

**SHELTON PLANNING & ZONING COMMISSION**

**OCTOBER 24, 2012**

The Shelton Planning & Zoning Commission held a special meeting on Tuesday, October 24, 2012 at Shelton City Hall, Auditorium, 7:00 p.m., 54 Hill Street, Shelton, CT 06484.

**COMMISSIONERS PRESENT:** Chairperson Ruth Parkins  
Commissioner Virginia Harger  
Commissioner Anthony Pogoda (via Skype)  
Commissioner Thomas McGorty  
Commissioner Elaine Matto  
Commissioner Joan Flannery

**STAFF PRESENT:** Richard Schultz, P&Z Administrator  
Anthony Panico, Consultant  
Stephanie Charboneau, Court Reporter  
Karin Tuke, P&Z Recording Secretary

Tapes (1), 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](http://www.cityofshelton.org)

**CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL**

Chair Parkins called the P&Z Special Meeting to order at 7:00 p.m. with the Pledge of Allegiance and a roll call of the Commissioners and Staff present. She indicated that Comm. Pogoda would be joining via Skpe and conference phone. She provided an overview of the public hearing procedures and asked that anyone from the public wishing to speak please sign in, keep their comments/questions focused on the application being presented, and direct all of their comments to the Commission and not to the Applicant.

**PUBLIC HEARING**

**APPLICATION#12-17, COUNTRY CLUB OF CT, LLC FOR PLANNED DEVELOPMENT DISTRICT ZONE CHANGE: (FINAL DEVELOPMENT PLANS: 36 UNIT CLUSTER RESIDENTIAL DEVELOPMENT), CAM SITE PLAN, REVISION TO FUTURE LAND USE CATEGORY FOR THE 2006 POCD, 550 RIVER ROAD AND A PORTION OF ADJACENT PROPERTY (MAP 53, LOT 55 AND MAP 54, LOT 43), R-1/SDA AND IA-3 (continued from 10/16/12)**

Chair Parkins asked P&Z Secretary, Virginia Harger to read new correspondence received after the last meeting on 10/16/12 for Application #12-17.

**\*See attached correspondence to Richard Schultz, P&Z Administrator from Kevin J. Bitjeman, L.E.P., Senior Project Manager, Loureiro Engineering Associates dated October 23, 2012.**

**\*See attached documentation regarding Inland Wetlands Review (12 pages, Page 12-Summary & Conclusion.**

**\*See attached correspondence to P&Z Commission from Peter Hughes, Country Club of Connecticut LLC for Blue Heron Cove dated October 16, 2012.**

Chair Parkins asked Comm. Pogoda if he could see the presentation that they would be discussing.

Comm. Pogoda responded yes, he could see it.

**Peter Hughes, Land Use Planner, Country Club of Connecticut, LLC for Blue Heron Cove addressed the Commission.** He stated that at the last meeting they told the Commission that they would have two other presenters including their Traffic Consultant from F.A. Hesketh & Associates and their landscape architect, Kim Barbieri. He indicated that after their presentations, he would respond to questions and comments from the public at the 10/16 meeting. He added that their attorney, Gail McTaggart, would like to make a statement on behalf of the Applicant as well.

**Scott Hesketh, F.A. Hesketh & Associates, licensed engineer, addressed the Commission.**

Mr. Hesketh stated that they are the author of the traffic impact report dated August 8, 2012 which has been submitted in support of this application. He indicated that they were asked to look at the potential traffic impacts of the proposed development and to prepare a report. As they heard at the last public hearing the site proposed for development is located on River Road, CT Route #110. It is slightly south of Constitution Boulevard and Rocky Rest Road. In the course of preparing the report they saw an automated traffic pattern during one week in the month of June 2012. They recorded the average daily traffic volumes on the roadway at 1,651 vehicles, a morning peak hour volume of 851 was recorded at the 7 a.m. hour and a afternoon rush hour volume of 1,040 vehicles was recorded at the 3 o'clock hour. They use this data as the background traffic for their report.

In order to generate the traffic volume for the proposed development, they used the Institute of Transportation Engineers (ITE) Trip Generation Report based on a 30 day unit development (inaudible). They projected a total of 427 new trips on a daily basis for combined entry and exiting volumes. There was a morning peak hour of 36 trips with 9 entering and 27 exiting movements. After the peak hour, it is 44 trips with 28 entering and 16 exiting movements. They distributed the traffic through the local roadway network based on the observed traffic distribution so after the automated counts, approximately 70% of the site generated traffic oriented to and from the south along River Road and 30% of the traffic oriented to and from the north along River Road.

Mr. Hesketh stated that they conducted the capacity analysis calculations at the proposed site driveway, and based upon those calculations they determined that northbound and southbound approaches of River Road were a lot greater than Level of Service "A" during the peak hours with minimal delays. The site driveway approach will operate at a Level of Service "C" during both the morning and afternoon peak hours with average vehicular delays of between 16 and 21 seconds per vehicle. The driveway is proposed as a one lane approach operated by a STOP sign control and in its location on the plan, they are provided 544 feet of sight distance to both the north and the south on River Road. The 544 foot sight distance provides adequate sight distance for an approach speed of 49 mph. At the time that they conducted their automated counts, they also observed the speeds of traffic on the roadway. The speeds were measured at 47 mph in the northbound direction and 49 mph in the southbound direction, so they are providing adequate site distance at that proposed location.

Mr. Hesketh stated that based upon the background traffic volumes, the projected site generated traffic volumes as were taken on the report, based on the exceptional levels of service that have been proposed at the proposed driveway location, they believe that the local roadway network is more than capable of accommodating the site generated traffic from this particular development.

Mr. Hesketh indicated that he would leave it there at this point. If the Commission or members from the public have any questions, he'll be happy to address those at the appropriate time.

Comm. Harger asked what days of the week the study fell on – in June.

Mr. Hesketh responded that they did a count over a 7 day period toward the end of June. He added that they installed a tube counter across the roadway and left it in place for a seven day period.

Comm. Flannery asked how many cars per hour they counted at the time when Sikorsky Aircraft releases their employees.

Mr. Hesketh responded that the peak hours registered 851 in the morning and 1,040 in the afternoon - peak. He is not exactly sure what time Sikorsky lets its employees out but he's sure that is the time period. It was between the 3 p.m. and 4 p.m. hour in the afternoon.

Chair Parkins asked, for the record, what the posted speed limit was on that road.

Mr. Hesketh responded that the road is posted as 35 mph across from the site.

Comm. Flannery stated that the other parts of that road were posted at 40 mph.

Mr. Hesketh responded yes, it may be – some parts of it are 35, 40 or 25 mph as it gets down toward the center of town. The speed limit varies but across from the site, traffic is 35 mph posted.

Mr. Panico commented that the State's traffic information, he believes from 2007, showed higher peak hour traffic but that was at a location closer to Sikorsky in the Long Hill Avenue area. He stated that these studies at this location, not only show a lower level, but at a different peak. Their peak hour was 5 p.m. to 6 p.m. and your peak is 4 p.m. to 5 p.m. and that's because of the two different sections of Rt. #110.

Mr. Hesketh responded that it could be because it is two different sections of the roadway or it could also be – if you take traffic counts around the State of Connecticut over the past four or five years, you'll see that the traffic volumes have been decreasing due to the economy and the (inaudible). The State also does a 24 hour count once every three years. They conducted seven days worth of counts. They tend to look at the seven days worth of counts at a specific location rather than a generalized one day count over (inaudible)...

Mr. Panico noted that it was interesting because it seemed like the State count – their peak hour, 5 p.m. to 6 p.m. – was probably beyond Sikorsky's influx, so it is probably just a general level of commuter traffic down at that section of Rt. #110.

Mr. Hesketh stated that it could be, yes.

Comm. Harger referenced his letter from August 8<sup>th</sup> to Alan Tempke and made the clarification that in the second paragraph it says that the road is posted 35 mph in the northbound direction and 45 mph in the southbound direction.

Mr. Hesketh responded that as you approach the center of town, the speed limits tend to slow down. As you leave Constitution Boulevard heading toward the south, it does change from 35 mph to 45 mph.

Chair Parkins asked if the study gave any consideration to the access road up above being the existing access road into that site, an access road into this property.

Mr. Hesketh indicated that they were doing the study based on the site plan as it was being proposed. It is their opinion that the site driveway location that is being proposed on the plan is the appropriate location. Having an access up in the existing access location – there is a couple of things going there. They have a three lane roadway section with a signalized intersection at Constitution Boulevard. They have Rocky Rest Road right there. They have a lot of things going on in that area and to introduce a driveway there with the traffic volumes on it, it is probably not the most ideal location. So, they didn't analyze that in their report. Their report did look at this location here though and they feel that it is more appropriate location for a driveway servicing any volume of traffic.

Mr. Hesketh commented that they have the pavement widths in this section are about 46 feet of pavement. They've got 14 foot through lanes in each direction and shoulders at variable widths.

The road is sufficiently wide in that area if a southbound vehicle is slowing to make a left hand turn into the facility, the roadway section is wide enough for someone to move around him on the right hand side and safely bypass so they aren't proposing any improvements with striping or widening in that section. They feel as though the roadway is capable of accommodating that. It is a State highway and they will be submitting to the District Office for an Encroachment Permit. If they have a different opinion and if they feel that restriping or widening is necessary to accommodate traffic then they will have to address it that at that time. Mr. Hesketh indicated that they don't believe they will push them in that direction so they are proposing to leave the roadway section as it currently is.

Comm. Flannery asked if there was a possibility to have an access road where the traffic light is located. She explained that she lives off of Old Stratford Road and she has to go through Daybreak Lane to Old Stratford Road and during the peak traffic hours, she can't get out there. She will sit at the STOP sign forever watching cars zoom by and she can't get out. She added that she thinks that if they have the proposed road that they will be getting in and out of without a traffic light, those residents will be stuck there during peak traffic hours and won't be able to go anywhere.

Mr. Hesketh responded that he doesn't believe that there is frontage opposite the traffic signal. The cemetery property is in the way so providing access at the traffic signal would be difficult, at best.

Comm. Flannery asked if maybe they could figure out something else because there is no way that people are going to get out when there are a thousand cars going by.

Chair Parkins noted that if there are 1000 cars, 500 of them are going to get stuck at that traffic light so they'll have to stop at some point.

Mr. Hesketh responded that the presence of the traffic signal does create some artificial gaps in the flows and the traffic counts and the analysis...

Comm. Flannery stated that they could tell her the same thing about Old Stratford Road, OK, but it just does not happen.

Mr. Panico commented that the place Comm. Flannery is talking about on Old Stratford Road, if he recalls correctly, is in very close proximity to the on and off ramps for Route #8.

Comm. Flannery responded yes, right.

Mr. Panico commented that it is a very horrendous traffic situation during the peak hours. At one time, he thinks Mr. Scinto was considering a proposal to do something and he would have been faced with widening one of the ramps - that is how bad they felt it was over there.

Comm. Flannery stated that if she wants to go down to Warner Hill Road to Route #110, there's no way she can do it at 5 p.m. because it is so bad, so she just stays home. She commented that she brought it up once before that she had to go to the rehabilitation center on Bridgeport Avenue and it took her ½ hour to get there.

Chair Parkins indicated that they are talking about this project. They are not talking about Daybreak Lane.

Comm. Flannery commented that she was just saying that she just feels sorry for those people trying to get in and out over there. It is the same thing.

Mr. Hesketh responded that based upon the observed traffic volumes of the highway capacity software that they are using; it takes all of that into account. There should be sufficient gaps in traffic flow for the 36 vehicles per hour that they are talking about here to be able to get out of this site.

Comm. Flannery commented that she disagrees.

Chair Parkins asked if there were any other questions for the traffic engineer from the Commissioners. There were no further questions for Mr. Hesketh.

**Kim Barbieri, Landscape Architect, Blue Heron Cove Project, addressed the Commission.**

Ms. Barbieri stated that she would like to do a quick run-through of the planning that they did for this project and the overall views that she has had whenever she was working on the planting plan for this project.

Ms. Barbieri used site drawings and commented that as an overall view, she looked at this as a small village, kind of an enclave on this property, to try and establish in her mind a small road system, a little village center with the river along the edges, and the shoreline. The housing that they are proposing works along those same lines. They are in close proximity to one another and it does have that village feel.

Ms. Barbieri indicated that she was going to walk them through the site in different drawings. She wanted to walk them through what they would experience if they were driving into the site. She showed another illustration and explained that coming up on the site from River Road, they would be seeing a buffer area between the development and the road itself with some evergreen trees and a proposed fence there. It is relatively flat along this area where they are close to the road edge and then it goes up a little bit steeper so the buildings will actually be set down a bit. They will get an effective buffering and screening of the development and from the development's standpoint, they will have a feeling of being more enclosed in their own community.

Ms. Barbieri stated that they have a nice, big entrance so there will be plenty of architectural interest. They have some retaining walls that will be put in that will have seasonal interest of perennial flowers. They aren't going to be counting on a lot of annual flowers because they feel that having the standard perennials coming up year after year will establish a better, more colorful entry.

Ms. Barbieri indicated that along the main street lines that come through the property, they have kept on a palette of about three different types of trees. The main type of tree that is used along their roadways is the tree lilac which is a beautiful tree with a very nice, oval shape with very clean, beautiful white flowers. In areas where they have street lights and things like that, they will put in smaller trees that would be good at maintaining that light as they grow. They want to make sure that they aren't creating dark spots in that space to make for a safe road way.

Ms. Barbieri stated that the units are developed individually. She showed another rendering with unit development and commented that they have an overall kind of a plan for it but each unit is different. They didn't want people to feel that their unit was the same as somebody else's unit so they really have individual sheets that are being developed for every one of the units. Each will have its own special palette of plants with each to be created as a sort of personal expression for the people that live at those units. It takes into account the sun/shade factor, if it is backing onto the riparian corridor versus backing onto the tidal pond, or backing onto the road. Each one of them will have their own theme. Some are more of a woody feel and some of them are more with grasses and more evergreens. So they really try to take a personalized view of the individual units.

Ms. Barbieri indicated that as they take the units and they start moving them closer to where the upland regulated area is for the wetlands, they are working with the Wetlands Commission to create anything that is within the upland regulated area to be all native plants. She stated that is something that Wetlands requested which she thinks is a great idea. They are in the process of making those changes right now. They were specific on their cultivars or even varieties, which means that the plant that maybe had exhibited some special characteristics such as heavier fruiting or something like that, even though they are genetically the same, she can't even use those. She is going down straight species within those areas so that their comfort level with that is higher.

