

**SHELTON PLANNING AND ZONING COMMISSION**

**MAY 27, 2015**

The Shelton Planning and Zoning Commission held a special meeting on Wednesday, May 27, 2015 at Shelton City Hall, Room 303, 7:00 p.m., 54 Hill Street, Shelton, CT 06484.

Commissioners Present:                      Chairperson Ruth Parkins  
    Commissioner Nancy Dickal  
    Commissioner Virginia Harger (arrived 7:05 p.m.)  
    Commissioner Thomas McGorty  
    Commissioner Ned Miller (alternate)  
    Commissioner Frank Osak (alternate)  
    Commissioner Anthony Pogoda  
    Commissioner Jim Tickey

Staff Present:                                      Richard Schultz, P&Z Administrator  
    Anthony Panico, P&Z Consultant  
    Patricia Gargiulo, Court Stenographer  
    Karin Tuke, Recording Secretary

Tapes (1), correspondence and attachments are on file in the City/Town Clerk's Office and the Planning & 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 Commission special meeting to order at 7:00 p.m. with the Pledge of Allegiance and a roll call of Commissioners and Staff members present. She indicated that Comm. Miller would act as alternate for Comm. Harger until she arrives. She stated that all Commissioners can sit in on the public hearing which is the first item on the agenda.

**PUBLIC HEARING**

**APPLICATION #15-07: MOHEGAN REALTY, LLC FOR FINAL RE-SUBDIVISION APPROVAL (3 LOTS), 107 MOHEGAN ROAD (MAP 84, LOT 37), R-1 DISTRICT.**

Chair Parkins reviewed the procedures of a public hearing for audience members present and instructions for using the sign-in sheet if they wish to address the Commission regarding Application #15-07. She asked Mr. Schultz to read the Call of the Hearing for Application #15-07 since the P&Z Secretary had not yet arrived.

Mr. Schultz read the Call of the Hearing for Application #15-07 and two applicable pieces of correspondence.

**\*See attached correspondence dated February 19, 2015 to Richard Schultz, P&Z Administrator from Gary Malone, Chief Sanitarian, Naugatuck Valley Health District.**

**\*See attached correspondence dated May 22, 2015 to Richard Schultz, P&Z Administrator from City Engineer, Robert Kulacz.**

**Comm. Harger arrived 7:05 p.m.**

**Joseph Pereira P.E., Principal, Pereira Engineering, LLC, 1 Enterprise Drive Suite 312, Shelton, CT representing Mohegan Realty, LLC addressed the Commission.** Mr. Pereira provided updated drawings to Staff and the Commissioners, a copy of the Wetlands Report for John Cooke and he acknowledged compliance with the Regulations with the mailing receipts and a photo of the posted property. He provided a color rendering of the site area on display. He commented that there were minimal changes to the plan based upon the City Engineer's comments.

Mr. Pereira indicated that he was representing the Applicant in regard to this proposed three-lot subdivision. He stated that the property itself is approximately 5.4 acres and he pointed out the location of the existing Sunoco Gas Station on Mohegan Road to the east. There is some City

property north of the property and an existing pond on the site with some existing wetlands that have been flagged. He reiterated that he submitted a Wetlands Report submitted tonight for the record. There is an existing single family home on the lot with an existing detached garage and shed structure. He indicated that all of those existing structures would be demolished. There is an existing water service that will be extended to service all three new homes.

He provided another rendering and stated that they were looking to divide this into three lots. They have already gone through the Valley Health District; they've done test bits and have a written approval from Valley Health for the septic systems for each of the three new homes. They are in an R-1 District with a 40,000 square foot minimum lot area for each lot. Lot #1 has 43,300 square feet; it is a front lot. Lots #2 and #3 are rear lots. The total lot area for Lot #2 is 98,004 square foot with an access way that contains 7,485 square feet so the net interior is 90,519. Lot #3 has a total lot area of 93,991 and the access way, which gets excluded from the total lot area, that is 8,675 and the net interior lot area is 85,316.

He provided a Grading and Utilities Plan showing the layout and design for the proposed septic system as well as the storm management system. The City Engineer has reviewed this plan and acknowledged that he supports and approves of the design for the storm water management system. It indicated that it was a straightforward design and explained that they were picking up the roof drains, storing it, containing it, then overflowing out and meeting pre-developed flows for that system.

