mr. Cook indicated that he could answer questions related to operations. He asked if they were more specific to the design of the building or the site.

Comm. Flannery indicated that one thing that came to mind is that in the 1970's she used to be a recreational therapist at a senior center and she knows that they like to do a lot of gardening. She asked if they were going to be any spots to do any gardening. Right now she is a teacher at a green school and she does gardening with the kids on the rooftop.

Mr. Cook responded that he would be jumping ahead a little bit but the Harbor Program that he discussed earlier regarding the dementia residents has its own private courtyard and yes, absolutely, gardening actually (inaudible). They have high, built in planters that are waist-high and it is a great part of their therapy. In the other half of the building, they always find some spots for gardening. He added that Jim Swift can address the specific courtyard areas.

Comm. Flannery asked about the 120 feet from Old Stratford Road. She commented that a lot of that is a cliff and asked if it would be 10 feet set back from the property line. She asked which side of the property line had that 10 foot setback.

Atty. Bellis responded that Jim Swift would address that.

Comm. Flannery commented that she also wanted to ask about parking spaces.

Atty. Bellis responded that Jim Swift can answer those questions. Mr. Cook was just providing a little bit about the Benchmark corporation and operations. He commented that Jim Swift is their engineer and he will discuss some of the findings that have to be made under a PDD such as storm drainage, parking, lighting, landscaping, etc.

Chair Parkins asked Rick Schultz if he could put the microphone back on.

Mr. Schultz responded that the microphone just went dead but he'll direct everyone to speak louder.

Jim Swift, P.E. and Landscape Architect addressed the Commission. Mr. Swift stated that as most of the Commission knows, PDD #52 Split Rock is on the corner of Old Stratford Road and Bridgeport Avenue. They are surrounded by an industrial development, mainly the Reckson? property. He showed a site plan with Lot 2 highlighted in yellow. He explained that the easements and access rights that Atty. Bellis mentioned obviously come right through the Split Rock development. Those have all been covered under the legal format. Mr. Swift indicated that all the access, all the utilities and everything of that nature gets to the Benchmark property through Split Rock.

Mr. Swift showed another rendering and indicated that as most of the Commission realizes, this is the last undeveloped piece of Split Rock. So once this area is developed then there is no more raw land to develop there. Mr. Swift showed the entry driveway that comes up past the Tutor Time Building. Coming in through a turn-around, they will see the three-story building which the architect will describe.

Mr. Swift showed how it comes around to a front drop-off where there's a covered portico (inaudible)... Coming around the back, there is some shared parking which was referenced by Atty. Bellis. There are reciprocal rights here; they can see the property line goes right down the middle of the driveway. All the legal niceties have been taken care of so that they can complete the access.

Mr. Swift showed a rendering of the rear of the building and pointed out the location of the service areas – kitchen, transformers, etc. hidden as far back as possible. He pointed out the kitchen area, an outdoor dining area for the residents which is heavily buffered from the service areas. He showed the garden area for the Memory Care Unit that is secured for the resident's use.

End of Tape 1B 9:50 p.m.

Mr. Swift indicated that they are also providing walking paths because many of the residents are anxious to make sure that they have their daily walks. Therefore, they are providing a nice, long walkway area to walk around the building. Obviously, this particular development is going to have no effect on adjoining properties. It is clearly not impinging on the Outback building which is below it. In regard to Tutor Time it is harmonious, and they thought about this a little bit. He showed the location of the Tutor Time play area in the back and they found that might be a nice little synergy there for the residents to see the children playing. Mr. Swift pointed out the location of the Reckson? parking lot; they have no adverse impact on the adjoining properties.

Mr. Swift provided another site drawing and explained that he would discuss this briefly because the City Engineer has given them a clean letter on this. He explained how the utilities would work with the drainage and the directional flows. He pointed out that he wouldn't go into great detail because, as this Commission knows, there is a strict ordinance now for water quality, water infiltration, storm drainage, etc. As the City Engineer has stated, they do comply with that.