**Ms. Barbieri commented that as far as when you reach** towards to the tidal basin in this area, and along the last section with the bigger basin (she showed another site drawing). She indicated that they have an area that has been affected a lot right now by beaver activity and they want to create a situation where they are stabilizing that site. They are looking at a grassy meadow. They are in discussions right now with the Wetlands Commission on whether they can add flowers into that mix or not and if they want to have a wildflower meadow. They do include a small pathway through that area to act as an amenity. She indicated that the reason why they do

that along that area is typically because they want to have a change in people's thinking about it. She added that many people have grown up with the idea that the streams in the backyard were where you could put your grass clippings. This is a situation where they want to change people's views of it to say that this is an amenity, this is something special, and because it is behind people's homes and because it is right next to a tidal basin, they actually want it to act as an amenity and create a situation where people will find it pleasurable to be able to walk through, using the access way down to the beach area. They can actually take a (inaudible) around some of the units and actually come back to where the bridge is and come back up to the main road. They can actually do a loop through the site to, again, create a village atmosphere. People can actually get out and enjoy the site because it is a beautiful area. They wanted to use that as an advantage and maintain that as an amenity.

Comm. Harger asked for clarification as to what she meant about the grass clippings being put in the streams.

Ms. Barbieri clarified that she was just talking about changing people's minds. She is basically saying that she wants people to think of their riparian corridors and tidal basin area as amenities. To do that, they want to engage with it, and not separate them from it.

Ms. Barbieri referenced the site plan and explained that from there they have the area where they have public access, the buffering between the homes and the access way with all sorts of flowering shrubs, and a wooden fence. It is going to be very attractive there as well. It is sandwiched between those housing units and the cemetery so that area where it is closest, where they have the most contact with public and private, it is very attractive. She thinks that people will be very pleased with that (inaudible); they won't feel like they are walking down an alley way that was discarded there. She added that she thinks it will be a great entry way to that new public access way.

Ms. Barbieri commented that other things along the tidal basin will include wild blueberries and things like there. There will be wildlife and birds coming in. It will have a nice, village feel in the main center. She commented that was a general summary and asked if the Commissioners had any questions.

Comm. Matto asked about the plants used in the main part of the development and because of the proximity to the wetlands, if they were going to be careful about species and that they not be invasive, and that they would be native plants. She asked if they were working with the Wetlands Commission.

Ms. Barbieri responded that right now the Wetlands Commission has only been concerned with what is in their upland regulated areas. A great portion of the site is in the upland regulated area. For the areas outside of that, she's looking at different cultivars and things like that, but under no circumstances are any invasive or even potentially invasive plants on the Connecticut list being

used. In fact, she even limited two, the ones that were aggressive and allowed such as Black-Eyed Susan's which are a wonderful plant and they're a native plant, but they're incredibly aggressive and can take over an area. She stated that she needs to be cautious on that, having well-behaved plants and plants that are slow-growing so that they won't have to come in five years and start cutting things back. She added that she needs things that are hardy, can take salt and ice removal and make sure they are in the right place for those types of impacts.

Comm. Flannery commented that she would not put wild blueberries, fruit trees or anything edible there because that site used to be contaminated and she wouldn't want that to get into the blueberries that the animals would eat or the children might pick. She added that she would definitely stay away from blueberries or apple trees or anything like that.

Ms. Barbieri responded that there are a lot of plants there right now that are full of berries that the birds currently eat.

Comm. Flannery stated that they don't want children that are living there to go and eat the blueberries.

Chair Parkins commented that if they didn't do anything, she's sure that they would have fruited plants on that site. She added that she's sure that they do now.

Ms. Barbieri responded yes, they do right now. She added that she'll (inaudible) with the Wetlands Commission. She'll work with them on that (inaudible)...

Comm. Matto asked about maintenance and there was a mention of the phragmites being in (inaudible)...

Ms. Barbieri responded that is going under another group working with them that specializes in wetlands. They are actually working with the Wetlands Commission on a strong phased plan to eradicate the phragmites and other invasive plants on the tidal floor. She thinks that will have a huge impact on the site visually because those invasive plants have been so aggressive about taking over.

Comm. Matto stated that personally, she's been working on five acres for over 25 years trying to get rid of some non-native invasives.

Ms. Barbieri responded, yes it is tough.

Comm. Matto indicated that was why she was asking about maintenance because eradication is one thing making them (inaudible) is another thing. She added that it is every year.

Ms. Barbieri responded that she knows that the DEEP requires a five year maintenance program. She commented that just from the sites that she has worked on, she knows that it is a lifetime program, especially when you have things like barberry and burning bush and things like that

which are so popular with the birds when you bring them on the site. There just has to be an understanding with the maintenance companies that are hired to maintain property.

Comm. Matto asked if there would be, if there would be a responsibility to upkeep.

Ms. Barbieri responded that she can't speak directly to that but she would assume that would be a responsibility of the Association.

Chair Parkins commented that the responsibility would be put onto the Association because once all the units are sold, the Developer is out of the picture. The Association takes over the control.

Comm. Matto asked if that could be a condition of approval.

Chair Parkins stated that she didn't know what the standard was with the DEEP or who regulates that.

Mr. Hughes responded that they are committed to having a licensed arborist at the site once year. They can add a landscape architect because they are willing to file a report with whatever the Commission wants to file. It will be part of the Association's annual maintenance plan.

Ms. Barbieri commented that it would behoove the Homeowner's Association to do so because, if they don't maintain that, their tidal pool will end up looking like it does today. So effectively, it will decrease the value of their property.

Comm. Matto stated that she was all for it. She added that she doesn't really think that most people really understand that part of it.

Ms. Barbieri agreed that it is a long term commitment, it really is.

Mr. Panico commented that they will inherit maintenance responsibilities on the storm drainage system, so this is another one that could be tacked on in that same maintenance. They have the responsibility for cleaning up that (inaudible)...

Comm. Matto stated that she can see that but thinks that most people think maintenance is about mowing the lawn, trimming the bushes and things like that...

Chair Parkins commented that it needs to be specified.

Mr. Panico indicated that they'll make sure that it gets explained the best way that it can be explained. The concern is to prevent the recurrence of the invasive species (inaudible)...

Chair Parkins stated that they say if you let it keep going then it becomes a huge investment to try to eradicate it again.

Ms. Barbieri stated that they take it year to year and if anything really ruinous happens then they have to up that number of times that they come.

Chair Parkins asked if there were any other questions on landscaping.

Comm. Flannery commented that they were talking about the beavers and planting trees on the property. She asked about the beavers having a tendency to cut down the trees and what the plan would be for preventing that.

Ms. Barbieri responded yes, beavers do cut down the trees. She showed an area on the site where, right now, there is a lot of beaver activity. She explained that the beaver activity goes in an arc - that you can just about put into a single circle around it. The beavers aren't really great on the land and they don't like going too far away from the lodge or from the water. She showed a location on the site plan and noted that she was not anticipating that the beavers would go much farther than that point so they are looking at just maintaining that hillside. Ms. Barbieri indicated that she recommends keeping some of the lower things and she recommends something as simple chicken wire. She explained that she lives on a property that backs up on to a 100 acre wetland. In specific areas where they have specific plants and animals that they don't want the animals to get to them, they've put just a single layer of chicken wire (not touching the plant so that it has room to grow), and they will leave it alone.

Ms. Barbieri stated that in this specific area they have some very large trees that have been girdled all the way around.

Comm. Flannery commented that she was concerned and asked if there would be trees for the beavers to continue.

Ms. Barbieri responded yes, absolutely, there are plenty of trees there. She added that, actually, it is a standard thing that whenever the food does run out, they will move on. That is typical and the trees that they have eaten will grow back up and another beaver thrown out of the lodge at one year old will find it, live there, and the cycle will continue. She commented that was just the ebb and flow of beavers.

Mr. Peter Hughes commented that the beavers don't eat invasive species.

Ms. Barbieri responded unfortunately they don't...

**Peter Hughes, Land Use Planner, Country Club of Connecticut, LLC for Blue Heron Cove addressed the Commission.** Mr. Hughes indicated that he had responses from the last meeting. He stated that the Commission requested that they look at increasing the visitor parking for the public access and providing a turn-around.

Mr. Hughes provided a plan that provides three parking spaces, a small turnaround area with a little hammerhead located. . .he showed the area where they added third parking space coming down, and the turnaround that looks like a “T.” He added that it is all located behind the guide rail out in front of the culvert. He noted on the plan that right below the “s” for the manhole is the extension of the driveway. The spaces are parallel to one another. Mr. Hughes added that they are just constrained by the stream and he showed the pattern for the best method of backing around and facing out to turn around.

Mr. Panico commented that he has two gates shown on the sketch. He asked if he was contemplating two gates.

Mr. Hughes responded yes, two gates – one at the road and one at the development. He noted that there is actually three gates because there is one at the cemetery.

Comm. Flannery asked if he knew that people were probably going to park in that turn around.

Mr. Hughes responded that you can only do the best that you can do. They don’t want to sign it but they can sign it if you want them to.

Chair Parkins noted that if they park there and block somebody and that person can’t get out, then they are going to get an earful when they get back up to their car.

Mr. Hughes reiterated that they are in a tight spot there.

Mr. Panico asked Comm. Flannery if she was talking about the turnaround spot.

Comm. Flannery responded yes.

Mr. Panico indicated that the way to overcome that is not make it deep enough to be parked in and yet still deep enough to turn the car. Instead of making it 20 feet deep, they can make it 10 or 12 feet deep. So, if anyone tries to park there, the tail end of their car will be blocking the driveway and yet it is enough to turn your car around.

Comm. Flannery responded OK, that sounds good.

Mr. Hughes indicated that addresses the parking space comment. The pollution comment has been addressed by the Loueiro Engineering letter. He stated that he had a letter from Aquarian stating that water supply is available to service the development. Therefore, the WPCA for the City – they have submitted a design. It is an adequate flow system. They are only flowing 7,560 gallons per day. They anticipate approval at their November meeting.

Chair Parkins asked Mr. Schultz if the Aquarian letter had to be read into the record.

Mr. Schultz responded no, they’ve made a reference to it.

Mr. Hughes offered to read the letter.

Chair Parkins commented no, it basically says what he just stated about there being enough water pressure there to provide service.

**\*See attached correspondence to the Applicant from Aquarian Water Company dated ?**

In regard to the units, Mr. Hughes distributed a summary of the units (Excel spreadsheet), the sizes of the units, and all the living areas within the units to satisfy that question.

Mr. Hughes indicated that in the revised Statement of Uses that was submitted, the changes made were that they added a statement that there would be 36 three-bedroom units. No one can have any more than a 3- bedroom unit. He reiterated that it would be 36 units x 3-bedrooms for a total of 108 bedrooms. The 108 bedrooms are all that they applied for with the WPCA. He indicated that they put that into the Statement of Uses to clarify that they may call it a bedroom in the Building Code and Health Code, but in the development it cannot be a fourth bedroom. It has to be an office, an entertainment room, etc.

Comm. Harger asked if he could clarify #31-#36 on his summary spreadsheet – under Garages – it says “1 2-car garage” but above it just says “2” under Garages. She asked what the difference would be.

Mr. Hughes responded that the #1 shouldn't be there – every unit has a 2-car garage. He apologized for the error.

Mr. Hughes indicated that he wanted to ask the Traffic Engineer some questions and he asked Mr. Hesketh if the Level of Service at the intersection was impacted by the development in his findings.

Mr. Hesketh responded that in the analysis for the site driveway intersection, the development generates little traffic to none on (inaudible)...

Mr. Hughes commented that as Route #110 goes to the north, the question of the other driveway – he wants to make sure that he understands – and asked if the pavement narrows going toward Constitution Boulevard.

Mr. Hesketh responded that there may be more pavements but there are lanes striped on the pavement so the southbound approach is narrower at that location than at the proposed driveway location.

Mr. Hughes stated that as he mentioned at the last meeting, they realize the standard that they have to bring in. They have to bring in a high standard of architecture, a high standard of landscaping, and a high standard project. They think they've done that. He submitted everyone's resume to the Commission. He added that his was not included but he stated that he

has a BS degree in Geography, and a Master's Degree in Urban Studies. He added that he has been a Municipal Planner for 25 years. He is A.I.C.P. certified, and as Rick Schultz knows, he has to retain that every two years with 32 educational credits.

Mr. Hughes stated that everyone on the team does stay up in their profession and they will see that when they look at their resumes. They are collaborating with one another to do a high quality project and they are a high quality team. As he mentioned before, they stay with the project. They have an on-site manager, Phil DeLippo ? when they do construction so they always have a presence on this site. Mr. Hughes stated that they work with the Commissions and they work with their neighbors.

He commented that with the cemetery, they are committed to putting 240 feet of fence on the cemetery. He indicated that was 60 feet along the back of their units and 180 feet that runs down parallel to the trail. Mr. Hughes stated that they will talk with them more. They would love to have a lot more than that and they will talk to them but they are committed to doing 240 feet.

Mr. Hughes stated that for the WPCA, they are extending the waterline; today they have a well. They are going extend up to the waterline into River Road pump station. They are going to connect the driveway - if the Commission and everyone looks at the alternative plan as a favorable alternative - that will allow access to make maintenance easier. They'll give them easement for access. They are helping and doing what they can for the City. And they are doing what they can do for their neighbors who approached them and asked them to. After they get approval, they would continue to do the same.

Mr. Hughes commented that as far as the appropriateness of this, Gail McTaggart will speak to that at the closing. As far as the plan, he talked a lot about the River Road corridor, he knows it is not in the POCD, but when he looks from the Stratford line to Constitution Boulevard, there is a unique corridor. They have treated it uniquely, he thinks very properly, with the use of the PDD, the mix of the housing, the commercial, and the restricted commercial. This is a unique section of the City. It is different than any of the other areas. He thinks that because this parcel is already designated SDA shows that the City has recognized that, as has the Commission even though the 2006 POCD said maybe you should change that. In the six years since that, this Commission hasn't seen the wisdom to do that. He agrees with them and what they have tried to do in that is put in a development that is low density. **02:37:20**

Mr. Hughes stated that when you look at their FAR calculation they are at .22; the regulation is .8. They are at 12% building coverage; you allow 60%. If they had pervious pavement instead of impervious pavement, they would be at 23% coverage. For building height, they allow 60, but they put 55. They presented most of their buildings at 40 feet high. They have tried to be sensitive and put in an appropriate scaled development. They have two big anchors in Rivendell and Crescent Village. They saw themselves as something below that and when they met with

Staff, it was clear that six-plexes and larger buildings were not a suitable development and that is why they came in with the mix of duplex and triplexes.