He commented that they have a driveway that services the two rear lots. They will be combined at Mohegan Road for a minimum length of 40 feet so the drawings have been revised to acknowledge that and address that concern by the City Engineering. He added that then they split and go off onto each lot; Lot #1 has its own driveway.

Mr. Pereira indicated that they have a full Soil Erosion & Sediment Control Plan for each lot which really isolates each lot independently and also protects the existing pond in the back. Within the 50 foot right-of-way from the Wetlands, they are proposing grades and they have no work proposed within 25 feet of the existing lots.

Mr. Pereira concluded and indicated that he would answer any questions from the Commission. He added that it was a straightforward project. There are three new homes and it is a relatively small subdivision.

Chair Parkins asked if they were all 4-bedroom homes.

Mr. Pereira responded yes.

Chair Parkins asked what the approximate square footage would be.

Mr. Pereira responded that he would guess approximately 2500 square feet. He asked John Guedes for clarification.

**John Guedes, principal, Mohegan Realty LLC addressed the Commission.** Mr. Guedes clarified that two of the lots are committed – one is for the owner of the Chaves Bakery and the other is for his son, John Michael. He brought a rendering of one of the houses to give them an idea; basically, it is a maximum 4-bedroom home, average size 2500 – 3000 square feet. He believes the drawing provided is for a structure approx. 2800 square feet. He reiterated that two are committed and one is obviously spec. The maximum size house would be about 2800 square feet. The largest is the one he provided a drawing of; no home would be greater than 3000 square feet. Right now they are looking at 2500 square feet on one home; 2800 on the other – the intent is to keep it in line with the homes in Shelton and what the market is now for smaller homes.

Comm. Harger asked about the driveway profile and the size of the hill.

Mr. Pereira responded that the rendering is an exaggerated scale. It is 12% at maximum; it falls well within the range that the City Engineer (inaudible)...

Comm. Harger commented that the (inaudible)...

Comm. Dickal asked if there would be a need for any major blasting.

Mr. Pereira responded no, they don't foresee that.

Chair Parkins commented that they aren't overly large homes, that is for sure, 3000 square feet is not a McMansion.

Comm. Harger commented about the combined driveway for the two rear lots that would be splitting and asked if that would have a steeper entrance than what is pictured.

Mr. Pereira explained and showed the 40 feet combined to pull into one curb cut instead of having two separate just to make it easier and from there it splits off to each lot. There will be an access easement granted to both lots to share that.

Comm. Harger asked if all of the green areas shown are woods.

Mr. Pereira responded that they dropped this rendering in on a Google map so that they could see that everything is well-buffered. He showed the location of an existing tree line. He explained an area where they would have to clear for their septic system. He pointed out the location of an existing home that is well buffered and the large distance between any existing homes. He identified a storage garage for the existing gas station. He reiterated that everything was well-buffered which is why they used this aerial to paint a picture of the area. Mr. Pereira added that these were large lots with 5 ½ acres for three homes.

With no other questions from the Commission, Chair Parkins opened the public hearing up to the public and read the first name from the sign in sheet.

**Nick Harko, 111 Mohegan Road, Shelton addressed the Commission.** Mr. Harko commented that he had two concerns and he thinks that one was answered when Mr. Pereira indicated that they were not going to do a lot of blasting. He asked if they would let the City know ahead of time if they have to do blasting.

Mr. Harko indicated that his other concern was if the grade was going to be changed on that access to the two lots with the two driveways. Right now, that driveway is level with his driveway going all the way up. He asked if they were going to add grade to it to make water runoff it onto his property or will the grade continue as it is being level.

Mr. Pereira asked the Chair if he should wait to respond.

Chair Parkins told Mr. Pereira to go ahead and respond because this is a small crowd.

Mr. Pereira responded no, if anything, they were going to drop the grade there a little bit so his water will actually (inaudible)...

Mr. Harko responded OK that was his concern about the storm water run-off because his septic system is on that side.

Mr. Pereira stated that there should be no issue for him in that regard. As far as the blasting, he was on the City's Blasting Committee and they spent a lot of time revising the Regulations so any blasting will go through the Fire Marshal and everyone is notified, there are pre-blast surveys taken so that is all set in place.

Mr. Harko stated that on another note, he will be having his property surveyed at his own expense just to make sure and avoid any disputes over property. He reiterated that he wanted to do it on his own and his own expense.

