

SHELTON PLANNING AND ZONING COMMISSION SPECIAL MEETING MINUTES

**SHELTON PLANNING AND ZONING COMMISSION SPECIAL MEETING HELD WEDNESDAY,
JANUARY 24, 2017 AT 7:00 PM. CITY HALL AUDITORIUM, 54 HILL STREET, SHELTON, CT 06484**

PZC Commissioners Present:

Virginia Harger, Chairman
Anthony Pogoda, Vice-Chairman (phone conference)
Elaine Matto, Secretary
Jimmy Tickey
Charles Kelly
Mark Widomski
Ned Miller, Alternate
Nancy Dickal, Alternate

Also Present: Richard Schultz, AICP, Planning and Zoning Administrator
Anthony Panico, Consultant (phone conference)
Sandra Wasilewski, Recording Secretary
Pat Gargiulo, Stenographer

Tapes, correspondences, and attachments are on file in the City/Town Clerk's office and the Planning and Zoning Office and the minutes are available on the City of Shelton's Website

www.cityofshelton.org

(1 tape on file)

I. Call to Order

Chairman Harger called the meeting to order at 7:03 PM.

II. Pledge of Allegiance

III. Roll Call

Chairman Harger identified members present.

IV. Public Hearing

Comm. Harger: We have three public hearings tonight.

Comm. Matto: (Secretary reading the call to the first public hearing).

A. Application #17-20, Dominick Thomas for Amendment to Zoning Regulations (Section 45-6: Accessory Dwelling Units)

Comm. Harger: Before we go on, let me just go over the public guidelines for the public hearing: All members of the public wishing to address the Commission on the item being discussed will need to clearly print their name and address on the sheet at the podium. This is to assist the recording secretary and stenographer when doing the minutes and transcripts of the public hearing. The applicant and/or his associates will make a presentation to the Commission. During the presentation, the Commission and/or the staff may ask questions to the applicant and/or his associate will be given an opportunity to answer during or at the end of the presentation. After the presentation has ended and if there are no further questions from the Commission, the public will be given the opportunity to address the Planning & Zoning Commission about the item being discussed by the Commission. All comments and/or questions are to be directed to the Planning & Zoning Commission Chair and to the Chair only; not to the applicant and/or his associates. No dialog is permitted between the public and the applicant and his associates. All comments should be informational, directed to the criteria of the zoning regulation. Unless a member of the public has new comments or a question to the Chair, members of the public are asked to indicate whether or not they are in agreement with the previous speaker and not repeat the same testimony verbatim when it's your turn. The applicant's attorney and/or consultants will be given the opportunity to address any comments or questions from the public after the last person from the public has been given the opportunity to speak. If the public hearing has not concluded by 10:00 p.m., the public hearing will remain open and a day for continuation of the public hearing will be announced at which time the public hearing will pick up from the point where it was left open. If the public hearing is left open, the Planning & Zoning Commission is not allowed to make any public comment, discuss any part with the applicant and/or his associate's presentation, or receive any additional information from anyone. After the Chair is satisfied that the applicant and/or his associates have concluded their presentation, has answered all questions, and have directed all concerns from the Commission, there will be a motion to close the public hearing.

Dominick Thomas: Attorney Dominick Thomas, Cohen & Thomas, 315 Main Street, Derby, Connecticut representing the applicants Nancy Bernstein and George Bernstein and this is on their behalf because of issues with family but it's also a general application to change your accessory dwelling unit regulations. Approximately, two years ago, I'm a member of the Connecticut Bar Association, an executive committee of the Planning & Zoning section and we have meetings on a monthly basis and discuss various topics of Planning & Zoning. Approximately two years ago, to the enjoyment of food at Adrianna's in New Haven, we had a wonderful presentation from a young lawyer who was working for the Commission On Aging and Elderly, for the State of Connecticut and she was making a presentation about the issues