Mr. Hughes added that one of the important things that Larry Reeves, their architect, said at the last meeting is when you look at these units they are the size as a single family houses. These units are 27 feet, 10 inches – but the duplexes are 54 feet long. They are not bigger than single family houses but they did try to context, as Kim said, between the architecture, the size, the landscaping; they really did look at the site and the natural resources. They are protecting 8.6 acres of the 12.4 acres; they are protecting the riparian corridors of the Ivy Brook, the Butternut Hollow Brook, the Housatonic River and the tidal pond. They have zero wetland impacts except for enhancing the stream by taking care of four very large trees that uprooted and exposed soil. As far as the tidal pond, they have a plan to go in with an invasive removal plan and it is a long term commitment . Mr. Hughes indicated that he was involved with one out of a lake in Marlboro where DEEP is assisting them, and after three years treatment, the growth out and up is stuttered but it has to continue. The discussion that they had with the DEEP here is that it is a spraying for a couple of years to eradicate and then they do some work with root extraction. Then they come in with native plants and you have to (inaudible)...

Comm. Matto asked if they would plant for several years.

Mr. Hughes responded that they plant with native species. They remove the bottom and come with a clean soil , replant and take all the roots out that you can.

Chair Parkins commented that they really do have an extensive eradication.

Mr. Hughes responded that it could be, in the long term plan. In the short term plan, they spray it and see how it works and then the next step – but they will present that plan to the Commission, to the Wetland Commission. That has to be approved through the State process. He reiterated that the Homeowner's Association will maintain everything. The City maintains nothing on this site. They pay for the sewer, private road, private trash/recycling, water from Aquarian; again, the only thing they would require are emergency services. He commented that there is no drain on the City resources from this development. They try to take all that in their plan for this project. He concluded and thanked the Commission for their time and consideration. He introduced Gail McTaggart, their attorney who would speak next.

Chair Parkins stated that she was going to ask if there were any further questions from the Commission.

Comm. Flannery stated that her concern was about all the basements that they have that they are digging out for each one of them.

Mr. Hughes responded that they are at grade, they aren't digging them out.

Comm. Flannery asked how low the basements were going to be.

Mr. Hughes responded that they were at grade. They aren't dug into the ground; they are laying at grade and they're going up.

Mr. Panico added that basically it is the same level as the garage.

Comm. Flannery responded OK.

Chair Parkins asked if there was anyone in the audience wishing to speak for or against this proposal. There were no comments from the audience.

Comm. Flannery indicated that she had a couple of more questions. She asked if he had said that they would be using city sewers.

Mr. Hughes responded yes.

Comm. Flannery asked if they would be using the existing pump that is there.

Mr. Hughes responded that they will have 15 individual pumps, one for each building that pumps up into a manhole into River Road and it flows gravity into the City pump station. They pay for the sewer use and their sewer use would be like everybody else's.

Comm. Flannery asked if he cleared it with the City and is there enough room to take on all these extra homes with the sewers.

Mr. Hughes responded yes, they have an application in (inaudible)...

Comm. Flannery asked if they are filled (inaudible)...

Mr. Hughes responded no, absolutely not. They discussed with them a plan for emergency situations. He has to manage it on (inaudible)? rider grinder pumps for the sewer system. During the two storms last year, they went out to pump the grinder pump chambers every three days and that will be a part of the Homeowner's documents here. Each grinder pump unit also has a receptacle for an emergency generator. Some people have their own generator, but the Association hires someone to come around and generate the pump, and cycle it down. The chamber probably has three to five days worth of excrement in an emergency situation. He added that is all being addressed with the WPCA.

Comm. Flannery asked about this letter talking about March 2003, it says that there were limited soil investigations performed by Diversity Technologies consultants in June of 2003. She asked what it means by "limited."

Mr. Hughes responded that he wasn't in that field. They have a letter from the expert who performed the necessary testing according to the State guidelines so he can't speak to that.

Gail McTaggart, Attorney, commented that she would like to answer part of that. She indicated that it was targeted. They targeted areas where, in their professional opinion, the testing needed to take place as opposed to testing every grain of soil.

Comm. Flannery asked if the tidal pond was tested.

Mr. Hughes responded yes, that's why they cc'd the letter. In the closing paragraph, the letter states that they submitted a letter to the DEEP for certification of the 3.1 acres – that is the tidal pond.

Comm. Flannery asked if any copper sulfite was found.

Mr. Hughes responded that whatever is in there is below detectable limits. It is safe for human habitation. That is what the expert is telling them and that is the certification that they are seeking from the State and the State has already given it to them on the 9.3 acres.

Comm. Flannery stated that she would like to know exactly where the site was tested, if that is possible. She asked where the limited soil investigation was performed and where they actually did the test.

Atty. McTaggart responded that it is actually not an issue for this Commission but a DEEP issue. The DEEP has complete responsibility for that but the opinion by the experts is that there is no contamination that requires the need for remediation and this is absolutely safe for a residential use. This is, in fact, is more than they usually provide on a public basis of this kind of thing, but they did that because there were statements made at the public hearing that they felt were not accurate. They wanted to make sure that the Commission knew that they weren't coming on to a piece of property and putting residential homes in an area where would be a risk to people there. Atty. McTaggart commented that was the purpose of the letter; not to have a little environmental review here which is not appropriate at the Planning & Zoning level.

Comm. Flannery asked when they would get a DEEP Report.

Chair Parkins responded they are not getting a DEEP Report because where they are building is not on a site that is being tested. It is additional land that they are buying.

Comm. Flannery commented that it is additional land that people will be walking on and using for recreation.

Mr. Hughes responded that the 3.1 acres and the 9.3 acres, the public access trail and the public access point onto the island are, as the experts say, safe for activity.

Comm. Flannery asked why they were buying the 3.1 acres in addition then.

Mr. Hughes responded that it was available and it made sense to develop it. It is nice to have a tidal pond as an amenity for the public and the development. It increased the opportunities to provide meaningful river access.

Chair Parkins asked if Atty. McTaggart was ready to speak.

**Gail McTaggart, Attorney, Secor, Cassidy & McPartland P.C., 41 Church Street, Waterbury, CT 06702 addressed the Commission.** Atty. McTaggart introduced herself and provided curriculum vitae and submitted it for the record.

**\*See attached professional resume for Attorney Gail E. McTaggart of Secor, Cassidy & McPartland P.C. of Waterbury, CT.**

For the benefit of Comm. Pogoda via Skype, she summarized her credentials. She commented that she was a principal in her law firm and a senior partner. She does primarily land use, municipal law, real estate development and transactions, and commercial law. She has served as Town Attorney for many towns, Land Use Counsel, and Special Land Use Counsel in numerous Connecticut towns. In towns where she doesn't represent, she's worked on development proposals with a team of people that do environmentally sensitive proposals. She added that is really her specialty. She's a biology major and graduated with a degree in Biology as well as law and she cares very much that proposals she is involved with take care of the environment as well as provide a reasonable use of the property.

Atty. McTaggart indicated that she has drafted Common Interest Ownership applications like what will be associated with this application that set out planned communities, commercial/residential condominiums. She is a member of the Executive Board of the Connecticut Municipal Attorneys, the Executive Board of the Planning & Zoning Section and the Executive Board of the Real Property Section of the Connecticut Bar Association. She has presented numerous seminars to Commissions such as this on land use. She concluded that she has almost 30 years of experience of doing land use law in Connecticut.

Atty. McTaggart indicated that the Shelton Zoning Regulations set forth a standard for the findings that this Commission must make under Section 34.8 and 34.9. She stated that she was going to go through and show them that this application meets every one of those standards in those regulations.

Atty. McTaggart stated that the first one is 34.8 ? that the statements, use and the standards in the PDD district, in the PDD plan must be consist with intent and the purpose of the PDD. They have a very detailed paper from Peter Hughes, the planner on this project with regard to appropriateness so she is just going to summarize some of that.

The PDD provides transition between the single family residential R-1 and the non-residential industrial property IA-3 so it permits modifications of underlying standards. Peter Hughes's memo sets that out in detail. The proposal presented provides a harmonious design with careful attention to the watercourses on the property which are protected by conservation restrictions. Those conservation restrictions have been made a part of the application and they are stipulated that they will be imposed. There are provisions for cluster residences with traditional architecture that fits in with the character of the town and the neighborhood.

Atty. McTaggart commented that they heard the Landscape Architect speak tonight and she gave an excellent idea of how the landscape architecture will also work with that concept to provide the village feel for this development.

Atty. McTaggart stated that the provision for permanent conservation restriction and public access proposed provide long range improvement to the area. Right now, if any of them who have walked out on the site know that the site is somewhat into a deferred maintenance situation. Trespassers come in, there is garbage, debris, invasive species – it is a beautiful area but as it exists right now, is not being well cared for and protected. This is a situation where responsible development will enhance this area, not only to provide public access but also to preserve watercourses that are areas with blown down trees with roots exposed, with bank erosion. This plan actually puts this situation into a better stead and a better protection than if nothing were done on that piece of property.

Atty. McTaggart indicated that the majority of the development activity lies within the area of the parcel currently designated SDA. She stated that this Commission has wisely shown that this area qualifies for a PDD; therefore, in accordance with Section 34, the parcel is eligible for a PDD consideration since it has the existing SDA designation.

Atty. McTaggart stated that the application is seeking the PDD approval for a 36 unit development on 12.4 acres, duplex and triplex units, 15 buildings and a corresponding POCD map change to multi-family residential use which is in accordance with the comprehensive zoning plan for the City and the building map. They got (inaudible) the development today from low density residential advisory designation as shown in the 2006 POCD, so certainly, the intents and purposes of the SDA PDD regulations are met.

Atty. McTaggart commented that the second thing that the Commission must find is that the standards have been met. All relative standards are satisfied and in almost every instance, not only are they satisfied, but in a conservative the application exceeds those standards. She noted that if they take a look at the Statement of Use, the area bulk standards prepared by Peter Hughes, they will see that some of the highlights are that the PDD requirement is that there be 60,000 square foot area for one of these proposals and at sites on River Road be not less than

20,000 square feet. Blue Heron Cove is 540,144 square feet so that over 12 acres is way over the minimum that is required here.

Atty. McTaggart stated that the next standard is that the uses are identified. They are identified, they are multi-family duplex and triplex units with extensive green space, open space, conservation areas with 8.6 acres being preserved, 70% of the property and conservation restrictions that actually help promote significant wildlife habitat areas and natural resource protection.

Atty. McTaggart indicated that the next standard is that the lot coverage not exceed 60%. There has been some discussion about how intense this project is. She stated that it is so far below the 60% standard and they are at 12%. Even if they were to look at the pervious application as impervious, it would still be no more than 23.8% which is far below the 60% requirement which this Commission has set for an SDA proposal.

She stated again, the FAR maximum for a PDD is .80; this one is at .221 which includes the basement, 1<sup>st</sup> and 2<sup>nd</sup> and possible attic build-outs with the decks. That is a very conservative calculation – it is probably way below that.

She noted that the building height allowed is 60 feet. At the maximum, some of the buildings that have the garages below are going to be around 55 feet. Most of them are in the 40 feet range so they are below the standard.

Atty. McTaggart stated that the requirement be that there be public utilities serving the project. Aquarian and the Water Pollution Control Authority (WPCA) have shown that they have capacity to serve this property so there is no issue with respect to those utility services.

Atty. McTaggart pointed out that there are also services that are maintained by the property owners through the Association which include trash pick-up, recycling, and road maintenance. Those services will be done without being part of the tax dollars to serve this area.

In regard to the architecture and the siding of the residences, one of the requirements is that they show that they provide aesthetic enhancement. That has been done with preserving the water features for both the use of the residents and the public. The fabulous landscape architecture is being put on the site is another aspect of that. The architectural drawings show excellent design merit, traditional signs that the plans are dark sky compliant which is a personal proposal that she likes to see happen with all applications. The architect has indicated that the colors will be traditional and the architecture is traditional. Atty. McTaggart stated that the requirement is that it be average. She truly believes that this is way above average.

Atty. McTaggart stated that the sign location is located on the plans. One of the provisions is for this Commission to consider the natural features, the layout adapts to the existing topography.

The natural site features that they are proposing save many natural features of the development, conserving 8.6 acres on 12+ acre site. It is a very good record for preservation of natural features. Those resources are the Ivy Brook, the Butternut Hollow Brook, the tidal pond, the wetlands, and the Housatonic River frontage.

Atty. McTaggart stated that there is an environmental assessment report that shows that there was no direct adverse impact to the site's natural resources by the development as designed. There is the preservation of the riparian corridor, the preserved conservation area along the Housatonic and the tidal pond. There is the CON/SPAN bridge that is an extra expense but that CON/SPAN bridge preserves the stream bed and allows reasonable access to the property. There are walk-out basements that work with the topography, the garage entrances also work with the topography. There is protection for what will be happening to the Cemetery Association. They understand that the cemetery has been there for 200 years and they want to make sure that by providing the public access that the cemetery will also be protected. The fencing that is being proposed by the developer accomplishes that.

Atty. McTaggart stated that the proposal complies with the zoning regulations for the underlying district as modified. The PDD Statement of Use that Peter Hughes submitted to the Commission gives them a chart to show them how that happens. In almost every case, the actual proposal exceeds the standards for the underlying district.

Atty. McTaggart indicated that the next requirement is that qualifying standards were met. The application meets the qualifying standards consistent with the intent of the PDD. Another zoning district would not accomplish what the cluster proposal here provides for the best use of that property to protect the wonderful watercourses and resources on the property which would not happen in a traditional layout.

Atty. McTaggart stated that the Statement of Use and the plan are consistent with the comprehensive plan of the City as evidenced by the SDA designation. It is a similar requirement but she is just repeating it.

Atty. McTaggart indicated that #4 the site design, organization of uses, buildings, parking and drives are for safety. The Traffic Engineer has indicated the level of service. She added that she was not a traffic engineer, but some people think that if they have a grade of "C" on anything, that must be bad. In the traffic engineering world, a grade of "C" is actually an acceptable traffic intensity and (inaudible) passing ability approval for vehicles.

She indicated that the Fire Marshal has looked at the plans. There was some adjustment to the plans that were made and those are now consistent with the Fire Marshal's requirements. It results in the fire safety requirements being met.