Mr. Pereira responded that they've got two sides marked out already.

Chair Parkins asked for clarification that Mr. Pereira surveyed and marked that property already.

Mr. Pereira responded yes.

Mr. Harko commented that it is a small issue but necessary for the legalities of it. He had planned to do it anyway because he has no idea what the guy at the corner of Pennsylvania Avenue might want to do.

Chair Parkins responded yes if it makes him more comfortable.

**Bernard Camaro, 104-114 Mohegan Road addressed the Commission.** Mr. Camaro indicated that his property is across the street and he is a landlord. He asked if the driveway for Lot #1 would be where it is right now – the existing location - and how far away the others would be.

Mr. Pereira commented that it is in exactly the same spot.

Mr. Camaro indicated that he had no basic problem with the whole system that is there but asked about the water. He said that when they put water in, they all paid for a share of the water. He paid for four shares and there is one house existing that probably paid one share for a water line to that one house. He asked about the two houses in the back taking water from the house in the front and if they would have to change all of that because it will be too small.

Mr. Pereira responded yes, correct. There will be separate taps for the two new homes.

Mr. Camaro stated that he couldn't recall if there was a time limit or not in regard to having to pay for the water when it went in. Everybody on the street got assessed and any new lot coming in, from what he understood, was supposed to be assessed a certain percentage to hook up to the water.

Mr. Panico asked how long ago that was.

Mr. Camaro responded about 20 to 25 years ago.

Mr. Panico stated that there is usually a time limit but he can inquire with the hydraulic company.

Mr. Camaro responded yes, there was a time limit but he couldn't remember what it was. It is probably well past it by now. He's across the street so he knows what it is like over there. He thanked the Commission.

Chair Parkins asked Mr. Reitmeyer if he wanted to speak.

**Mr. Thomas Reitmeyer, 7 Pennsylvania Avenue, Shelton addressed the Commission.** Mr. Reitmeyer indicated that his question was already addressed regarding the surveying of the property.

Chair Parkins asked if that was his only concern.

Mr. Reitmeyer responded yes and about the blasting.

Comm. Dickal stated that she's got him covered on that.

**Thomas Lewis, 65 Philip Drive, Shelton addressed the Commission.** Mr. Lewis indicated that his home is on the other side of the pond and he has three things that he wanted to mention. One thing is that there is some dumped scrap metal, old trucks, and things like that and he doesn't know if it is on this property or in the Wetlands but it was left there by the previous owner and he'd like to see that cleaned up if work is going to be done back there.

Chair Parkins stated that she's sure that whoever is going to live there will want to see that cleaned up too.

Mr. Lewis restated that he wasn't sure if it was on City property, on Wetlands or on one of these three lots. His other issue was in regard to the blasting because there is a lot of rock back there especially in that area back there too. It is pretty close to a business as well as other homes. Finally, he asked about the drainage and if the plan was to have it drain toward the pond and the Wetlands or towards the street.

Mr. Pereira responded that Lot #2 drains toward the wetland, the pond and so does Lot #3. Lot #1 overflows toward Mohegan, toward the street, toward the gutter line.

**Terry Harbel, 69 Philip Drive, Shelton addressed the Commission.** Mr. Harbel showed the location of his home on the site map. He stated that his concern was something that Mr. Lewis pointed out and showed the area where there is a big trash dump that looks like the last 40 or 50 years – it was a farm and the area looks like an archeological dig with old appliances, cars, truck bodies, and all kinds of stuff there. He doesn't think it is on this property but it was deposited there by the former owners and he believes it is City and Wetlands property. It has been an eyesore for a long time and he's sure that they will find it. Mr. Harbel stated that is one issue that he would like to see addressed and cleaned up. He didn't know who would do that or what type of enforcement there would be but there is a significant amount of trash. He added that he had some photos if the Commission wanted to see them.

Chair Parkins asked if he was saying that the dumping ground was actually on this property.

Mr. Harbel responded no, it is not. It is the City property or up in this wetlands area. He showed where this property ends and the dumping area above it which is in wetlands.

Mr. Panico asked who owned the property.

Mr. Schultz responded the City (inaudible).

Mr. Harbel stated that he thinks it is the City but it was dumped by the people who originally owned that property over many decades.

Chair Parkins commented that if they didn't deed it to the City, then it still belongs to someone.