confronting the rapidly aging population and they often talk about the boomers and I'm at the top of the boomer generation. What she talked about and what she said very frankly is, the desire as healthier people age is to age in place and it was funny because I smiled as she was talking about it. Having grown up in a two-family, in Derby, and as a young 6,7, 8 year old, with family on the second floor and family on the first floor taking care of my grandmother who eventually passed away in the house and for those of you who remember those days in the 50's, was actually waked in the house, so aging in place is not something is new; it actually existed back then; you took your family in. But what these young lawyers said that was very interesting was the single most obstructive thing to 'aging in place' is zoning regulations in the State of Connecticut and the fact that many years ago the idea of having commercial and residential and multifamilies all mixed together was something that you lived with. When zoning came into place, and you had zoning regulations adopted in the 50's through the 60's, you drew these hard and fast lines of where there was going to be residential, where there was going to be commercial ; well, in addition to that, we got away from the concept really of the nuclear family; the multi-level family. I can't say I've had a lot of zoning applications before me for accessory dwelling units or in-law apartments, as they're called, but I've had a few. A few years ago I was approached by this family talking about an issue where you had a mother and father who had some health issues and in fact, a sibling who had some health issues and the idea was to possibly look for an in-law apartment set up. They came to me and said, "What about building one." They were involved in a subdivision that I did that split a large lot that they own and I looked at the regulations and I said, "I'm sorry, you can't do it." For the life of me I couldn't figure out why. Your regulations said that the house had to be in existence for five years. In addition to that, there are other regulations within that; I did cross out the issue of two front doors – I don't think you should get into architectural but if you drive around many older neighborhoods, whether it's in the valley, or where I live in Woodbridge, you see many homes that have two front doors they have a mudroom and a main door. So I thought that was a little much. I'm hoping that this will provide you, not only with the opportunity to change the regulations as I have proposed, but to look at some of the other things, an issue that you were confronted with, I think about a month or so ago and you had a situation where someone wanted to develop an in-law apartment and they didn't have a common wall and somebody with an older home that has a attached garage with an apartment. What's wrong with the in-laws living up there? This is important to 'aging in place". I know the argument is, "People are just going to put two-family houses there." Well, I was brought up in a two-family house; I don't see anything wrong with it. Your regulations contains serious requirements for registering the house; registering it annually; making sure there is someone related by blood or marriage and also if the older parents passed away, it certainly provides a place if the children want to return or if their child wants to return and your regulations do provide for supervision of it. I believe that this, hopefully; I've drafted it to address the issue of building new homes

that have in-law apartments which I think is something to do, but on a greater level you have to address the issue of how this Commission confronts 'aging in place,' and how to make your regulations more friendly. To show you that, I've given all of you an article from, I think it's 2016, Unlivable communities; the highlighting is mine; there's a lot of it – we could sit here and discuss for hours, which Mr. Swift would probably be upset with if we did that. A lot of other topics, some of the things I've highlighted that with what's going on with the boomer generation; with the fact that they're aging, they're remaining healthy; they're remaining active, the results with an older number of adults who are aging in suburbia. They are not going into nursing homes; they're not going into that, they want to age in place. Now, some of them will go in independent living; some of them will go into their own apartment, but one of the most significant things that relates to taking care of people aging, is socialization. Now that socialization can be going to – independent living or that socialization could be going into independent living so that they have family around. That's the easiest way, to socialize, with family, people that you socialize with. The demand is coming, not just with the older adults; the demand is coming from the younger adults to take care of your family so they don't have to worry about nursing homes and as it says there, zoning can be used to promote housing arrangements that support residents across life span by including accessory dwelling units and shared housing. You have one but it is restricted. I don't know the full history of it; I've had conversations with Rich Schultz about how some of these things evolved. They may have evolved to respond to a certain problem that occurred 20 years ago or 25 years ago. I do not think they're irrelevant today. So what I'm asking you to do today is promote, in fact, housing arrangements that support residents across the life span including accessory dwelling units and shared housing and I think the first step – hopefully taking baby steps in making requested changes, but my suggestion is that you go beyond what I have proposed for you – understand the concept of 'aging in place' and look at, to make further changes, which will make 'aging in place' a thing that is a benefit in Shelton, for the families in Shelton. That's basically all I have on that proposal. I'm ready to answer any questions on that.

Comm. Harger: Any Commissioners have any comments.

Comm. Matto: It's not just a matter of socialization, it's economic, it's an economic benefit to families.

Comm. Kelly: Absolutely.

Comm. Dickal: Not all families can afford to keep a loved one in an assisted living facility.

Dominick Thomas: It's an economic benefit. If you have that person socialized and with you, it creates a situation where they tend to be more active and I'm not trying to be a psychologist or medical doctor, but the more socialization, the less dementia, therefore the less situation that person would end up in a nursing home on title 19 and the state would be paying for it.

Comm. Dickal: There's a lot of children now a days moving back home because they are inundated with college debt and unfortunately cannot afford to pay a down payment on

something and they go home, hopefully to find a job and to live with their parents and hopefully save some money.