Again, the CON/SPAN bridge provides a low impact to the reasonable use of property, the watercourse. The plan provides sufficient parking for residents and guests.

Atty. McTaggart stated that Public Improvements and Impacts is the next finding that the Commission is required to make. The traffic flow will not overburden the existing streets. A professional engineer has studied this and made that determination. There is a sufficient capacity of water and sewer. The storm water management meets the State guidelines set out in the engineering report from Dennis McMorrow of Berkshire Engineering and there has been a peer review by Loureiro Engineering. The plans incorporate an LID design technique recommended by the State DEEP which is the best management practice in this state. Also, it is really a goal in their State; LID design should be incorporated wherever possible in development proposals so that Low Impact Development (LID) design mechanism has been incorporated here.

Atty. McTaggart stated that there are no negative off-site conditions to be addressed. The proposal does take road drainage and deals with that; whereas, right now it is just flowing without any protection. That road drainage is going to be taken care of so that the water quality can be protected on the site with this proposal. Leaders? from brook drains and storm water and going to be dealt with so that there is filtration. The plan proposes usable open space and there is a really good balance in this plan between the public access and the private uses of this site. It is a win/win situation for both the public who gets to use it and the owners of the property who get a beautiful location. The plan ensures enhancement from current conditions that are affected by trespassers who leave debris on the property and the impact on the wetlands. There will be a plan to deal with invasive species. The upside of creating – is one of the review criteria – the applicant is going to be funding the cemetery fencing as well as the water surfaces to the WPCA pump station so there is really no impact, but there are positive enhancements that will be happening based upon this application.

Atty. McTaggart stated that there is question if there will be adverse impact to the surrounding property values. Most assuredly, cleaning up this site and allowing the public access to it will be a plus for the surrounding properties. The Cemetery Association has not objected to this proposal and they have been working with them regarding the fencing and the gating. They are very willing to continue with that.

The residential development of this nature and the environmental stewardship will likely enhance the surroundings. Having an Association that is there to do this maintenance and protect this property is so much better than just leaving it where it is. At least there is a designated body that will have a plan. Atty. McTaggart stated that for those who aren't familiar with the Common Interest Ownership Act, once there is an approval that has these stipulations in it, all of those approvals run right through the deeds and into the land records as part of the declaration that people buy when they buy into this community. So when they buy into this community, they

will buy into an obligation that is set forth right in the declaration documents and it will be there – and they so stipulate.

Atty. McTaggart stated that the wetlands proposal provides stream enhancement and invasive species control techniques. Again, this is another positive that they are fulfilling the requirement to consider the surrounding property values. They are taking care of what is happening on that property with invasive species helps other properties that are nearby because, as they know, the seeds and the all the spores that come from those plants run through to other properties. All of this is done without public dollars; it is being privately funded.

Chair Parkins asked if she was almost finished. She commented that she knows that she's providing a summary but a lot of this information is becoming redundant and (inaudible)...

Atty. McTaggart responded that she was almost finished. She has two more standards. She stated that these are the standards that are set in their regulations. She wants to make sure that everybody knows that has been done. Atty. McTaggart indicated that #7 was the ecological environmental concerns including wetlands impacts which she thinks have been adequately addressed. They have talked about those and what is happening here. The beaver dam has been discussed tonight, the conservation easements and the permanent protection.

In regard to the provisions for ongoing maintenance, Atty. McTaggart restated that the Homeowner's Association documents will contain the stipulations that management facilities, parking areas, open space areas be protected in accordance with these approvals.

Atty. McTaggart stated that the second set of findings for 3.49 is redundant. Those findings from the detailed plans ask almost exactly the same questions such as if it is consistent with the purposes and they have discussed that. It asks if the Statement of Use standards meet the Statement of Uses – it does that; it asks if the bulk and area requirements are met – it does that; it asks if the city streets and intersections are suitable to accommodate traffic and they've discussed that. Atty. McTaggart indicated that the upshot is that based on all of the provision in their regulations that set the standards for this Commission to approve this PDD – both the concept and the Detailed Plan – every one of those requirements have been met. She concluded and thanked the Commission.

Chair Parkins thanked Atty. McTaggart for her very thorough summary.

Atty. McTaggart submitted a copy of her summary statement for the record.

Chair Parkins asked for a motion to close the public hearing for this application.

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to close the public hearing for Application #12-17.**

**8:17 p.m. (5 minute recess)**

**APPLICATION #12-20 BLAKEMAN CONSTRUCTION, LLC FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (CONVERSION OF MIX USE BUILDING TO 14 UNIT APARTMENT COMPLEX), 11 LEAVENWORTH ROAD (MAP 146, LOTS 17 AND 18) CA-3 DISTRICT.**

Chair Parkins resumed the meeting with Application #12-20 and asked P&Z Secretary, Comm. Harger to read the Call of the Hearing. Comm. Harger read the Call of the Hearing and two pieces of correspondence.

**\*See attached correspondence to Richard Schultz, P&Z Administrator dated 10/12/12 from City Engineer, Robert Kulacz.**

**\*See attached correspondence to Richard Schultz, P&Z Administrator dated 10/24/12 from Fire Marshal, James Tortora.**

**Atty. Dominick Thomas, Cohen & Thomas, 315 Main Street, Derby, CT, representing the Applicant, addressed the Commission.** Atty. Thomas stated that the first thing that he'd like to present to the Commission are the notices, photographs of the posting, photos of the signs, list of property owners for notice, notification letters and the certified mailing receipts.

Atty. Thomas pointed out that the City Engineer Report – he believes that they filed this application in August or early September, set for public hearing on October 24<sup>th</sup> – and their engineer received by e-mail the City Engineer's Report (Atty. Thomas said he never received it) today, October 24<sup>th</sup>. He asked Jim Swift, the project engineer, if that was correct.

Mr. Swift responded yes, that's correct.

Atty. Thomas stated they received the two reports today. This is not a situation where they crammed in a public hearing in two weeks. He added that this is a situation where there was a month and a half - and they didn't get the report until today. Atty. Thomas indicated that they would like it ahead of time because when the Engineering Report goes beyond what is in engineering to other areas in which he has no expertise in commenting on, it is nice to be able to prepare a response and not just having to shoot from the hip on the night of the public hearing.

Chair Parkins asked Rick Schultz when he actually received this report because it is dated the 12<sup>th</sup> of October.

Mr. Schultz responded that he doesn't know the exact date.

Atty. Thomas reiterated that it was difficult for them. Most of the stuff will be addressed by Mr. Swift. He continued that he wanted to give them some background because he doesn't know how familiar all the Commissioners are with this site. This was an area that was a general store

and also a gas station. If they look at their map, it is very small island or enclave of commercial going up Route #110 at the point where it changes from Howe Avenue to Leavenworth Road. The property has fallen into some disrepair. There are two buildings on the site, the intent, as it states in the Statement of Use, is to take down the smaller building and to engage what is adaptive reuse for residential.

Atty. Thomas stated that it is a permitted use in the CA-3 zone for this type of multi-family by Special Exception. So, they have to address your considerations, which he believes that they will, but in summary, under 33.4 General Considerations for Special Exceptions, the size and intensity of the proposed use.

Atty. Thomas stated that it is really hard to compare when they talk about size and intensity. They are expanding the useable area a bit. They are taking down one of the buildings that he thinks may have had a residential use in it in the past and they are putting in a residential use which, depending upon what you are comparing, is probably less intense than the commercial use – assuming you could get one there. Atty. Thomas stated that putting a gas station and convenience store there now would be virtually impossible. Especially when you consider the fact that the area is served very well by the White Hills Shopping Center which has a gas station and grocery store. It is probably not much more than one mile or 1 ½ miles from this location. So, they have an enclave, a larger enclave, much more modernized, right up the road from it.

Atty. Thomas indicated that the proposed use be effective in the comprehensive plan. As they know, their Comprehensive Plan is not their Plan of Conservation and Development. The Comprehensive Plan is their Zoning Regulations which permit it as a Special Exception and their zone map, and of course, the area is primarily residential. This is a commercial enclave within the commercial zone, this residential use permitted so they believe that it fits perfectly well with the Comprehensive Plan.

Atty. Thomas stated that the capacity of the adjacent feeder streets to accommodate peak traffic flows and (inaudible). Basically the residential use will probably create - first of all, this is a State highway and as far as getting in and out of it, if there is any issue with respect to traffic, especially from the 14 residential units, but certainly the in and out from the residential units would be much less than from a commercial use.

Atty. Thomas discussed the effect upon property values, taxable values and things of that nature. He commented that it was very interesting because there are many times that this Commission sat here when a commercial proposal is made near a residential neighborhood, the people from the residential neighborhoods stand up and say that if there is any commercial put in it will destroy their property values. Not necessarily that they meant to say (inaudible) but that is the impression that people have.

Atty. Thomas stated that what they are doing taking a commercial site and putting residential so he thinks that they can safely say that it is not going to have an adverse effect on residential properties surrounding it.

Atty. Thomas commented about the parking. He indicated that he read briefly, right before coming in here, Mr. Kulacz's comments. First of all, it has nothing to do with engineering that there may be tension between the tenants. He stated that he wasn't an engineer, a P.E., but he doesn't know what course that would have been in engineering school about the tension between tenants. But that was brought up before – first of all, they are talking about a restricted residential site. Why a restricted residential site? This isn't a site where the public goes in and parks and goes into a store. When you have a store, when you have a commercial site, the public is invited, they have to come so that the store can survive. They go in and they go out. These are designated parking spaces. In other words, these are parking spaces and that's why tandem spaces work. In residential areas, tandem spaces work in garages. Many people have a space in the garage and a space in front of the garage.

Atty. Thomas stated that the tandem spaces are going to be allocated to the units such as the husband/wife, boyfriend/girlfriend, and roommates. If they screw up their own scheduling, then that is their problem. They will have a designated space. It is up to them who parks in and who parks out based on who is going out first. It is not really a parking issue. The parking is of sufficient size.

Atty. Thomas stated that in respect to the snow issues and the snow shelf, this is an apartment that is going to be maintained by the owner of the apartment who is going to remove the snow. He will let Mr. Swift deal with the issue with respect to other things but Mr. Kulacz is talking about parking spaces in a capacity where this would be a commercial site and people would be pulling in and out all the time. It is not that kind of site. For instance, the comment about the two spaces in front of the dumpster. They've designated them but the parking is well over the amount. It is 32 spaces when only 21 are required by their regs. The issue is up to the apartment owners and the regulations in the lease to determine if those spaces are useable and what the issues are with those spaces. Those spaces can be designated, for instance, for the maintenance personnel. They would go in there and they would know when the dumpster pick-up and delivery is so they know when they aren't supposed to park there. They can say "No Residential Parking," or "No Visitor Parking." He reiterated that this is not the commercial where people are coming in and out. If there is a problem, if somebody parks in front of them, whether or not there is a parking line, and somebody decides to park in front of them, it is the problem of the tenants. There is more than sufficient parking. This place, certainly, by adding the extra spaces and the tandem spaces, they are taking care of issues that might come up with respect to visitor parking.

Atty. Thomas indicated that the Engineering Report was filled with fire safety comments but there were very few fire safety comments from the Fire Marshal except the widening of the entrance. He asked why that was. He commented that first of all, this is a sprinkler building – that’s one major issue. Unless you are really dumb, you aren’t going to park a fire truck against the building in the back. It is a sprinkler building so the chances of it falling down are kind of remote. He stated that the State Fire Marshal has told him many times when they’ve had this discussion about fire lanes up against buildings. Most fire trucks don’t park against the building because they don’t want the building to fall down on the fire truck. Most fire trucks will go to a different location. If you are fighting this fire and using an aerial unit, the aerial unit will be parked on Route #110. He pointed out that you wouldn’t be able to raise it if it were up against the building. He indicated that was one point.

Atty. Thomas stated that the other point was that the Fire Marshal himself, really had no comments about what the City Engineer is saying. They believe that certainly, with the sprinkler building, they’re providing – again -certain commercial buildings and certain other uses wouldn’t have to be sprinklered. This is a residential use, and he believes under code, the architect will comment on it, it must be sprinklered.

Atty. Thomas indicated that he’ll let the Engineer talk about water supply, sewage disposal, soil erosion problems and other issues. As stated in the Statement of Uses, it fits with the area and it would be an appropriate adaptive use for this area and provide a residential use in this area which is compatible with the existing. He concluded and turned the discussion over to Jim Swift.

**James Swift, P.E. and Landscape Architecture addressed the Commission.** Mr. Swift provided a site map and indicated that it was the existing conditions plan. He provided some history of the building, showed the main building out by Leavenworth Road and the smaller out building, which is a small house located in the back, and all the variants kind of speak for themselves – first it was (inaudible) and all across the frontage. It is not particularly attractive. He stated, again, it is a CA-3 zone and about .93 acres and that is what they are starting off with.

Mr. Swift provided another rendering and commented that the proposal is to save the base building. There are a few Ruth Goldberg-type of additions, a stairway cover and things like that and a lot of these things are going to be taken off. They aren’t going to show all the detail here because Joe Mingoello will show what the final aesthetic of the building looks like. They can see that all the funky little additions that were put on the building over the years are going to be taken out. For the record, it will be converted to a 14-unit apartment by the special permit application process with five 2-bedroom units, nine 1-bedroom units.

Mr. Swift stated that they are going to clean it up, obviously, the aesthetics are important for this Commission whenever they do this kind of a re-fit to try and modify the building a little bit.

They can see that they are working with putting some green space in the front, to the sides and even to the limited extent that they can on some of the sides which he'll discuss in a second.

Mr. Swift stated that the regulations call for 1.5 spaces per unit and that is going to be a required parking rate of 21 spaces. They have all been through this before with apartments. The Commission is much more comfortable with at least 2 parking spaces per unit. So in order to get to that number, they've done these ten tandem parking spaces. He showed their location in the back of the building and explained that you circulate around. He pointed out some other spaces at the front entry with handicapped spaces, a line of 11 spaces, the masonry trash enclosure and the tandem spaces in the back. He added that it goes without saying that the tandem spaces are assigned to the two-bedroom units.

Mr. Swift noted that they do meet the regulations without those tandem parking spaces which is 21. Two spaces per unit for the 14 units is 28 parking spaces. They have a final count of 32 parking spaces. They have pretty much maximized it. They want to provide as many parking spaces as they can on this site.

Comm. Flannery asked if he could count those 21 spaces for her.