Mr. Harbel indicated that was their purview not his but it would be great if someone took some action on that. He doesn't know why it wasn't addressed when this whole area was developed the first time but it wasn't.

Comm. Harger asked to see the photos that Mr. Harbel had of the area. Comm. Dickal indicated that she would like to see them as well.

Mr. Harbel provided the digital photos and commented that there were about five or six of them.

Comm. McGorty asked if he thinks it was from the previous owner.

Mr. Harbel responded absolutely. It looks like they had a farm, dumped all their stuff...

Chair Parkins commented yes, that it was very common.

Comm. Harger asked where one of the photos was taken. Mr. Harbel explained that it was taken behind the pond and he pointed out the approx. area on the site plan.

Comm. Dickal asked if this could be seen from any position where the houses are being built.

Mr. Pereira responded that he really wasn't sure; all he could commit to is them cleaning up their own property. If it something that (inaudible)...

Comm. Dickal commented that if they are building these houses and someone can view it than it isn't a great selling point.

Mr. Pereira responded that yes, knowing the prospective buyer and that if he sees it and can clean it up, than he's sure he will.

Mr. Harbel stated that he would hate to see anyone shirk their responsibility – and he isn't saying they have – he thinks the previous land owner probably did. He stated that when this land was for sale, he went to the realtor and addressed this issue. He was told to call the owner because they didn't want anything to do with it so he doesn't know if anyone was ever informed. He had no contact number for that owner but the realtor was aware of it.

Mr. Harbel stated that his other issue was regarding blasting and as Mr. Lewis pointed out, there is a lot of ledge in this area. He was in the existing house because he looked at this property as well. The basement is a much abbreviated basement with just a small amount of space to move around because they just poured concrete over all the ledge so if they are going to put full basements in, there is a lot of rock to remove for sure. He pointed out some locations on the site plan where he knew there was a lot of ledge and other areas where he wasn't certain but thought there would be a lot of ledge. He commented that he thinks there would be some blasting. He commented that he supposes that they would be informed and the proper protocols will be followed.

Mr. Pereira responded yes and honestly, you don't know until you put a shovel in the ground.

Mr. Harbel reiterated which area he knew there was a lot of ledge and commented that if they wanted to put a full basement in ...he's been in there.

Comm. Harger asked if the present condition of the lot was wooded, overgrown...

Mr. Pereira responded no; actually the majority of it is cleared. He commented that what they are looking at there is pretty close to what it looks like.

Mr. Harbel added that it was actually very scenic.

Mr. Pereira agreed and showed an area where it was all open with no substantial growth and where it was all presently wooded. He commented and showed that they would only be clearing one section for the septic system.

Mr. Lewis asked where the septic system for the second house or the other one at the top would be going in.

Mr. Pereira showed the location for the septic systems for the front and rear lots.

Comm. Harger indicated that she was asking about the area because she wanted to know how difficult it would be to do some test borings to see if there is ledge.

Mr. Pereira responded that they did do test bits on each of the lots for the storm water system and they hit no ledge.

Mr. Harbel stated that if they look at the contour of the land, it is sculpted and he thinks it is sculpted due to the ledge that is underneath it. He showed a location where it sculpts quite a bit with the elevations.

Chair Parkins indicated that if there is any blasting, they have a Blasting Ordinance in Shelton. They have to get a Blasting Permit with the Fire Marshal and he is the one who controls the Blasting Permits. Blasting Companies have to notify residents within ...she asked for clarification from Mr. Schultz.

Mr. Schultz read a statement from the Blasting Ordinance, "If blasting is to occur, the Developer shall be required to conduct a Pre-Blasting Survey of all properties located with 250 feet of the blasting area and notices shall be sent to all properties within 500 feet of the blast area. All survey data shall be provided to the Planning and Zoning and Fire Marshal's Offices."

Mr. Pereira stated that they do a Pre-Blast Survey, they would look at each of the homes around there and have photos of before and after so they don't get any false claims of damage; everything is documented.

Mr. Harbel asked if they would be notified of the actual time of the blasting so they can anticipate it.

Mr. Pereira responded yes and there are also sirens that sound right before the blast.

Mr. Lewis commented that there is an alternative to blasting with big jackhammers.

Mr. Pereira responded yes, exactly.

Mr. Lewis stated that they do more of that than blasting nowadays.