Mr. Swift indicated that one thing that he thinks is important to the Commission is the status of grading activities up there. Anyone who has been up to the site lately can see that it is fairly flat. They have established a base elevation up there so the major excavation has been done and certainly all the blasting is done. There is going to be some minor excavation on the detention pond, some excavation for some footings, maybe some remaining lights there. But basically, the site is at grade and this building will sit on the elevation that they would see up there right now. He concluded by stating for the record that all utilities are available at the site, sanitary sewer, electrical, communications, gas are all brought up to the site so there is no construction required there. Erosion control has been submitted for review by Staff when they choose to look at it and of course, Inland Wetlands is also reviewing that. Mr. Swift indicated that there are construction details for Staff to review and comment on. He offered to answer any questions.

Comm. Pogoda commented that he was up at the site last week. He indicated that there is a rock out cropping that goes almost up the drive in the front. He asked what their intentions were on that out cropping. He asked if it would be brought down at all, would it stay in the position that it is now, at that height. Comm. Pogoda asked to see the landscape drawings and asked about a portion, just coming up the road where there are about three or four Christmas trees planted. He asked if that out cropping is going to remain - do they intend to keep them there and will it be landscaped in front all the way across that outcropping. He asked if there would be any trees or anything in front there. It isn't shown on the plan.

Mr. Swift responded that in regard to the outcropping, a parapet would be the best way to describe it. He added that it was intentional and they decided that they'd like to leave it there. It creates a barrier and prevents anyone from going over the edge.

Comm. Pogoda indicated that is why he questioned if they had any intentions of knocking it down because he thinks it creates a good barrier for down there.

Mr. Swift responded yes, their intention is to leave it as is.

Comm. Harger asked if there would be any fencing.

Mr. Swift responded that it is anywhere from 10 to 15 feet high.

Comm. Pogoda asked if he was going to put any landscaping in front of that (inaudible).

Mr. Swift responded yes, there is some in there now and certainly when Tony Panico and Rick Schultz get a chance to look at it, they can make recommendations. As they know, the standard general notes on landscape plans for PDD's leave open the requirement as the site is developed, so they can come in and ask for more trees and shrubs. Yes, they do plan to plant against the base of (inaudible)...

Comm. Pogoda indicated that it really doesn't have anything to do with this Commission but they had mentioned 20 dementia units. He asked if those units would be separated in the facility anywhere. He asked if the outdoor dining area for the resident's would be fenced in.

Mr. Swift responded that he would like to let the architect describe the interior but the outdoor area, the garden area, is fenced in and secured. He'll let the architect describe that.

Comm. Pogoda responded OK it's secured then. He asked if any of the other Commissioners had questions.

Comm. Matto asked for clarification about the parking. She commented that she heard that half of the parking per unit on site and $\frac{3}{4}$ offsite. She asked if that would be 44 spaces on site and 68 somewhere else.

Atty. Bellis responded yes, within 200 feet.

Mr. Swift responded that was a late addition as a request. They are providing 69 spaces which provides for the basic requirement of $\frac{3}{4}$ of a space per unit. That additional requirement is probably covered in this parking configuration but as Staff goes through this, and if they decide a few more spaces are necessary, then they have a lot of space in the back. It can either be required by Staff or this Commission to build a few more spaces or they can show them and reserve them for future parking, if necessary.

Comm. Matto asked if the spaces within 200 feet would be on other Split Rock properties. She didn't really understand.

Mr. Swift responded that their intention is to provide all the parking immediately adjacent (inaudible)

Atty. Bellis added that they do (inaudible) shared parking with Tutor Time. He asked Jim Swift if Tutor Time was shown on the site plan.

Mr. Swift responded yes, Tutor Time is right there but (inaudible) but their intention is to provide all parking (inaudible)

Atty. Bellis stated that there is additional parking in case of overflow.

Comm. Matto stated that she really doesn't know what the norm is for parking needs but they are saying that they have 25 -30 staff at a peak time. When they have a change of shift, they usually will have 50% more with an overlap of like the first and second shift. Also, a lot of these residents may have privately paid people coming in as well, family members, friends, home health programs, nurses, etc. There are a lot of people coming and going during the day.

Atty. Bellis responded that is why they are providing the overflow.