Mr. Swift responded that there is a total of 32 spaces minus the 9 tandem spaces which will give them 21 that are accessible.

Comm. Flannery asked if he could show her where those 21 spaces are.

Mr. Swift responded and showed them on the map as 2, 2,3,5, and 1 space. The building will have both front and rear entries for a couple of reasons. As you are driving along Leavenworth Road, you don't want to have the appearance of looking at the rear of the building so he showed where they added the front entry with a couple of parking spaces. He added that the main addition to the building is in the back and because most of the parking spaces are in the back, that is kind of the main entrance back there and that is where the (inaudible) ...

Mr. Swift stated that even though they are in a commercial zone, they are surrounded by residential uses and this is a residential use. So, they are lowering the widening that they would normally do in these kind of parking lots to maximum of 16 feet with a couple of poles in the back with house side shields that are lower so the light is directed downward. There is another pedestrian sort of scale lighting that has a nice residential feel and is scattered around the front at the 12 foot height which is more appropriate for residential use.

Mr. Swift indicated that they have met with Conn DOT District 3 who is going to be looking at and reviewing this plan. They sat down, met with them and reviewed these plans and they are happy with how they cleaned up the front. They are happier with this use as a residential use as opposed to a commercial use. They are on board and the only comments that they had are that

they are going to look at a few things. They questioned whether they would be better off with a one way circulation all the way around the building, but they aren't insisting on it. They may have some comments, but again, they sat down with them and they are pleased with the general concept that was shown.

Comm. Harger asked who he was referring to.

Mr. Swift responded Conn. DOT. This is not an STC issue so it is handled by the local Conn. DOT and they are the ones that are going to give the final permit for this. For the record, he pointed out that the building coverage allowed in this zone is 75%. They are at 11.7% so they are well under. Impervious coverage for this zone is 90% and they are at 53.8% so again, the impervious coverage is well below.

Mr. Swift discussed the grading and utilities aspect and showed another site drawing. He stated that they are relatively level in this site for the front of the building although it does drop through the sides of the building. It is a three-story appearance from one side and four-story appearance from the back side and that will be maintained. There won't be any change to that.

End of Tape 1A

Mr. Swift stated that they are kind of flat in the backyard and this last little bit where the contours drop off pretty steeply, and that is where this retaining wall is coming into play. The retaining wall is about 32 feet in height right at this back corner. To provide a sense of scale and appearance for something like that, he indicated that the Split Rock Center on the corner of Old Stratford Road and Bridgeport Avenue, it is about the size of that wall. As far as the ability to build that wall, and the ability to park cars on top of that wall, all other aspects in that kind of situation – it is well within physical possibilities. It is not a big stretch.

Comm. Harger asked if he was referring to the area in front of Walgreens.

Mr. Swift responded yes, well actually next to it.

Comm. Flannery asked if the land was dropping down.

Mr. Swift responded yes, the land is dropping down toward the Housatonic River. In that respect, this wall is not going to be seen. All this land from here all the way down to the roadway, Housatonic Railroad, is all undisturbed, all wooded. There are no plans to disturb that at all. Mr. Swift pointed out that the 32 foot height is only in that corner. As you come up, it's only about 15 feet here and about 12 feet here (he showed these locations) so it is kind of extreme in one corner and then it tapers up as you come up from that corner. He will go into the wall a little bit more as he goes through the comments in the City Engineer's letter.

Mr. Swift showed the location of a water course and explained that because of that water course in one area, they did submit to the Inland Wetland Commission who has granted approval to the project. He added that because of the Inland Wetland application, they have done all the impervious pre-construction, post-construction storm water calculations. Their post construction discharge rates are less than the pre-development construction run-off rates. He stated that is an obvious requirement for Inland Wetlands and he knows that this Commission likes to see that too. Again, he commented that this is still a relatively new requirement from the City Engineer for a pretty stringent water quality and maintenance program for any new developments like this and that is also included in the Drainage Report that was submitted. They rely a lot on the recharging the ground water systems. They have systems that don't discharge at all until they reach a certain point. They have good things to work with here in that this area along the River is almost pure sand and gravel so they can get a lot of this water right back into the ground without having to worry about getting it discharged.

Mr. Swift stated that the water and gas, for the record, is available on the site. Water lines available and gas lines are available. The sanitary sewer connection is going made to the municipal system via a private line that goes up the River Road and the WPCA has approved this project for that discharge – he corrected himself, he meant Howe Avenue, Leavenworth Road.

Mr. Swift stated for the record that there was a comprehensive soil erosion control plan for review. The Wetlands has reviewed this and he's sure that Staff will review it as well but it is comprehensive (inaudible)...

Mr. Swift discussed the landscaping and showed another site rendering. He indicated that they would be taking a lot of that pavement out in the front and dressing it up a little bit. He thinks that they are going to like the front elevation (inaudible). He explained one side of the project that had a very heavy, very mature line of spruces that are going to remain. Anywhere that they don't have any landscaping, such as where the house had been located, they are going to add spruces. He indicated that in coming around the whole hillside would remain completely undisturbed.

Mr. Swift commented that if you come up along one side, obviously because it is the existing building and existing property line, it is fairly tight in there. They have had some preliminary meeting with Staff and they've looked at maybe planting some grasses and things to try to buffer it. The next door property is also in the commercial zone but he has no clue what they might do there in the future but they are looking at a couple of options. One is working with Staff to see what they can fit in there. The DOT, as part of the conversations that they had with them, was possibly making this a one-way loop around the building which might give them some flexibility on the pavement. They didn't want to get below the 24 foot width and the two way traffic pattern but it is possible even though they have a 24' pavement width now. If there is a way to

make that less and do some decorative grasses or some sort of buffer in there, they would be willing to do that. Mr. Swift indicated that they also had intentions of approaching the neighbor and if they can plant on the line, they will do that. He added that he thinks it is in their interest as well to get some landscaping in there. He stated that is kind of an area that is what it is and they'll do the best they can with it. Another option would be a decorative fence (inaudible)...

Comm. Harger asked if anything had been entertained about having any picnic tables.

Mr. Swift responded that they went to a lot trouble to make sure that each unit has an outdoor area. They are kind of hidden on the plan but each unit has either a patio or a deck so in that respect they have an outdoor area.

Comm. Flannery commented that he said it would have three levels and asked how many apartments on each level.

Mr. Mingolello responded that it would 4 per level and 2 in the basement.

Atty. Thomas stated that Mr. Mingolello will go over that in his presentation.

Mr. Swift commented that he wanted to address the City Engineer's comments, although Dominick did a lot of that already, but he'll go through it as best as he can. He indicated that the City Engineer had concern about how the retaining wall was built. He referenced Split Rock again, and explained that a wall like this is built in a fill area. It doesn't need access from below. It is built by excavating the area up gradient from where you want to build the wall. When you have a wall this high – he showed a drawing of the wall and the material that you would fill in behind it – there are layers of fabric that they have to lay in coming in this way. As they place the material on top of the fabric - that is what holds the wall. Obviously, these little 6" x 12" blocks don't do it. They have to lay this fabric. So just by definition, they have to take this area, excavate it flat behind the wall, put the first line of block in for the wall and then lay the fabric.

Comm. McGorty commented that the fabric is the anchor.

Mr. Swift responded yes, the fabric is the anchor so they are always working from the uphill side.

Comm. McGorty asked about his comment because it was a little bit ambiguous – it doesn't say what he is against. It says "the surcharge loads from the vehicles..." but he really doesn't go into any kind of specifics on it. He commented that the surcharge loads of the vehicles, obviously, it must be of some concern but he doesn't state any specifics on it.

Mr. Swift responded that they have a design for it because (inaudible). Again, it is very similar to Split Rock and the rock (inaudible)...

Comm. McGorty commented yes, that's what he would think.

Mr. Swift stated that it needs to be properly designed and the design needs to meet with a structural engineer's certification for everybody's protection. The City doesn't have any liability on it but for their own (inaudible)...They'd be (inaudible) if these cars ended up in the Housatonic River because of the wall.

Mr. Swift summarized that was the process of how they build this wall, so they don't need traffic and construction vehicles on the downhill side. In the City Engineer's second comment, he notes that he doesn't believe that this is a 2:1:1 existing slope. Mr. Swift indicated that he thought that maybe he made an error, so he re-checked it but as far as he can see, this is a 2:1:1 slope. So he isn't sure where he's coming up with the 1:5:1 but he'll double-check that with him. He believes it is his error but he could be convinced otherwise. Mr. Swift said he triple-checked it so he believes that it is correct with the 2:1:1. Mr. Swift stated that the wall will be designed by a structural engineer and (inaudible) properly.

Mr. Swift stated that those comments kind of follow with the reservations on the type of wall, the wall surcharge loads and all of that stems from that description. The wall is built (inaudible); it is only 30 feet on one point, significantly shorter on others. Again, they have a couple of others - he stated he was thinking of the hotel across from 1000 Bridgeport Avenue that had a similar wall - the extended stay hotel, AmeriSuites? It is not egregious. It is on the downhill side and they don't have to worry about the aesthetics of it so much.

Comm. Harger stated that she thinks he is talking about the extended stay past Avalon.

Comm. Matto commented that she'd like to ask about the aesthetics of it though and if it was visible from the River.

Mr. Swift responded that he would say possibly it is visible in the winter but there is (inaudible) of feet...

Mr. Panico asked what the distance was from the back of the wall to the property.

Mr. Swift responded that it was up in the air...(inaudible) ...

Comm. Matto asked if it was going to look like a fortress from the River.

Mr. Swift responded that it was not big enough. It is only about 100 feet wide, which may sound like a lot but it is a considerable distance away. He added that just to the mid-property line it is 120 feet, then they've got...

Mr. Panico asked how much elevation change.

Mr. Swift responded that it was 110 feet, so it's a 110 feet up from the River and it is only...

Atty. Thomas stated no, not from the River.

Mr. Swift responded yes, because he's using the contour.

Atty. Thomas stated that the property line goes down to the railroad. Then the railroad goes down to the River.

Mr. Panico stated that Jim is saying that the wall is 110 feet above the River.

Comm. McGorty commented elevation-wise, not from the River...

Mr. Swift measured on the map and stated that this wall was probably some 800 or 900 feet from the River so (inaudible)...

Comm. Matto asked what it would be made out of.

Mr. Swift responded that it would be an earth tone, it's not going to be ...

Mr. Panico stated it would probably be a manufactured material but not mafia blocks, if that is what she's worried about. He added that they've all had a bad experience with mafia block walls because it is rough, unfinished and – its mafia blocks.

Mr. Swift stated that they would gladly accept this Commission's suggestion on what color they want.

Mr. Panico stated that this is a manufactured product that this wall is made out of.

Comm. McGorty added in earth tone.

Mr. Panico responded yes, in earth tone but there are various colorations available. Jim is suggesting earth tones.

Mr. Swift stated either an earth tone or a gray or dark gray.

Comm. Flannery responded no gray – green, brown but no gray.

Chair Parkins commented – Green?

Mr. Panico stated that she doesn't want it to look like a concrete wall.

Comm. Flannery responded yes, that's right.

Mr. Swift stated that a dark gray...

Comm. Matto asked if it would be some type of faux stone product.

Mr. Schultz stated that it would textured...

Mr. Panico added that it would be manufactured...

Comm. Matto indicated that she would have to see it (inaudible).

Mr. Swift stated that with the darker the color, the more it disappears from the eye. The lighter the color – she is thinking of white...

Comm. Matto responded yes.

Mr. Swift stated that in regard to the issue of the fence on top of the wall, they show a 4 foot chain link fence on top of the wall. The City Engineer is suggesting a 6 foot fence. He's not sure why.

Comm. Flannery commented that it is so kids can't climb over.

Mr. Swift stated that he can appreciate that but even a kid that sees that from standing at a fence – it goes down like (inaudible) ...If the Commission would like a six foot fence, they'll gladly put one there.

Mr. Swift indicated that in regard to the parking spaces, he thinks that Dominick covered that and he thinks that is the Commission's choice which parking spaces they feel work and which ones don't.

Mr. Swift commented about the driveway grade being 10% (inaudible)...that is true. He doesn't see an issue with that and he doesn't think the City Engineer does either; he thinks it is more for Conservation. The City Engineer also thinks that a circulation of a one-way pattern might be better. The DOT does also. He thinks that they will work it out with them and with Staff if everyone would like to see one. Mr. Swift commented that he really doesn't think that will be an issue for them.

Mr. Swift discussed the parking spaces located just off the front of the building. The DOT had no issues with them. He thinks that they've got a lot of history here where this used to be a commercial building and it wasn't a problem then, so he doesn't think it would be a problem now.

Chair Parkins asked if they would be designated spots dedicated to specific units.

Mr. Swift responded yes. He concluded his presentation and offered to answer any questions the Commission had.

Atty. Thomas stated that he had one comment about the in and out thing. He stated that he's been up there, and if he isn't mistaken, this property used to have just one big entrance. They had gas pumps and things in there so – people would park there, people were getting gas there, people were pulling in and out there. It was a more unsafe situation than pulling into a driveway.

Comm. McGorty agreed and said yes, and with flammables there.

Atty. Thomas stated that it is not going to be a commercial setting. It will just be the residents and their guests coming in. He had forgotten when he drove out there, but there was really no entrance. It was just one big entrance/exit with no designated driveway – people would just zip in, get gas, other people would come in for the store, and zip out. He commented that if no one had any questions for Jim Swift he would have Joe Mingolello present architecture.

Comm. Harger indicated that she had a question about the tandem parking and asked if that was the only solution instead of a small center island back there with single spaces.

Mr. Swift responded that they looked at pushing it back and getting another complete bay. It just didn't seem worth it - well, they could do it. All it would cost them is for dirt and concrete things. They looked at taking this lot and spinning it a little bit so it works with the contours a little bit but it just pushes everything down the hill farther and makes the wall higher. He added that it just didn't seem worth it. They have seen the tandem spaces work before, especially since they comply without the tandem spaces so they are just icing on the cake.

**Joseph Mingolello, architect, Mingolello & Hayes Architects, 90 Huntington Street, Shelton, addressed the Commission.** Mr. Mingolello stated that he would begin by discussing the basement floor plan and work his way up. He provided a floor plan of the building and explained the orientation with the right side being Route #110/Leavenworth Road and the parking to the rear.

Mr. Mingolello stated that they thought that the majority of the parking is to the back of the facility and that would be the main entrance. He pointed out a bump-out seen on Jim Swift's plan that would be the new entrance and there will be a stairway and an elevator.