Mr. Pereira agreed and stated that nobody wants to blast unless they absolutely have to. He added that having served on the Blasting Committee, and blasting nowadays is a science. There are companies that – there was a job in Bridgeport where they blasted a 50 foot cut near existing homes within 20 feet with no damage so if the right person is doing it... There is a science to doing it.

Mr. Lewis commented that it depends upon how big the rock formation is too.

Mr. Pereira responded yes, there is a lot to it.

Comm. Dickal reiterated that the key is that the right person is doing the job.

Chair Parkins agreed that it was like anything else, they do their jobs here. She added that they don't select contractors to do blasting though.

Comm. McGorty commented that there were checks and balances though.

Mr. Lewis asked about the two new septic tanks for the two on the top and one for the single family house but the houses they are building are a lot bigger and would require a bigger septic tank.

Mr. Pereira responded that it would be a whole new system.

Mr. Lewis asked if they would tear all of that out and do a new one.

Mr. Pereira responded yes, a new home would require a new system.

Mr. Harbel asked about that area having been a working farm area at one time and if there were any hazardous material buried in there that they know of.

Mr. Pereira responded that there is no reason to suspect that there is, if it was a farm. If there was a dry cleaner in there then (inaudible)...

Chair Parkins commented that maybe there were some horse bones. She asked if there were any further questions from the Commissioners.

Comm. Osak stated that the pond essentially has a brook that feeds into it, and asked if the new construction will add storm water to the pond more than what goes in there naturally now.

Mr. Pereira responded no because they are required by the Engineering Requirements to meet pre-developed flows so they have galleries to store any increase in volume for the new homes; so what goes in there today is proposed to remain the same.

With no further questions, Chair Parkins asked for a motion to close the public hearing for Application #15-07.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to close the public hearing for Application #15-07.**

Recess 7:33 p.m. – 7:38 p.m.

**OLD BUSINESS**

**APPLICATION #15-1: STEVE BELLIS ON BEHALF HAWKS RIDGE OF SHELTON, LLC FOR FINAL SITE DEVELOPMENT PLANS AND SUBDIVISION APPROVAL, LONG HILL CROSS ROAD/BEARD SAWMILL ROAD ), MAP 39 AND 5, LOTS 7 AND 17), PDD #77.**

Chair Parkins indicated that there was a favorable consensus reached and the Commission asked Staff to prepare a resolution for discussion tonight. She asked Mr. Panico to read the Draft Resolution.

Mr. Schultz stating that there is a main drawing on the easel which he pulled toward the Commission table and all Commissioners have a copy of the report.

Mr. Panico stated that PDD #77 was about to move from Concept to full Approval for the residential component. He read the Draft Resolution for Application #15-1, Steven Bellis for Hawks Ridge of Shelton, LLC for Final Site Development Plans and Subdivision Approval, PDD #77.

**\*See attached P&Z Draft Resolution for Application #15-1, Hawks Ridge of Shelton, LLC for Final Site Development Plans and Subdivision Approval, Long Hill Cross Road/Beard Sawmill Road (Map 39 and 51, Lots 7 and 17), PDD #77.**

**End of Tape 1A, 8:09 p.m.**

After completion of reading to Draft Resolution, Chair Parkins asked for a motion to discuss.

Nancy Dickal motioned and Jim Tickey seconded for discussion for the Draft Resolution Report of Application #15-1.

Comm. Harger asked a question regarding Page 9 of the Draft Report, last paragraph, #5, “*No fee-simple lots shall be conveyed to another party unless the necessary supporting streets and utilities to serve said lot are completed or fully bonded to assure completion.*” She asked for clarification on that line.

Mr. Panico explained that they are approving a subdivision and there are private streets in the subdivision and they haven’t bonded those streets. Normally in a subdivision, you bond all of the improvements as soon as the subdivision map is filed and they can sell lots but in this case, you have to make sure that services are there. He indicated that was the only reason that they had to put that clarification in there. There is a slight difference between that – if he wants to look at that phase and put up a bond for everything that is in that phase, then sure, he can go out and sell those lots. They know that they can put the services in when they are needed; otherwise for some reason if the Applicant decided to sell off six lots and there are six different people running around there building houses, they are going to want to move into the houses but the road is not paved, all the drainage isn’t in or whatever. They have to protect themselves. They are automatically protected on a subdivision by a bond but they don’t have a bond for this. They have bonds of various kinds but the alternative is that as each phase comes up, you could come up with a number to cause it to be bonded; however, it could be onerous on the Developer for no reason. Mr. Panico stated that he doesn’t anticipate that the Applicant is going to sell any of these lots until he has a house on it to sell the package but they need to cover the downside.