Dominick Thomas: I was asked at one point if I had separation anxiety when my three sons went away to college and I said, "Absolutely, I couldn't wait for them to separate so the food bill would go back down."

Richard Schultz: I just want to, in terms of the record, the accessory dwelling unit inventory, which I made a copy of for all the Commissioners, I just want to note, since the inception, it looks like our first approval was back in July 26, 1996; so that's 21 years plus. The Commission has approved 180 accessory dwelling units to date and for the last calendar year we approved seven, in 2017.

Comm. Harger: In Avalon, do you know how old the homes were?

Richard Schultz: I just want to also indicate that 21 years ago, the Commission was approving anywhere from 75 to 100 new dwelling units when we still had a lot of subdivision inventory. As the Commission is aware now because I do quarterly and annually reports, we're down to 20. The significant unicorn is now, with Hawks Ridge, which is a private community, which does not allow it. So now it is clearly more manageable because 20 plus years ago the Commission when they entertained this proposal was quite concerned with the amount of new single family that was coming into existence. That number has drastically been reduced. I just wanted to share that with the Commission and the audience.

Dominick Thomas: I want to point out to the Commission that I've had, in the last few weeks, I've had two realtors contact me who have been contacted by people who want to build in-law apartments and one of them hoped to be here tonight but, she's had two or three people make inquiries about a couple of empty lots which are a lot more now because of the slowdown in the single family in wanting to build in-law apartments, because frankly, they wanted to be in Shelton because of the lower taxes and there are situations where they would like to actually construct from the ground up, an in-law apartment for their parents.

Comm. Harger: So you're referring to people who contacted real estate agents that want to start from scratch with an empty lot not just add on.

Dominick Thomas: Right, they want to start from scratch with empty lots.

Richard Schultz: I also want to make another comment, I'm not saying that the Zoning Board of Appeals is not in synch with the Commission but there had been two occasions when they approved it and this Commission was going to challenge it; you did back down. The position of the Zoning Board of Appeals as far as I could tell is that they weigh heavily on individual circumstances but they have approved the elimination of this five year, which did not sit well with the Commissioners of years past. We were going to challenge them in court, but the Commission ultimately backed down.

Comm. Harger: How recent was that, Rick?

Richard Schultz: About 3 years ago.

Tony Panico: You have to understand that one of the original driving forces for this type of a regulation back then was the fact that there were large single family homes throughout town which were no longer manageable for the family's and they wanted to be able to take those large homes and break them down to an accessory dwelling unit. That's how the age description came into play, an attempt to accommodate a need at that time not to proactively generate accessory apartment units for people who want to age in place or for young people who can't afford to live on their own. This is entirely different and if that's what the Commission wants to do then that's how we look at it. But the rationale for the age of the original dwelling was to accommodate older, sort of larger single family homes that were no longer needed by their family because their kids have moved out.

Comm. Kelly: This is opposite of that though; it is for a family not for use of an apartment.

Tony Panico: That's right, all it takes is what we're talking about restricted to family or relations.

Comm. Harger: Example, Tony that you referred to it was for non-family use.

Tony Panico: No, it was for family use.

We started out with the idea going in for non-family use but the Commission said they did not want to do that because in their eyes at that time, 21 years ago, they viewed it as introducing two family houses into an R1 zone.

Comm. Harger: Commissioner Pogoda, any comments?

Comm. Pogoda: No, I agree with everything that everybody was saying especially when Tony mentioned how this was initially started and the reasons for it but times have changed as we all see and the figures that Rick had gave us now are way less than what we had 20 years ago so this sounds good, this does sound good and the population is aging and a lot of families want to keep the family close to, and if that's possible, let's let it be.

Comm. Harger: What has been the experience for reinforcing after the parent/parents leave and the house has an accessory dwelling unit?

Richard Schultz: Every year, we revisit each household and make a determination if it continues or if its been discontinued.

Comm. Harger: Have you come into situations where non-family where they advertise it for rent?

Richard Schultz: Very rarely, but generally speaking, no, we don't run into that problem and quite frankly the homes that have it are marketed as such and that's when the Commission gets the new homeowner. Remember, we get applications about the new homeowner but I want the commission to really apply it contingent on you approving it. I also want to share with the Commission and the public, I don't know all the surrounding towns, and where they stand. I know the Town of Fairfield is similar to Shelton; it's a 5-year. When I was in North Branford, and Joe, is that a family member or non-relative?