Mr. Swift stated that the Benchmark folks were very concerned about that issue right from the beginning because they aren't going to invest in and build this site unless they are comfortable with the parking. They were very specific about how much parking they wanted them to have – and that 69 spaces met their criteria. Again, if the Benchmark folks had said that wasn't enough and they needed more, they could build more. It is not an issue. So they have satisfied the Benchmark actual experience requirement and Staff, being cautious, wants to increase that possibility of more spaces with that additional requirement.

Comm. Pogoda asked if there were any other questions from the Commissioners.

Comm. Flannery asked where the 10 foot setback line was located compared to where that cliff starts.

Mr. Swift pointed out the area on the site drawing and showed the line where the cliff runs up to and how far it goes off of Old Stratford Road. He showed the amount of area that was relatively flat.

Comm. Flannery asked if he was concerned about erosion or anything like that.

Mr. Swift responded that it's been there a while and they don't plan on disturbing anything except there is a pipe being built down there for directional pumping.

Comm. Flannery asked if he was guaranteeing her that there would be no blasting.

Mr. Swift responded no.

Comm. Flannery commented that in 2006 she told the Fire Marshal - and everybody knows that her well collapsed because of this property. She stated that everybody's house in her neighborhood, which is a little more than 200 feet away from there, everybody's house shook. Her well collapsed and it cost her \$4,000 to fix it. She added that she doesn't have \$4,000 in this economy to fix it and she can't live without water. Comm. Flannery indicated that she needs a guarantee that they aren't going to blast anymore. They said that all the blasting was done.

Mr. Swift responded that there was a study done when they decided the site. They have updated topography. They paid for the geotechnical engineer to come up and he probably dug 35 – 40 holes in the area. They avoided, and are above ledge, for a fact, on every road but he thinks two of those holes, they're within one foot and couple quarters. So, the likelihood of hitting ledge on a footing or a corner of a footing or a piece of a pipe is possible. It is not guaranteed but it is possible, and in that case, it is more than likely that it would be hammered – not blasted, because hammering is cheaper and they have good sized equipment there. He indicated that was all he could tell her. They have factual information. They have actual survey and they've studied the depth of the ledge

and they know, as far as possible, where it is. It does not pay for them to touch it. They don't want to touch it but he cannot guarantee that they won't hit a little outcropping somewhere. Mr. Swift indicated that he can promise that this building is designed to work at the existing elevation that they see up there right now.

Comm. Flannery asked about the parking spaces. They are allowing .75 spaces per unit, 30 staff and 69 spaces or whatever. She asked if they were counting on the fact that none of the residents would have automobiles.

Mr. Swift responded that he wouldn't say none but they have taken into account some small amount of residents that could possibly still be driving.

Mr. Cook, Benchmark Director of Project Management indicated that he could better answer that question. Mr. Cook indicated that typically the average age of their resident, out of 46 communities, is 88 years. Based upon his experience working on their buildings, he would say that probably in a building less than 10 residents can drive. Of those 10 residents, maybe one or two actually have a vehicle on the premises.

Comm. Flannery asked if they weren't counting on the family visiting a lot either.

Mr. Cook responded that they are but it is important to remember that if they are thinking in terms of housing; since most of their residents do not have cars, it kind of leaves everything open so that if a family member comes for a couple of hours, it would probably be staggered – some in the morning, afternoon, or evening. He added that, in regard to their staff, a lot of their employees are hourly workers such as kitchen help and housekeeping, light duty aides and a bus line runs right through this location. Therefore, very often, they have employees that take the bus or get dropped off. Everyone on the staff does not necessarily have a car. That number is a number that they have arrived at based upon their experience in their other communities.

Atty. Bellis indicated that if they have any questions about traffic that is one of the findings that they can make. He realizes that it is controlled by the STC but he does have Mr. Sullivan here.

Comm. Flannery asked how much traffic he thinks this will generate.

Mr. David Sullivan, Traffic Engineer, Milone and MacBroom, Branford, CT addressed the Commission. Mr. Sullivan responded that for a facility such as this, it would probably generate around 20 trips during the peak hours. It is very light traffic generation.

Atty. Bellis indicated that he'd like to introduce the architect to go over the layout of the building, materials and exterior features.

Michael Tagg, Design Principal, JSA Architects, 55 Green Street, Portsmouth, NH addressed the Commission. Mr. Tagg indicated that he would do a quick interior walk-through to explain how the building is arranged and discuss some of the trends being used in senior living.