Comm. Harger responded thank you, OK.

Chair Parkins commented that at the last meeting they discussed the potential and Rick was going to follow up with the Applicant regarding extra inspectors (inaudible)...

Mr. Schultz responded that it was discussed and their Project Engineer Staff can provide that so that can be approved as a condition - NOK Engineering.

Chair Parkins asked if it was a third party inspector or their inspector that is...she asked who he working for or who he was looking out for – the Applicant or the City.

Mr. Schultz responded actually, for both. They did the same thing for the apartments on Bridgeport Avenue and for Avalon Shelton.

Mr. Panico stated that it is presumed that he is working for the City.

Mr. Schultz responded yes.

Mr. Panico commented that the Developer just pays for it.

Chair Parkins stated that is what she is looking for clarification about because this is a very large project and P&Z just doesn't have the Staff.

Mr. Schultz responded no they don't and they need that 24/7 and the Applicant has agreed to provide that.

Chair Parkins asked if he was comfortable with the agreement, the arrangement that has been made.

Mr. Schultz responded absolutely.

Chair Parkins responded OK because it will be on him.

Mr. Schultz agreed and commented that the Mayor's Office will make sure of that.

Comm. McGorty commented that it is NOK's business and reputation too.

Chair Parkins agreed but added that things happen though – trees come down that aren't supposed to come down, etc...then Inland/Wetlands starts yelling at them because they aren't out there watching.

Mr. Schultz added that there are also these crazy storms.

Chair Parkins commented that she just wants to make sure that they are covered. She asked if anyone else had any questions or comments or clarifications. With no comments, she stated she would conduct a roll call vote to approve the resolution.

**On a motion made by Nancy Dickal seconded by Jim Tickey, it was unanimously roll call voted (6-0) to approve the P&Z Resolution for Application #15-1, Steven Bellis for Hawk's Ridge of Shelton, LLC for Final Site Development Plans and Subdivision Approval, Long Hill Cross Road/Beard Sawmill Road (Map 39 and 51, Lots 7 and 17), PDD #77.**

Atty. Bellis thanked the Commission and commented that Mr. Panico did a nice job on the Resolution. He asked if they would authorize the Chair to sign the map.

Mr. Schultz indicated that he would make copies for the Applicant.

Mr. Panico responded yes, when all of the I's are dotted and the T's are crossed – that is normal procedure. He commented that he's curious as to how he plans to address that comment with the Fire Marshal.

Chair Parkins added that there were a couple of issues with the parking too.

Mr. Panico indicated that was a concern that he's had for a long time.

Inaudible comments (copy machine running...)

Chair Parkins commented about the NOK being the inspector hired by the Applicant but it had to be a third party.

Comm. Dickal agreed.

Comm. Harger stated that it has to be somebody else.

Mr. Panico commented that he didn't think it should be somebody from his organization.

Comm. Dickal responded no, it shouldn't be.

Comm. Harger commented not even anyone from (inaudible)...

Chair Parkins stated that it was a conflict of interest. She asked who they were looking out for if they were being hired and paid by the Applicant.

Mr. Panico asked Rick to clarify his comment about the inspector and what he was trying to say. He asked if they agreed to pay for somebody.

Chair Parkins clarified in regard to it being a third party inspector.

Mr. Schultz responded yes, NOK are going to be providing the service.

Chair Parkins responded that is their people.

Mr. Schultz stated yes that was why he explained that they used the same concept on Bridgeport Avenue back Avalon

Chair Parkins stated that this is a much bigger project.

Mr. Schultz stated that it is the Commission's call, if they think it's ... He restated that they are willing to do it.

Mr. Panico stated that either way they are going to pay for it – because NOK doesn't come for free.

Mr. Schultz responded no they don't and they've done it before but if they think it is too close...

Comm. McGorty commented that it is their professional reputation too. He added that he doesn't think that they are going to give everything away for this one development.

Chair Parkins indicated that Nowakowski is already working for them and that is what she's saying.

Mr. Panico responded yes but he doesn't have an interest in it.