Mr. Mingolello showed the basement plan and the existing footprint. They had to carve out and straighten out a little bit in the corner but basically this square is the existing foundation as it sits back. He indicated that what they tried to do on the lowest level, the main entrance, was create, within this existing basement, two apartments. These are both – two 1-bedroom apartments. So they will enter through this covered porch area into an elevator/stair lobby. If you live on the lowest level, you walk straight down the corridor and enter into either unit.

Mr. Mingolello explained that the units are laid out very simply. Walking through the door there will be a kitchen. Basically, since they are small, it is an open plan. The kitchen has a little peninsula to it and small dining area, living room, one bedroom and bathroom, porch and laundry/storage. This mirror image is very similar to the other. If they continue on down, there is a very low headroom basement where they'll putting mechanical equipment and minor storage for the tenants.

Comm. Matto commented that he's using the footprint of the building and the foundation there. She asked if he was using the walls of the building or if they were all coming down.

Mr. Mingolello responded that they are staying. The only thing that is coming down with the demolition is the roof structure. The roof is coming off and they are bringing those walls straight up and simplifying the roof structure. It has been added on over the years. There is one story, two stories, three stories – it has gone through a number of additions over the years and none of them make any sense – from a structural standpoint and an aesthetic standpoint. So they are going to try to simplify it, clean it up and in the elevations they will see that it is a big improvement.

Comm. Harger asked if to accomplish this they would essentially be gutting it and leaving the shell.

Mr. Mingolello responded yes, absolutely, taking the roof off, leaving the four walls and working from there.

Mr. Mingolello showed a first floor layout and explained that this level would be at grade. He showed where Route #110/Leavenworth Road was at grade there so they have a little entrance way for those two parking spaces on each side of the building shown on the rendering. He showed which two units would probably end up having those two parking spaces. He showed the front entrance and he pointed out the stairway that they were incorporating into the new layout and the rear entrance. He showed the elevator, lobby space, and center corridor that connects the front stair to the back stair. He indicated that there would be four units – two 2-bedroom units and two 1-bedroom units.

Mr. Mingolello showed the location of the two 2-bedrooms on the top and bottom of the floor plan with the singles next to them. He indicated that the layout was very similar except the kitchens are a little bit bigger, the living room/dining room, bedroom, bedroom and bath. He showed the location such as the alcove area, and laundry. He explained the one-bedroom units which are mirror images on this floor as being similar to those already described. He commented that all of these units are very similar.

Mr. Mingolello showed the floor plan for the second floor and indicated that it was pretty much a mirror image of the level below. Again, there will be two 2-bedroom units and two 1-bedroom units. He pointed out the location of the front entrance in the back and entrance in the front, means of egress and the four units.

Comm. Harger asked how there could be no decks.

Mr. Mingolello responded yes, there are some decks. On the upper and lower levels where they are on grade, coming in through the kitchen, dining area, bedrooms and it there is a hallway that goes out to the deck with a view of the River. It is the same thing similar to this other unit but the front units over on Leavenworth Road. The only difference is that the deck is off of that office/alcove living space.

Chair Parkins asked how big the decks were.

Mr. Mingolello responded about 5' x 15' – they could fit a barbeque out there with a couple of chairs.

Comm. Flannery asked why they wouldn't put those decks more on the side instead of the front.

Mr. Mingolello responded that the problem was that they have cars and they can't hang them out there. They have a problem with the width of those driveways and you have another 5 feet out there then it reduces the width of it so they might get hit by a truck or something coming in or out of there. They need to be front and back. They want to take advantage of these rear units and in the wintertime they will be up high, they will have a nice view. He commented that they are much better off on the front and the back. They really don't have much of a choice if they want to have the decks then they have to be front and back.

Mr. Mingolello reiterated that the third floor was similar to the second floor with the same number of units. He showed a rendering of the front elevation as seen from Route #110. He pointed out how they created an entrance way. He explained that what they tried to do – well, the existing building is an old barn. There is a barn style roof, a gambrel roof, so in looking at a lot of old barn structures like wood siding, barn red color, so they tried to carry a band of vertical siding – and you can see this on the rendering - then they changed from there on up and added some dormers and a cupola to change the look of it.

Mr. Mingolello showed a rendering of the side and rear elevation which is a 4-story building. He pointed out the new entrance addition that they are putting on. He showed side elevation rendering. On the Route #110 elevation rendering he indicated that they tried to carry a different color on the lower and different texture material vertical versus horizontal, clapboards up above. He showed how the band runs around from Route #110 the upper elevation and slopes off onto the lower elevation and it has a vertical siding and then they change off to a horizontal siding. They are using different colors – going from a deep red, creating a base around the building and going to a lighter look up above. He indicated that ultimately that is what it would look like. He showed the front and rear elevations again.

Comm. Matto asked if the basement apartments just walk out in the back.

Mr. Mingolello responded yes and pointed out the location of the patio door.

Comm. Flannery asked what the dormers were for.

Mr. Mingolello responded that they were just for aesthetics.

Chair Parkins asked if there was a cover, overhang, for the top decks.

Mr. Mingolello responded no. It would be wide open even the lower deck...if it is raining, it is going to rain right on through.

Chair Parkins asked what he meant by "it is going to be right on through."

Mr. Mingolello responded that if it is going to rain then it is going to rain right through to the bottom deck. These decks are not going to be waterproof at this elevation so that they are dry. It is a whole new detail if they try to do that unless (inaudible)...

Chair Parkins asked what the flooring material on the decks would be.

Mr. Mingolello responded that it would probably be a PVC decking material and something that is (inaudible)...

Chair Parkins commented OK, so it is not going to be pouring on these people because technically, they could have a grill out there.

Mr. Mingolello responded no, it would not pour on them – they can go out there if it (inaudible)...

Mr. Panico added that it isn't much of an angle for the rain to hit the entire deck.

Mr. Mingolello responded right.

Mr. Swift asked if they would be able to put an awning if they wanted to.

Mr. Mingolello responded that possibly you could carry something overhead but it changes the architecture a lot by doing that. He doesn't know the advantages to that because it would really change it a lot in terms of it being simplified now.

Chair Parkins commented that she wouldn't want to see it in the front.

Mr. Panico asked if they happened to have a picture of the existing building.

Mr. Mingolello responded that he wishes he did.

Chair Parkins commented that she has a picture of it in her mind.

Comm. Pogoda asked if this building would have (inaudible)...

Mr. Mingolello responded that this building will have fire protection. It is required and mandated, it is over 3 stories, so it get 4-stories, multi-family so it is going to be required by code.

Chair Parkins commented that visually it is not going to look nice having stuff on those decks in the front but she guesses that you can't really (inaudible)...

Mr. Panico asked if there would be an exterior fire escapes or anything like that.

Mr. Mingolello responded no, everything is according to Code and that's why they have the corridor in the middle and stairs in the front and back.

Comm. Harger asked Mr. Mingolello to go over the layout. She knows that he said the basement had two 1-bedrooms.

Mr. Mingolello responded that the first floor has two 2-bedrooms and two 1-bedrooms. The second floor has two 2-bedrooms and two 1-bedrooms and the third floor has three 1-bedrooms and one 2-bedroom. Each floor has four units.

Comm. Harger asked if the ceiling height was different on the third floor.

Mr. Mingolello responded no. These are going to be roof trusses, they are going to build it relatively simply with a flat truss. Simplify it, take the old structure down because the way it is designed right now, he's sure that once you start loading those floors to (inaudible) that the way that the roof comes down onto those (inaudible) structures, he's sure it wasn't designed for that. He would be leery about (inaudible)...Right now it is framed for apartments up there but they were never completed.

Comm. Harger asked if there would be anything like a cathedral ceiling on the top.

Mr. Mingolello responded no.

Chair Parkins asked how many feet off the street was the building.

Mr. Swift responded that it was probably about 27 feet off the highway line.

Mr. Swift responded the Atty. Thomas wanted him to make one more comment. The Fire Marshal had a comment about an 11 foot lane that he required to be a 12 foot lane. He showed that lane on the site plan and commented that it was 11 feet and it needs to be 12 feet. He said (inaudible)...

Mr. Panico asked if it was not an issue then.

Mr. Swift responded it is not an issue.

Mr. Panico indicated that he had a question for Atty. Thomas. He asked when you have these types of balconies and you have a rental situation, you often get tenants that might be tempted to hang a wet towel over the railing. He asked if he controlled that through the owner.

Atty. Thomas responded that you can put it in the lease and prohibit tenants from doing that. But then you will get *stunods* like him - when he was down in Myrtle Beach, he hung his towel over,

forgot about it and got a warning letter. He thought he was going to jail instead of out to the golf course.

Atty. Thomas stated that certainly in a lease situation, it is probably even easier than in a condo situation, because condos have to rely on the Association and sometimes if there is a small association, there are problems with enforcement. It is better with the landlord because the landlord is interested in maximizing his rents so he'll make sure the regulations are followed. And if other people don't like the towels hanging off the front... The other thing is that this is a site that doesn't have a pool because that is a situation where you really have a problem. However, on the other hand, it is not far from Indian Wells.

Chair Parkins commented that it is a variety of things though that they could put up, like Christmas lights. There are all sorts of things that you can put on decks that would not be visually appealing from the front of that building.

Comm. McGorty commented that they could hang out the laundry. It is so close to the road and so visible.

Atty. Thomas stated yes with that kind of stuff but with the Christmas lights – they have single family homes there and commercial – they would have difficulty regulating that.

Chair Parkins commented that she didn't mean just Christmas lights, but lights in general, some people put up white lights all year long on their patios for whatever reason.

Comm. Flannery stated that she was thinking more about kid's toys being out there.

Atty. Thomas stated that really, even with the 2-bedrooms, these are not apartments that are conducive to kids. If they are going to see kids there, they may see a few 0-5 years old, possibly a divorced family situation but the apartments and the site aren't conducive to kids. It is going to be at a minimum. A lot of the stuff hanging off the decks and decorations can be handled to some extent in the leases. Certainly, being the fact that it is a Special Exception, it could be an appropriate condition, if the owner has no problem putting them in the lease with accordance with the permit. They could put the restrictions of not hanging clothes and things of that nature besides the fact that the owner may want to add his own rules and regulations with respect to keeping it up. He added that it is going to be hard to rent the place if someone has wet jeans hanging over the railing.

Comm. Flannery suggested closing it up and not having an open railing.

Atty. Thomas responded that is an aesthetic detail, an aesthetic point of view, but he thinks that the (inaudible) would look better...

Comm. Flannery commented that she was saying that if people put a whole bunch of junk out there then they won't see it if it is closed.

Comm. McGorty stated that it would look like a box.

Mr. Panico added that then there is more temptation to put stuff out there.

Atty. Thomas stated that they are 5' x 15.' They may want to put a couple of chairs, a grill, a small table...

Mr. Panico commented that a lot of apartment owners don't allow grills on these porches because the smoke bothers the neighbors.

Comm. Harger asked about umbrellas and wind.

Mr. Swift commented that he doesn't think there is room for an umbrella on a 5' deck.

Atty. Thomas stated that there is room for an umbrella because he grills in the rain.

Comm. Harger asked if there were interior elevators.

Mr. Mingolello responded yes, there is an interior, passenger elevator.

Mr. Panico asked if the lobby with the elevator would be where they handle the mailboxes.

Mr. Mingolello responded yes.

Chair Parkins asked if any of the apartments themselves, were handicapped.

Atty. Thomas commented that he could respond to this because it came up. He stated that the Derby Building Official in a proposal for 14 apartments in downtown Derby basically told the owner that two of the units had to be fully handicapped Type A units. Atty. Thomas commented that he called the State Building Official and found out that is only for apartments with 20 units and above. Atty. Thomas asked Joe Mingolello if every apartment built these days has to be what is called a Type B.

Mr. Mingolello responded yes, right, with wider entrances and wider hallways.

Atty. Thomas indicated that Type A would require all of the other things like bars in the bathtub, counter heights, etc.

Comm. Harger asked if they are considering any awnings for those top decks.

Mr. Mingolello responded no.

Chair Parkins commented that they already talked about that – no, because aesthetically...

Mr. Panico stated that they will make some comments in that regard and they would expect the owner to address it in his leasing arrangements.

Atty. Thomas asked if he meant concerning awnings.

Mr. Panico stated yes, if anyone tacks an awning back there or proper use of the balcony areas.

Atty. Thomas responded that when he talked about the issue of when you can and cannot address aesthetic issues, not necessarily architectural issues which you can in a PDD, in a special exception like this type of situation they can put reasonable aesthetic conditions. They could include that they don't want any awning or anything hanging off of the decks – those are appropriate types of conditions. He added that they are probably more appropriate conditions dealing with the front of the building because the rear of the building won't be seen by the public unless you're sailing down the Housatonic in a big boat with binoculars. It is a landlord issue for the rear of the building. It is within their jurisdiction to put restrictions on the front of the building.

With no other questions or comments from the Commissioners, Chair Parkins asked if anyone in the audience would like to speak for or against this proposal.

**Carol Fink, 602 Little City Road, Higgam Court, Shelton addressed the Commission.** Ms. Fink stated that she was a part of the family that owns the adjacent property at 109 Howe Avenue.

Chair Parkins asked if you're facing this property, it is to the right.

Ms. Fink responded that they are not the commercial property, they are before that. They are on the Indian Wells side (inaudible)...

Comm. McGorty asked if it was the brown house (inaudible)...

Atty. Thomas stated that it is at the bottom. He showed the location of her house on the site map and added that there were three names on the ownership.

Ms. Fink stated that she had a question in terms of lighting. She received some information in the mail and she really can't understand how the lighting is going to be for the parking lot and the other ones called pedestrian lights. She stated that she has this image of all these light poles making her property glow. Ms. Fink indicated that if the parking light is not on the property line, it won't be shielded. She wasn't sure if that meant that if the pole were on the edge; it would not be shielded and it would be very bright. She just doesn't want it bright lights...

Mr. Panico commented that in the Engineer's presentation he mentioned that he was using lower light standards than they would normally use – a standard that is only about 16 feet high with fixtures that direct light in a downward manner.

Ms. Fink stated that she was just concerned about how bright it was going to be.

Comm. McGorty commented that when they are lower to the ground, it is more of a spot lighting than a flood where the light really floods the area and puts off more light pollution. He thinks that these are probably night sky compliant with the 16 foot posts and pedestrian lights. He commented to Jim Swift that he thinks that there are only two in the back and the front.