Mr. Tagg stated that they talked about the 20 units of the memory care unit and there is a secure aspect of that. He showed a rendering of the entry point of building and commented that the way the building is laid out, the memory care unit is to the left side. There is actually an entry point, and they are living, dining, and activity zone units which look out over the secured garden areas. They try to get that interaction between inside and outside.

He explained the entry, the seating area and public zones of the building including the dining room, sitting area, library, reception area in the center and administration block and then some units. He indicated that there were 9 units on the first floor. He stated that the idea is that these nine units have their own little living spaces - households. This is kind of the theme throughout the building with these households being how it is laid out.

Mr. Tagg provided a rendering of the upper level. He commented that it is basically two floors that are identical on the second and third floor. They are basically two households with 15 units each. The idea of the household is to break down the building into separate zones. They have their own living zones, living areas, and residents can come out of their own studio, one-bedroom or two-bedroom units, and have sitting areas at different points.

Mr. Tagg indicated that in the center of the building, there is another public/activity zone with a country kitchen and bistro pub areas. The activity zones pull people out of their units into those spaces. There are activity rooms, the upper level wellness area, the computer room and business center; the building is arranged around these public zones and the units. It carries out that way on all three levels of this building.

Mr. Tagg commented in regard to downstairs and some of the secure areas and the outdoor interaction. He stated that they have that same aspect for the dining on the first floor. The other floors, instead of having the outdoor space, have internal space for activities so that there is activity on all the floors.

Mr. Tagg showed elevation drawings of the buildings and explained that it was the point you would see driving up the road and going past Tutor Time. He added that you wouldn't be driving into the front of the building but really by the side of the building. He showed the west elevation right next to Tutor Time. He explained that it is broken down, there is small wing at this point, an entry of a covered drop off. The idea of the drop off is that it covers enough of the car so that you can get into the space but it doesn't go all the way over the road. So it is just enough to cover the car, open the door and let people go into a covered area.

Mr. Tagg provided other renderings and commented that this is a residence that they are doing. It is not the shopping center architecture and materials. They are trying to pick up some of the character but again, in talking about a residence, they don't want all brick and some of the other materials there to carry all the way through. They are breaking it down with different materials and showing some brick, some clabbered areas, some paneled areas above and pick up some colors reflective of the shopping center to carry it through. Some of the forms that they have going on are more residential in character such as big windows to provide the units with a lot of natural light.

Mr. Tagg indicated that they are thinking of LEED (Leadership of Energy Efficient Design). One of the big things with LEED requirements of sustainability is always the building skin for energy efficiency. When they do a building, how they build a building and the exterior and the insulation values are always critical so you don't have the (inaudible), the air quality, etc. A lot of that comes down to – when doing these gold, silver or platinum buildings – it comes down to the building envelope. There really has to be a tight envelope to meet those requirements. All the materials that they are looking at are very sustainable and carried through. He indicated that again that was the short elevation driving right to that back point which is this elevation.

Mr. Tagg showed another elevation seen above Outback, and he pointed out the location of the public zones through the building that are wide open. They can see out over the rest of the shopping center. He showed another drawing of other wing, the lower level with the memory care, the units above and all the windows for a lot of light. They tried to put a lot of light into the studio apartments to open them up; the one-bedrooms have two rooms, so they have two windows. They are trying to get a lot of light all the way through the building.

Mr. Tagg showed a rendering of the back of the memory care unit with a fence which he commented would not be seen. He pointed out the dining area that opens up and out. He showed other areas where they are trying to get interaction between outside and inside throughout the entire space.

Mr. Tagg showed more renderings of the building from various angles to point out some of the forms and characters in the roofing and materials to tie in with the shopping center.

He talked about the materials such as brick, clapboard, (inaudible)siding, (inaudible) panels, non-combustibles, etc. He indicated that it was steel frame building, non-combustible with all the characters because of all the fire code ratings.

Comm. Flannery asked if all the windows would have shades that could be pulled down because this came up a few months ago. She indicated that she works at a school that is only a 1 ½ years old and they put windows all over the place. But what happens with that is all the birds fly into the windows and drop dead. She added that since she's the Science teacher, they call her to come and clean it up or try to save the birds. She asked if they were going to have blinds on those windows so that if they have that problem, they could just pull the blinds down.