Comm. McGorty agreed.

Mr. Panico continued that he is a professional who was hired to engineer it.

Mr. Schultz reiterated that it was the Commission's call.

Mr. Panico commented that if they think that NOK would try to bury an engineering problem if they ran into one because they don't want to embarrass themselves but he stated that he didn't see that happening. He stated that he thinks that the Commission should think about.

Comm. Dickal stated that she thinks that they should think about it too in light of (inaudible)...

Mr. Schultz commented that they don't seem very pleased so he'll work on that issue and come up with another name. He wants the Commission to be comfortable with it.

Chair Parkins responded that she wants the City's interests to be...because it is going to come back to the Commission if something goes wrong.

Mr. Schultz commented that she's right. He feels comfortable with the working relationship but this is a big project.

Comm. Dickal stated that they should have someone unbiased.

Comm. McGorty agreed but noted that he thinks NOK has a professional reputation that they aren't going to throw away for one project.

Comm. Dickal stated that she wasn't disputing that. She added that they have a lot of professionals out there that turn out to be unscrupulous years down the road. If they are going to do a project they should do it right.

Mr. Schultz stated that he would get this resolved.

Chair Parkins clarified that she was looking for somebody to replace the City personnel doing inspections – that is what she was looking to do. She wasn't asking for additional...

Mr. Schultz responded yes, but not totally just to supplement because they still have to go there but that is for 24/7 especially for something like a main rain event on a Sunday evening because they receive reports on the conditions and everything.

Chair Parkins commented that they are already on retainer for this project and that is her point.

Mr. Schultz responded yes, that is right.

Chair Parkins added that they aren't being hired specifically to look out for the City's interests to make sure that everything is followed.

Mr. Panico stated that it may be a little bit too close of a relationship.

Comm. Dickal commented that was how she felt about it.

Mr. Schultz reiterated that he would get it resolved.

Mr. Panico added that it was not to cast dispersions on Nowakowski because they are very professional people but the perception on the street is going to be...

Comm. Dickal stated that they just have to do it right.

Comm. Harger commented that she didn't want anything to come back and bite them.

Comm. McGorty commented that they would do it right but if it makes them sleep better at night. These are professional people with a reputation at stake...he doesn't believe they would do a bad job. Its fine he really doesn't care and he doesn't believe that they would go out there with a vested interest and do a poor job.

Mr. Panico stated that it is just like that comment about not selling those fee simple lots. He doesn't think that is their intent but you just don't know what is around the corner. He added God Forbid if something happened to AJ and they end up having to sell the project to a third developer...who knows what could happen.

Comm. McGorty asked if there were bonds in place to protect them though.

Mr. Panico stated that he is very comfortable with AJ, he is a very professional person.

Comm. McGorty commented that was the key about bonding though to protect them.

Chair Parkins clarified that the bonding protects that the project is going to get completed. Comm. Pogoda commented that he doesn't know the reasons but they did that in his development. The first street off of Freedom Way had to be given to another developer and four homes on that street were done by another developer. He doesn't know the reason because he was hospitalized when it was being built.

Comm. McGorty stated that was a separate issue than NOK overlooking this project. Another party would be fine with him. He doesn't care.

Comm. Harger commented that there are always best intentions but you have to (inaudible)...

Mr. Schultz reiterated that he would address it.

**APPLICATION #15-07, MOHEGAN REALTY, LLC FOR FINAL RE-SUBDIVISION APPROVAL (3 LOTS), 107 MOHEGAN ROAD (MAP 84, LOT 37), R-1 DISTRICT.**

Chair Parkins indicated that they closed the public hearing on this early tonight.

Mr. Schultz indicated that he had prepared a report and draft motion. He provided the original subdivision map on the table and noted Frank Osak's signature from 1974 in the upper right corner.

Mr. Schultz read his report dated May 27, 2015 for Application #15-07.