Chair Parkins indicated that it looks like there are 5 or 6 all together of the pedestrian light poles.

Mr. Panico asked if there were any off building lighting here.

Mr. Swift responded no.

Mr. Panico stated that off building lighting tends to be a bigger problem when they put these flood lights on the buildings.

Chair Parkins asked if there was anything in the back where he said it goes up to 4 stories. She asked if there would be any spotlights going down to the parking lot.

Mr. Swift responded no.

Comm. Flannery stated that in the back parking lot they have a lot of light poles though and that is going to be 100 feet above her house.

Chair Parkins indicated that they were going to let Ms. Fink finish her questions and then Jim will address what needs to be addressed.

Ms. Fink indicated that she had another question about the trash enclosure. She asked if that opens into the parking lot. She is concerned if the tenants tend to get sloppy, the garbage would get to her property line. She has trouble knowing how close together everything is to her fence line on the diagram because there is a fence dividing the property. In the drawing it looks very close so if somebody decides that they're too lazy and they don't put their trash bag in then it will end up blowing over to her property. Ms. Fink asked if the opening could be switched so that their garbage stays on their property.

Ms. Fink stated that she had another question about the drawing and asked what the pump station was for, where it was and if it would be removed.

Ms. Fink also asked about the location of the trees to be planted. She knows that there is a stretch of trees by the (inaudible) house and she asked if they would be extended the rest of the way to give them privacy the whole way or (inaudible). Ms. Fink commented that she is concerned about the privacy aspect because it really is a residential area and all of sudden they are putting a lot of people in that one area. She understands that maybe it is better than something commercial but she grew up there when the gas station was there. She added that she

doesn't remember it being horrendous. It closed many years ago when traffic patterns were a lot different so some of the comparisons are little dated.

Ms. Fink added that in regard to the retaining wall, when she was a kid, all the kids in the neighborhood climbed down that hill to swim in the River.

**Michael Tichey, 53 Birdseye Road, Shelton addressed the Commission.** Mr. Tichey indicated that he lives at 53 Birdseye Road with his father and they own that property adjacent to this site and to the left which is also zoned CA-3. He stated that he wrote a letter that he would like to submit for the record.

Chair Parkins responded yes, absolutely.

Mr. Tichey stated that he wrote this letter to say for the record that he was against this Special Exception zoning for Leavenworth Road. It is currently zoned CA-3 current special exemption for a mixed use development. The owner is trying to change the Special Exemption to 2A which is dwelling unit with (inaudible)... This allows the owner to apply for 14 dwelling units on the (inaudible) plan because it allows for dwelling units on all four levels of the building; whereas, the existing Special Exemption only has that on two levels.

He stated that he enclosed a copy of the City Engineer, Robert Kulacz's review of this 14 unit proposal. Mr. Kulacz has a lot very logical questions and his summary statement says "The current design does not provide adequate parking in the density and the proposal is too big for unlimited use of the parcel." Mr. Tichey states the Mr. Kulacz's letter says that 16 of the parking units of the 32 that are listed in the plan should not be allowed, leaving a total of 16 useable spaces. The other 16 spaces would create a fire lane hazard and a traffic hazard. Mr. Kulacz's letter also states that .52 acres of the total .93 acres of the lot is developable which current plans have which give as 100% impervious coverage of the .52 acres that could possibly be developed.

Mr. Tichey stated that the proposed special exemption changes the development to 14 units, and as Mr. Kulacz states, it is too dense and excessive for the property. Mr. Tichey stated that he is the owner of the adjacent property and he strongly feels that the proposed zone change will have a negative effect on his property value. He argues that the zoning should be kept as it currently is as a mixed development. The developer needs to propose a new plan with a reasonable number of dwelling units and provide safe and practical parking. The proposed excessive dwelling units effects his rights as an adjacent land owner and will diminish his property value. The zone change fully increases the excessive development and will cause the adjacent land owners to suffer.

Mr. Tichey stated that he did not receive the notification letter for this Special Exception Public Hearing until October 17<sup>th</sup> which was only 7 days ago. This did not allow him proper time to review the proposal at City Hall and consult with an attorney. This is against his rights as an

adjacent property owner. He requested that the Planning & Zoning Commission keep the public hearing open so that he can properly investigate his rights as an adjacent property owner. If they approve the development as planned, it will cause him to seek an attorney to appeal because of the harm it will cause him from the excessive development.

Mr. Tichey stated that he took the whole day off today and went to the Public Sewer Office. As far as they told him, there is no approval for the sewer on the site yet. He wanted to be able to get a copy of it. He went to the Fire Marshal's Office and he was told that for any fire zone they need a minimum of 24 feet. He also said that the fire zone is all the way around the building and if it is an existing driveway then they will make exceptions for it. He commented that with the tandem parking they are only leaving a minimum 24 feet for a fire zone back there. He added that anyone who has dealt with Connecticut winters knows that snow will pile up and there will be much less than 24 feet during the winter if they are dealing with snow. Mr. Tichey stated that as far as he can see, it is not going to comply with the proper fire zone in the back of the building.

Mr. Tichey commented that a project of this size needs sanitary sewers. He asked why the City of Shelton and the Planning & Zoning Commission does not require the extension of the municipal sewer line which ends only .6 miles away from this building. He added that in his opinion, the line should be extended all the way to the end of Route #110 to Indian Wells so that all the owners on Route #110 and the Maples would benefit from access to the sewers if they want it in the future. In his opinion this would be proper future planning. From what he can see on the plans, this is a private sewer line that only benefits one land owner and not the City as a whole. He asked if others would be allowed to tap into this sewer and gas line and what it would cost. He commented that he sees there is only a 2 ½ inch main along Route #110 and he wanted to know if this allows any capacity in the future for other landowners and Maples to tap into.

Mr. Tichey asked if the P&Z Commission was using a different set of rules because this is an existing building that desperately needs renovation and would they actually allow this number of units and this excessive use density with a project if this was a new building on the same size property.

Mr. Tichey asked about the wall being 32 feet. He commented that if they did the proper parking, it would be way over 32 feet and unmanageable. They are talking about tandem parking may work in front of a private garage with a parking space in front of it but one car in front of the other does not seem very practical at all. If they do the proper parking, they would end up with a 40 or 50 foot wall back there. He added that would be hard to maintain and they wouldn't be able to get to the property from below. Somewhere down the line, someone is going to have to maintain this wall. Walls don't last forever and they are going to have a horrendous problem over there. Mr. Tichey stated he indicated that was all he had to say.

Chair Parkins asked if he wanted to submit his letter for the record. Mr. Tichey submitted his letter.

Comm. McGorty asked Mr. Tichey which house he owned and if it was immediately to the left.

Mr. Tichey responded yes, to the left of it, right next door which is also zoned CA-3. He added that he doesn't have the benefit of a private sewer line which he understands is going up the road, crossing Route #110 and connecting to the sewer line on the housing development across the street and then tie in to the sewer line that comes down from the White Hills Shopping Center. So this is like a totally unique situation that only one person benefits from and nobody else can tie into it. This doesn't seem to be proper future planning. If they want to do this then they should do it right, extend the sewer line .6 miles, and let everybody connect to it. Mr. Tichey commented that he realizes that this building needs to be renovated. It shouldn't be as many units as he wants and it should have proper sanitary sewer with everybody on that road having the right to connect into it – the gas line, the sewer line. Otherwise, he feels that it is very unfair and it is going to be a big monstrosity sitting on a tiny lot and it will be hard to maintain especially with the wall behind it.

**Andrew Tichey, 23 Leavenworth Road, Shelton addressed the Commission.** Mr. Tichey stated that he owned the property to the left.

Chair Parkins commented OK, it is to the left of the other property.

Mr. Tichey stated that he also had a letter than he would like to submit to the Commission. As the owner of the property located at 23 Leavenworth Road, he is opposed to the Planning & Zoning for 11 Leavenworth Road as requested by Blakeman Construction LLC. He thinks that the property is properly zoned for the size of the property. The proposal is in excess by two or three times. One example is the number of parking spaces which will be a security and safety hazard. On upper Howe Avenue and lower Leavenworth Road pumping of the sewer up above Leavenworth Road will eventually be problematic. He also thinks that the extension of the sewer line in Downtown Shelton should be considerable with the approval of the Zoning (inaudible).

Mr. Tichey commented that in his opinion this property will eventually become blight for upper Howe Avenue and lower Leavenworth Road and negatively impact the value of the property at 23 Leavenworth Road. The approval of this development will cause him to seek advice from an attorney because of the negative impact on the value of his property.

Mr. Tichey stated that he also concurs that when he first heard about the amount of apartments on this small property, he thought it was excessive. He is thinking about the negative implications with potentially 40 – 50 people being there and the problems of it being on the main road. He has concerns about children and toys being right on Route #110. He thinks that River Road and Howe Avenue and Leavenworth Road are kind of Main Street for Shelton. He thinks

that eventually too many people are going to be there and eventually this will turn into a tenement and then a slum. He doesn't think that Shelton is going to positively impacted by this project. This is one of Shelton's most valuable roads. He thanked the Commission.

Chair Parkins asked if there was anyone else in the audience who wanted to speak for or against this proposal.

**Ms. Fink, 103 Howe Avenue, Shelton addressed the Commission.** Ms. Fink stated that after hearing these men speak, she would like to say that she also concurs with what they say. She wasn't aware of all of these other sewer issues were a part of it. When she called the Sewer Office, she was told that the line was being brought up and that people would be able to hook into it.

Chair Parkins asked if she just said that they would be able to.

Ms. Fink responded yes, so she doesn't know if she got misinformation because she was told that this City does not do this and part of the developer's job is to bring (inaudible)...

Michael Tichey, adjacent property owner, asked if he will find out at this meeting whether this is a private sewer line. It is listed as a sewer main. Some of these things that they are saying...he went up there and asked for a copy of the sewer approval and there is none. They are making it sound like it is a slam dunk and everything is all approved and they have sewers...

Chair Parkins responded that she will ask Mr. Swift to address those questions.

Atty. Thomas stated that the first thing that he would like to address was Michael Tichy's comment about when he received the notification letter. Atty. Thomas referenced information on his iPad and indicated that his certified letter was processed on October 10<sup>th</sup>, 14 days before the public hearing. It departed the USPS on October 11<sup>th</sup> and the first notice was October 13<sup>th</sup> signed for four days later on October 17<sup>th</sup>. It is not their job to force someone to sign for the letter.

Atty. Thomas pointed out something and commented that this would probably solve this problem. He uses certified mail because he doesn't want to create the issue. Your language says "certificate of mailing." Most towns, a lot of towns are going to it mainly because – well, Derby Planning & Zoning Commission is the single entity wishing to keep the United States Postal Service liquid because they require that certified mailings go out at 500 feet. Derby is a very dense area and he has bills of \$300 or \$400 for his clients. With Certificate of Mailing which they use in other towns, mail is done through regular mail, you bring it to the Post Office, pay an extra 71¢ and they stamp each one to certify that it was mailed out. They have found, in Zoning that gets to the person quicker because the person doesn't have to take the notice, go down to the

Post Office and sign for it. If he can clear this up and if that is what they mean by Certificate of Mailing, he would be glad to do it.

Atty. Thomas commented that with respect to the issue of kids and everything being on Leavenworth Road and Howe Avenue, there is already a whole bunch of single family homes all up and down there with kids. They are 3 and 4 bedroom homes that have kids and it has never been a problem. There are kids there. This is a site that won't have very many kids due to its type of construction – it is the type of apartments.

Atty. Thomas indicated that another thing is that people keep referring to zone changes. This is not a zone change. They aren't changing anything. This use, a Special Exception – and he often says this – there is nothing special, or nothing exceptional about a Special Exception. It is a permitted use, therefore, the Commissioners are wearing their Administrative hats, not their Zoning hats, it is a permitted use but the level of discretion raises slightly to see whether or the not the use fits in with the existing uses. The unusual thing here is that they have this enclave of commercial zones – three little lots basically – amongst residential. So, within the zone they have chosen the use that suits the surrounding zone.

Atty. Thomas indicated that he was going to let Jim Swift speak about the sewer extension but there are two things that they should keep in mind. When you zone something, and this is zoned for this use, case law has made it very clear that the assumption is that the infrastructure is sufficient in the area. That doesn't necessarily mean the issue of sewers, that is a totally separate issue whether there are sewers or septic. If the City can require a developer to extend a sewer line, if the City were to extend the sewer line than every property that it passes would be subject to a sewer assessment whether they wanted to hook up or not. There have been situations with cities, and the cities include Shelton, where they have extended sewer lines for a development that they feel is important and there is an absolute riot when people with perfectly good operating septic systems get this enormous bill that they have to pay over 20 years for a sewer assessment. There is also a provision in their Shelton Ordinances that pertains to Developer's sewer extensions. When a Developer extends a municipal sewer line, which is often done, the developer can then – there is no assessment because the town has to pay for it. The developer then, for a 10 year period of time, for anyone who hooks up, receive compensation for the percentage of his costs that were done for the sewer line for anyone who wants it.

Atty. Thomas stated that he'll let Jim Swift deal with this sewer line specifically with respect to that. There was also some mention about gas lines. The gas lines goes by the property. If you want to hook up then you just have to call the gas company and pay the (inaudible)...

Chair Parkins stated that they will charge so much per foot based on a 15 years consumption use that the house would get. There's a formula that they use.

Atty. Thomas indicated that Jim will address the sewer, lighting, garbage, pump station and the trees.

Chair Parkins asked him to start with the lighting.

Jim Swift, P.E. commented that there are two forms of lighting on the project.

Chair Parkins asked Ms. Fink if she was able to see the plans.

Ms. Fink responded that she could see that but she doesn't understand (inaudible)...

Mr. Swift stated that there are two forms of lighting on this project. One form of lighting is sort of a parking lot scale which is 16 feet high and obviously, they are going to put them in the parking lot. He finds it more effective to put them in the lot and direct the light downward then to put them on the edge of the lot and try to depend upon screening to direct them into the right direction. Those two are 16 feet tall and located towards the middle of the parking lot.

Chair Parkins indicated that there would be two of those with down direct lighting.

Comm. Flannery stated that they would be 100 feet in the air.

Comm. McGorty responded no not 100 feet - 16 feet.

Comm. Flannery commented no, they have the wall.

Mr. Panico stated that they weren't on the edge of the wall, they are in the middle of the parking lot.