Mr. Tagg responded that the idea with windows is that probably furnishing some sort of shading devices for the windows so that operational issue as to how the units are decorated.

Comm. Flannery commented that she's gotten everyone in her school to pull their blinds down to stop the birds from hitting the windows so she thinks it is important to have blinds in all of the rooms.

Atty. Bellis asked the architect if he could tell the Commission the size of the building because he doesn't recall hearing it mentioned.

Mr. Tagg responded that the record mentioned 25,000 square feet and that is the first floor. The total building is 70,000 square feet. The upper floors are less (inaudible)

Comm. Matto asked about the household concept and if the staff would be centralized in that same way or are they posted in different areas.

Mr. Tagg responded that would be an operational issue.

Comm. Matto asked Mr. Cook from Benchmark about the living units divided into households, as they call them. She asked if the staff would be assigned to households so that they're also divided up and staying within that (inaudible due to technical difficulties)

Mr. Cook responded yes, that is how it typically works (inaudible), they alternate but typically they have (inaudible)

Comm. Parkins asked if the speaker could use the microphone (inaudible)...

Mr. Panico (via Phone) asked if the meeting was still going because he couldn't hear anything...(inaudible)

Vice Chairman Pogoda told Mr. Panico that they were all still here.

Mr. Schultz informed Mr. Panico that the microphone went dead and that's why he can't hear anything.

Mr. Panico asked if the public hearing was finished.

Mr. Schultz informed Mr. Panico that he could end and hang up now.

Chair Parkins indicated that she still had the microphone on Skype.

Mr. Cook, Benchmark Director of Project Management responded that the Staff will have resident caregivers. It alternates but, yes, it is broken down and someone would be responsible for one area and someone else would be responsible for another area.

Comm. Matto asked about the space for staff.

Mr. Cook responded that there are some smaller offices and relatively speaking, most of the staff are out and moving around. He indicated that they are not a nursing home so it is not like chart after chart that has to be done.

Comm. Matto asked if they had an area though.

Mr. Tagg commented that there would be a lot of counter and shelf areas. He added that it might be part of the furniture so when he says living room or activity zone, the staff might have an area there but they aren't sitting at a desk in an office.

Mr. Cook added that a large part of their staff is not nurses, like in a nursing home where they have to chart everything. It is better for them to be out and about giving them a hand with things – assisted.

Comm. Matto commented that she is just trying to picture them being accessible to everybody in that kind of environment.

Mr. Cook responded that they will also have a call system as well – a wireless pager system.

Comm. Flannery asked if there was a place for physical therapists because she knows that a lot of them will need physical therapy.

Mr. Tagg responded that is part of the Wellness Room (inaudible)...

Comm. Flannery asked about the Trumbull facility because she knows that they rent out space for physical therapy and people from outside come in that do not specifically live there. She added that would generate more traffic.

Mr. Cook responded that the Trumbull facility is a facility that they purchased with a very large basement space. As a matter of fact, he thinks that they have a pool down there. They don't have that now and that is not their intention at this time in this facility.

Atty. Bellis indicated that he wanted to wrap up, if that's OK.

Vice Chairman Pogoda asked if there were any more comments from the public before that. He asked if there was anyone present who would like to make a comment about this application.

Irving Steiner, 23 Partridge Lane, Shelton addressed the Commission. Mr. Steiner stated that this comes as a quite a surprise to him - this 89 unit building going in over there. He has a background with nurse call systems. He asked what the percentage of people that they lose each month. There is problem in such facilities where someone gets out, people that don't have all of their mental faculties. There is no place for them to go. They are up on a hillside, there are no sidewalks, it is the busiest intersection in Shelton and it could be a rather dangerous situation. Mr. Steiner stated that he doesn't know of any facility of this type that doesn't occasionally lose contact with one of the people in the building. This happens on occasion. He asked where they would go.

Mr. Steiner commented that most facilities have space around them. This is up on top of a mountain and all hillsides on two sides, and the rest is not what he would call feasible or friendly to elderly people – someone in their 80's.