1. Applicant is seeking Final Re-Subdivision Approval for the creation of three lots identified as #1, #2 and #3 containing a total area of 5.4 acres. Lot #1 has an existing single family dwelling to be removed which has direct access to Mohegan Road. Proposed Lot #2 and Lot #3 are interior lots will also have direct access to Mohegan Road. An existing detached garage and associated driveway on Lot #2 will be eliminated.
2. All lots will be served by individual subsurface septic systems and public water supply. Properties are located within residents R-1 district. Application was referred to the City Engineer, Fire Chief, Valley Health District and Conservation Commission.
3. The Inland Wetlands Commission agent determined there are no regulated activities associated with the subdivision.
4. Applicant has received a letter from the Lower Naugatuck Valley Health dated 2/19/2015 approving three lots subject to engineered septic systems and connection to public water.
5. The Applicant has provided an acceptable Sediment and Erosion Control Plan. Subject property is not located within a Watershed Area or a special Flood Hazard Area. A Certificate of Sediment & Erosion Control Permit will be issued for the construction of single family dwellings on all lots.
6. Staff has inspected subject property and determined that sidewalks are non-existing for this neighborhood.
7. City Engineer in letter dated May 22, 2015 recommends approval with six conditions including the elimination of individual driveways for Lots #2 and Lots #3; hence, the revised plans were submitted on May 27<sup>th</sup> showing that common driveway.
8. There is anticipated blasting for this development. If blasting is necessary, pre-blasting surveys will need to be provided for properties within 250 feet of the blast area. Additionally, notification of blasting shall be sent to property owners within 500 feet of the blast area.
9. The Applicant is requesting the waiver of the Open Space Set Aside and Payment in Lieu of Open Space. The original subdivision of the Magyar family property resulted in the conveyance of 2.6 acres of open space to the City which abuts this property to the north.

Mr. Schultz referenced the map and commented that the area was highlighted in yellow.

Chair Parkins asked if that Open Space was where the dumping is happening.

Mr. Schultz responded that he thinks it may have been.

Mr. Panico commented that was a part of the usual 10%.

Mr. Schultz stated that at the time, the Commissions at the time looked at the overall acreage and 2.6 which was about (inaudible) acres...

Chair Parkins stated that they gave them 2.6 acres of dump.

Mr. Schultz responded right well they have ... It has been the new policy that (inaudible)...

Comm. Osak asked what year that was.

Mr. Schultz responded that it was 1974 for this phase of it.

Comm. Osak explained that they had a Mayor at the time that always made sure that they took the 10%.

Mr. Schultz responded that now they have Aldermen that don't want the 10% of open space. They will say no. Anyway, the Set Aside was provided and the policy of this Commission, because they are seeing more re-subdivisions is that they don't subscribe to double dipping.

Mr. Panico stated that the odds are that that piece of Open Space is owned by either the City or it was passed on for the Land Trust.

Mr. Schultz responded it went to the City of Shelton.

Mr. Panico stated that they probably turned it over to the Open Space, the Land Trust.

Mr. Schultz indicated that he was going to contact the Open Space Agent about the dumping issue to get it resolved.

He commented that he thinks the consensus was that the Open Space Requirement has been provided for already because this was a family farm. He continued with the Staff recommendations to add all Standard Notes, signature lines to the Record Map, notes to be provided by Staff and if blasting is to occur, the Developer shall be provided to conduct a pre-blasting survey.

Mr. Schultz indicated that he had a draft motion unless the Commissioners had questions. He read the Draft Motion for Application #15-07, Mohegan Realty, LLC for Final Re-Subdivision Approval (3 lots), 107 Mohegan Road (Map 84, Lot 37) with the noted Conditions.

Mr. Panico commented that whenever they have an approval that has interior lots, he thinks it is always desirable for the Commission to lodge, whether in its discussion or in its findings, that it serves the best interests of the City to approve those interior lots. In this particular case, the same two lots could have been created by building a road and the upshot is that they are going to end up with a piece of road the City is going to own and maintain to serve two lots.

Mr. Schultz agreed and stated that this is consistent with the Thompson Street subdivision that they had.

Mr. Panico added that it is better to have interior lots and not put the burden on the City.

Mr. Schultz commented that the grades wouldn't preclude it because it is a 10% grade there. He indicated that the City Engineer is requiring paved driveways.

Mr. Panico stated that he should require that.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Application #15-07 for Final Re-Subdivision Approval.**

Mr. Schultz commented that the Commission is going to see a lot more of these three acres, five acres – as they heard, the market has changed. The homes are less than 3000 square feet now and they are building to sell.

### **ADJOURNMENT**

Chair Parkins asked for a motion to adjourn.

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to adjourn the meeting at 8:21 p.m.**

Respectfully Submitted,

*Karin C. Tuke*  
P&Z Recording Secretary