Comm. Flannery asked how high off the ground the wall is. How high is the car from the dirt down below.

Mr. Panico responded that the light is not on the wall.

Atty. Thomas showed where Ms. Fink house was located on the plan and it is relatively level going across here. So, from the house that they own, it is going to be 16 feet up and behind trees. There is nobody down here. The lights are going to be up here but there are trees here and anybody on the other side of the river is not going to see it.

Comm. Flannery commented that the ground doesn't go (inaudible)...

Atty. Thomas responded that the ground goes sharply at a 2:1 slope. He showed the location of Ms. Fink's house again and the location of the light fixtures in the back.

Mr. Swift commented that these other light fixtures are lower wattage and they are 12 feet tall. They are more of a pedestrian scale light. There are two located on one side of the building to

cover that sidewalk, two in the front to cover those parking spaces. They do have one on either side in the middle and honestly, those two could probably be deleted without really affecting anything but the wattage is so low and the height is so short that they aren't likely to shine beyond the property line anyway.

Chair Parkins commented that it is 175 watts which is indicated on the drawing.

Ms. Fink asked about the deck lighting and will there be some kind of rule about people not putting up lights.

Chair Parkins requested that they let Mr. Swift finish his comments.

Mr. Swift indicated that was all that he had on the issue with the lighting. As far as the dumpster goes, it is the enclosed dumpster, masonry enclosure, as the town requires. The opening for the dumpster points into the parking lot in this direction. He thinks that probably answers her question.

As far as the issue of the landscaping and buffering, Mr. Swift showed the area on the plan where there is a nice line of very mature spruces and one deciduous tree and then it is open. There is some distance between that and the existing woodlands in the back. They are going to plant a row of spruces to kind of continue that existing spruce line and keep it going all the way to the back. In order to be extra sensitive in the areas where they have something like the dumpster and even in the front, they are proposing 8-10 foot evergreens that are called upright white junipers and screen them back in the corner to give an extra protection against that. He also showed where he would put three other junipers in just because there was a car parked there and he didn't think anyone would want to see the car.

Mr. Swift commented about the pump station and in this case, it is an underground system. The center sewage comes out of the building and goes to an underground tank. The tank is fully underground and accessed by manholes so when those pumps come on, they are 8 -10 feet below the ground.

Mr. Swift indicated that he would provide a little bit of history about the sewer. Some of the Commission members may remember that quite a few years ago, a four lot subdivision was done down the street, across the street. At the time, the Blakeman family also owned this property and realizing that they had this big, massive building existing, and that it was commercial, they decided to do an easement through those private properties just in case they ever want to connect the sewer up to it.

Mr. Swift stated that they went to WPCA, he thinks it was about 4 -6 years ago, they got from the WPCA, a conceptual approval to run that sewer line down, across and connect this building up. It was conceptual and it was approved. Two months ago they went back to the WPCA, now

they have the specific request. They provided them with calculations as to how much the sewage amounts were, etc. They referred it to their expert and it came back from the WPCA and it was approved by the WPCA. This project was approved by the WPCA .

Chair Parkins asked if this was recently.

Mr. Swift responded yes he believes it was two months ago. They are correct in they do not issue written approvals but anyone can go on the City of Shelton website, all the meeting minutes are located on the website and they'll be able to find that approval on that website. He's sure that Staff will be directed to research that and make sure (inaudible)....

Chair Parkins commented that the developer is required to pay for it to be run.

Mr. Swift responded yes, that 's correct. He indicated that at the time, the WPCA sensed so much of that force line runs through private property, specifically requested us - not to have – they did not want that line. He reiterated that the Water Pollution Control Authority of the City of Shelton does not want ownership of that line. Mr. Swift said that they specifically requested that it be a private line to serve whoever it might serve. They just didn't want it. He stated that if anyone wants to revisit that with the WPCA, they can probably do that. But that is not the WPCA's current approval. The approval for this sanitary sewer line is specific to this building, specific to this use, and specific to the project.

Comm. Flannery commented that another question they had was how they were going to make sure that wall was maintained and it won't eventually collapse over the next 50 years.

Mr. Swift responded because it will be properly designed. These walls don't just fall over and they don't really require maintenance in that specific sense. Mr. Swift stated that he would take a worst case scenario though such as a minor earthquake or something that damages the wall. They are going to have to repair it. They are going to repair it in exactly the same way that they built it. They don't repair something like that by going down below and trying to work from below to repair something. If there is any damage to this wall, they will have to do it in reverse of the way that they built it. They will have to excavate the bad parts of it, rebuild it, re-compact it and build it back up again.

Comm. Flannery asked to see the side view drawings of that – of the wall.

Mr. Swift stated that they have these two side section drawings were done specifically for both the DOT, who is interested because it is their drainage line, and for Inland Wetlands. He showed the two drawings and indicated that is what these two sections look like managing that discharge.

Comm. Flannery asked if the ground was really down here.

Mr. Swift responded yes.

Comm. Flannery indicated that is what she was saying. The neighbor's yard is down there.

Mr. Swift responded no, the neighbor's yard is (inaudible)...

Chair Parkins stated that it was level, Comm. Flannery, the neighbor's house is level. It is the back properties that slope down toward the River.

Comm. Flannery responded right, that is what she is saying – that is why she is (inaudible)...

Chair Parkins commented that there are no neighbors back there.

Comm. McGorty added that it was all woods.

Atty. Thomas provided another map to give her a better idea. He indicated that it was the Assessor's map. He showed the location of the building to be renovated, and showed where he highlighted all the properties that he sent notices to for this public hearing. He showed the location of the neighbor's houses according to the Assessor's map. He commented that is not totally accurate but it provides an approximate location. With respect to the other side, Atty. Thomas showed another map and explained the location of the building and (inaudible)...

Chair Parkins commented that one of the last questions asked was regarding lights on the decks on the side of the building. She clarified that there were no decks or patios on the sides of the building. They are strictly in the front and in the back.

Atty. Thomas commented about the lights on patios and decks and that he didn't think anybody would put lights there because they would have to run electricity out there. Tenants can't all of sudden start rewiring the walls (inaudible)...

Chair Parkins stated that the specific homeowner who was questioning it lives on the side so there are no balconies on the side.

Mr. Swift stated that they have covered the City Engineer's letter and this Commission and Staff will determine where his authority ends and where planning & zoning issues begin. He indicated that he wanted to reiterate about the tandem spaces and that they meet the zoning regulations for the minimum number of parking spaces without the tandem spaces. He wanted that to be clear.

Comm. Flannery stated that if they eliminate the tandem spaces then they would have to move the garbage dumpster up and they would lose two spaces.

Mr. Swift responded that they would likely leave that trash area in the same spot because it is relatively a small amount of (inaudible) there. They will see this quite a bit when they put the trash enclosures back behind the parking area instead of within the parking area. They certainly could move it forward but they probably would not.

Chair Parkins asked Comm. Pogoda if he had any questions.

Comm. Pogoda responded that he had no questions at this time.

Chair Parkins asked if there were any other questions from the Commission.

Comm. Flannery commented that she is very concerned about that retaining wall.

Chair Parkins responded that she really thinks that they have addressed it and the questions are getting redundant at this point. She requested a motion to close this public hearing.

Comm. Flannery asked if they were going to ask if there were any more questions from the audience.

Chair Parkins responded that they have already done that. They can't keep going like that – this will go on all night. They've asked twice and they've gotten up and spoken after they spoke once. She indicated that now it is time to close this public hearing.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to close the public hearing for Application #12-20.**

**APPLICATION OF THE SHELTON PZC FOR AN AMENDMENT TO THE BUILDING ZONE MAP BY CHANGING THE EXISTING IA-2 DISTRICT TO RFD (RIVER FRONT DISTRICT) FOR PROPERTY LOCATED AT 6 BRIDGE STREET (SPONGEX BUILDING) (MAP 129, LOT 21)**

Chair Parkins asked P&Z Secretary Virginia Harger to read the Call of the Hearing.

Comm. Harger read the Call of the Hearing.

Mr. Schultz asked Comm. Harger if she wanted to make reference to the Valley Council of Governments – the Regional Planning Commission that she is on because they just had a meeting.

She indicated that the Regional Planning Commission of the Valley Council of Governments was scheduled to have a meeting yesterday but it they did not have a quorum due to Commission member conflicts. She added that while this particular referral had been on their agenda, it was not discussed. She indicated that the Senior Regional Planner's recommendation indicated that he reviewed the proposed map amendment and found it to be consistent with the current planning and development initiatives of the Derby-Shelton Downtown area including the re-development and the Plan of Conservation and Development.

Mr. Schultz indicated that he has provided the following exhibits on behalf of the Shelton Planning and Zoning Commission regarding the re-zoning of 6 Bridge Street.

1. A copy of future land plan of the 2006 POCD which identifies this area as a Central Business District which is a mixed use.
2. A location map showing the location of the proposed zone change which is shown on the map.
3. A copy of the River Front Regulations. Mr. Schultz read an excerpt from the River Front Regulations that stated “The proposed district would accommodate high-density development that would be supportive of the Downtown area and be able to make advantageous use of the river orientation. The proposal responds to the recent studies completed by the SEDC in support of the proposal that is the Shelton Enterprise and Commerce Park Project Plan and recommendation of SEDC Phase 2 sites adjacent to the Housatonic River.” He added that they would be hearing from the SEDC in support of this as well.
4. A copy of the Shelton Building Zone Map which shows that there is the existing River Front District to the south.

Mr. Schultz stated that it was determined by the Shelton Planning & Zoning Commission that this would be a logical extension and it was supported by the Zoning Subcommittee and the Downtown Subcommittee.

Chair Parkins commented that it was also supported by the SEDC. Jim Ryan submitted a letter to them but she did not print it out.

Mr. Ryan commented that he brought a copy for the record.

With no questions or comments from the Commissioners, Chair Parkins opened up the public hearing to the audience members present.

**James Oram, 181 Division Avenue, Shelton addressed the Commission.** Mr. Oram indicated that he was present representing the Citizen’s Advisory Board and he read a short letter from them.

Chair Parkins commented that she appreciated his patience in waiting so long this evening.

Mr. Oram read: “The Citizen’s Advisory Board voted unanimously at its October 17, 2012 meeting to support the proposed amendment to the Building Zone Map as it applies to the Spongex Property located at 6 Bridge Street. The change from Industrial IB-2 to River Front District (RFD) is in keeping with their Board’s vision for revitalized downtown neighborhoods. We hope the further river front development will include some mixed use including retail businesses and restaurants and provide for a pedestrian friendly environment. They request that

your Commission continue to protect the Housatonic River by requiring that any river front development include public access to the River.”

Chair Parkins asked if anyone else would like to speak.

**James Ryan, Shelton Economic Development Corporation addresses the Commission.** Mr. Ryan provided copies of his letter for the record. He commented that he thinks that they all know that the Shelton Economic Development Corporation is the implementation agency for the City of Shelton specific to Downtown revitalization. He indicated that for almost 30 years, the Planning & Zoning Commission has provided them with the tools that they need to implement project activities. They work closely with their Staff and Subcommittees and with the Full Commission to talk about plans and when they should be implemented. They feel that this particular plan change, zoning plan change and mapping change is very appropriate at this point in time.

Mr. Ryan provided someone else’s point of view on why. He stated that if they go to the State of Connecticut’s website, the State of Connecticut Office of Policy and Management, and if they look at their new draft Plan of Conservation and Development, they give examples of smart growth. The number one example of smart growth talks about downtown revitalization and Brown fields, etc. The example of smart development is Canal Street in this specific area, it includes all these properties and it’s the number one example. He explained that it is because the Planning & Zoning Commission has been putting tools in place incrementally over the years to help things move along at the right pace. For example, the Ripton Housing Development. It had 20% of an acre and they wanted to recreate something there that was similar to the old Piano Factory and the scale of the Boy’s and Girl’s Club and with their intelligent approach to it and the shared resources in the department, they came up with an overlay that was perfect.

The River Front Development district is especially strategic because it recognized the opportunities for combining public open space and river front access with private development. Mr. Ryan stated that Rick Schultz mentioned the marketing work that they have done. The marketing work that they’ve done suggested that the housing market, in particular for rentals, is solid for the next ten years to come. They had preliminary information on where that Riverwalk would be placed including on these properties. They have economic information that suggests that it will produce a significant amount of new, taxable properties and a significant amount of new, disposable income. So, this is ready to go.

Mr. Ryan stated that his comments are not supposed to (inaudible) through a developer’s proposal. There is interest, they’ve done a tour of the property with the Subcommittee. These are neutral specific, although they are very interested in looking at that and watching it grow and possibly be placed before you. This is about it is time to get that vacant property now. The last time you looked at this, there was a dip on manufacturing business in occupancy. The Derby

Silver Building and the Spongex property is largely vacant right now and it adjoins the Rolfite site which is a City of Shelton site taken through foreclosure which used to be a part of one parcel.

Mr. Ryan indicated that if they read one of the bottom lines in this letter, it's that they want to see those parcel unified. It was actually very nice when it was one parcel. They do understand the demands of having industrial kind grow that (inaudible) building at one point in time and now it is time to put things back together as softer development and this zone will allow for that.

Mr. Ryan stated that the other thing that it will allow them to do – they've been working very closely with the Subcommittee and the Administration and others – is that they have objectives for transportation. They would like to see Center Street possibly extended through this parcel and alongside of this building. This will give them an opportunity to look at this fully and to look at the potential that the real estate that includes Chromium Process site which they expect the City will acquire through tax foreclosure later this year or sometime around then – and how all those different elements combine. So right now this is the missing link in terms of the Canal Street redevelopment in that area.

Mr. Ryan stated that another thing that they may not remember is that the City of Shelton, Richard Belden, was successful in getting The Slab retained as permanent open space, as green space. As part of that transaction in the law was that this area over here would be developed by private parties so they are teeing this up so it will be redeveloped by private parties.

He indicated that they are encouraging them to think hard about this and put it in place as soon as they think that it is appropriate. They think that time is now. Mr. Ryan indicated that he would answer any questions that they have. He thanked the Commission.

Chair Parkins asked if there were any questions or comments. There were none. She 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 the Proposal of the Shelton Planning & Zoning Commission for an Amendment of the Building Zone Map by changing existing IA-2 District to RFD (River Front District) for property located at 6 Bridge Street (Spongex Building).**

#### **ADJOURNMENT**

**On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to adjourn the meeting at 10:20 p.m.**

Respectfully Submitted,

Karin Tuke, P&Z Recording Secretary