Mr. Steiner stated that he doesn't know how many people in this particular facility will be able to actually get out but there has to be a number that will be able to and they could lose these people on occasion. He commented that there has been no mention of any of this. He asked what kind of protection they are going to have to keep people from getting out into the rest of the facility.

Mr. Steiner asked what the burden on the sanitary facilities. They have 89 units going in there and that is a considerable burden. They have 20 staff and they said ¾ of a space for each unit which is roughly 60 and 20 for the staff. Then there is an overlap so they have

to leave extra for that – so there are 90 spaces. These are all things that he hasn't heard anybody speak about but he dare say it would be a difficult area and some thought has to be given to it. Mr. Steiner concluded that was all he had to discuss about it. He can't say whether he is for or against it but he thinks that there is a bit of a risk here for the inhabitants because it is not a friendly area for elderly people. In fact, it is the least friendliest that he knows of in Shelton.

Vice Chairman Pogoda thanked Mr. Steiner for his comments. He'll have the applicant try to answer some of those questions. He asked if there was anyone else from the audience who wanted to speak. There were no more public comments.

Chair Parkins asked if Rick could dial her up on Skype again – she has voice on the phone but needs video again.

Mr. Swift, P.E. and Landscape Architect, responded that it is a fair point brought up about security. They are all concerned about that – the first floor is the Memory Loss Unit which is secure inside and secure outside the building. He commented that he is going to assume that Mr. Steiner is talking about the balance of the population there. He indicated that he didn't want to be glib about it but it is not a prison. They have their freedom. The points about security and safety are well taken. They know that there are slopes in two locations. It is a fair point and they should probably consider tasteful fences in certain areas. They can certainly, in a reasonable and attractive way, make sure that they limit where elderly people can get to if they do wander. He added that security is a fair point and they should address it as such and they can do that.

Mr. Swift commented that he had two points about the parking. The Benchmark, with their experience, has told them how many spaces they need to operate properly. It wasn't a case of them saying to Benchmark that they only had a certain number of spaces – that is not the case. They said that for this facility with this number of units, this is how spaces they need according to their experience.

Mr. Swift indicated that they have the ability to put more in but they say that they don't need them. If it turns out that they do need them, they have the area to do that.

Atty. Bellis commented that they are planning on building this structure as soon as possible meaning late summer or early fall after the approval process. It takes about one year to build it. This is not something that they are going to sit on. They want to get going on this project and they have urged him to tell the Commission that.

Atty. Bellis indicated that he thinks that they can close the public hearing but as he mentioned in the beginning, they can't vote on this until he gets Wetlands and WPCA approval which he hopes to secure next month. He thinks that they have every right to close the public hearing and they will come back to see Rick next month. He doesn't think there is any violation in closing the public hearing, even though he doesn't have those actual approvals yet. He asked if there were any other questions and added that he thinks that they will understand what the findings are and that they meet all the regulations.

Vice Chairman Pogoda asked for a motion to close the public hearing.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to close the public hearing for Application #12-03.

OTHER BUSINESS

Vice Chairman Pogoda indicated that they were going to go to agenda item (b).

CRANBERRY ESTATES: REQUEST FOR RELEASE OF SITE BOND AND SOIL EROSION AND SEDIMENT CONTROL BOND FOR PHASE II

Comm. Flannery asked if they didn't just release the Phase I bond.

Mr. Schultz responded yes, Phase 1, there are four phases. He read the correspondence from Cranberry Estates LLC requesting release of the sediment and erosion control bond in the amount \$22,500 and \$18,750 for the completion of improvements associated with the development known as Cranberry Hill Estates. The correspondence indicated that the site was inspected on March 27, 2012. Site improvements have been satisfactorily completed and it is recommended that these bonds be released. These bonds will then be placed to Phase 3. He added that they paid today.

***See attached correspondence from Cranberry Estates LLC to Richard Schultz, P&Z Administrator dated 3/28/12.**

On a motion made by Thomas McGorty seconded by Elaine Matto, it was unanimously voted to approve the request for release of Site Bond and Soil Erosion and Sediment Control Bond for Phase II at Cranberry Estates.

ADJOURNMENT

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to adjourn the meeting at 10:05 p.m.

Respectfully Submitted,

Karin Tuke, P&Z Recording Secretary