Joe B.(audience): A family member in Derby.

Richard Schultz: And North Branford there is no 5-year and you did not have to be a family member, because we have a lot of large homes with head of household and they were actually looking for families that wanted to move out of New Haven to move into the larger homes that were not blood related, so that's the extreme. Dominick, do you know the other valley towns?

Dominick Thomas: I don't think any of the other valley towns have the 5-year requirement. One of the things that I noticed, first of all, if we're talking about the valley, you are talking about numerous multi-families; two family, three family neighborhoods but I live in Woodbridge now and one of the interesting things is to drive around Woodbridge and you see the older homes, I'm not talking about the newer designed homes, but we're talking about the older homes, let's say in the 50's and 60's and now we label that room over the garage 'great room,' they're not 'great rooms' they have a separate set of stairway on the outside, so they were built then, again, we're talking about homes that were probably built before zoning and they were built with apartments; maybe they were family members, maybe they were non, but my understanding is a lot of students, and I don't mean Yale undergrad students but I mean interns, residents, they would sometimes rent houses and apartments in Woodbridge; that was a common thing. As we evolved into zoning, we got into the exclusivity of the Euclidean zoning, trying to exclusive areas. I as a lawyer had to address that because I grew up in a completely environment. I grew up in a residential neighborhood with multi-families with a store around the corner.

Richard Schultz: I do have a story regarding Soundview Avenue. Two years ago, we had a request for Mark Darby to construct a new single-family house with an in-law. It went to ZBA. The Commission was adamant, they said no, and they ultimately withdrew it. That was the last one. That was probably the latest subdivision where we had that situation going on.

Comm. Kelly: I just don't understand why the wait of the 5 years. If you're going to have an in-law apartment, then you're going to have an in-law apartment. Whether you build it from ground up or you buy one and add it on or you buy one with it, I just don't understand.

Richard Schultz: We also had the initial regulation needed to be tweaked. We had a single family home on Long Hill Avenue that had constructed garages and it looked like a two family. We had to amend our regulations. That really got the attention of the Commission and it re-solidified the 5 years. Tony Panico, remember that one on Long Hill?

Tony Panico: Yes. I think part of the interest of the Commission until now has been to preserve the single family appearance of the structure and the fear was that if you allow the initial building to be built as a two family, you are going to lose that control over the single family appearance.

Richard Schultz: And the irony is that the larger homes that were built in Shelton over the last 10 years have garages on both ends of the homes.

Comm. Kelly: It doesn't matter.

Richard Schultz: No, but I'm just saying the appearance. They can't regulate that but that Long Hill Avenue one really got the attention of the Commission. That never happened again.

Dominick Thomas: Also, a 900 limit; that's awfully small. The two family I grew up in was 950 ft. on top; 950 ft. on the bottom and my mother managed to feed 26 people at the holiday so it really wasn't too small.

Richard Schultz: Dominick raises a good point. The ZBA has acted on about 6 applications that increased that 900 to 1200.

Dominick Thomas: My point is not to create some sort of a, you have restrictions on family. I hope this is a starting point for you to take a look at it because I have clients who want to build nice two families/duplexes again and they come to me and ask if we could build them and I tell them no because you are in an R1 Zone. When people say to me then could we go to ZBA and I tell them, according to Virile you really don't have the ability to get a variance and I don't believe planning belongs before the ZBA, planning belongs for this Board. Creating exceptions to a regulation that I think is overly restricted is not in line with the step, is inappropriate; you should be making the decisions on what happens for 'aging in place,' not the ZBA.

Comm. Harger: What's the law say that we are discussing here, all one-acre here all the time?

Richard Schultz: No, it's preventative. In all our residential zones for single family detached but if sewers are not available, we need 30,000 sq. ft.

Dominick Thomas: If you noticed, I did make one minor change in 4.6.8 b, it called for certification and I just put 'If the premises is not served by public and water and sewer,' so if they were served by public water and sewer, you wouldn't have to go to Valley Health.

Comm. Harger: One of my concerns might not be what the use is intended for and would be used for now but after the fact—we've had situations where we've had something along the lines of a concept for a boarding house.

Comm. Kelly: Yes, but again, once a year -.

Comm. Harger: Yes, but that's the whole thing, it gets at last.

Comm. Matto: I don't see where there would be any difference in that concern with an established home versus a new home.

Comm. Kelly: Right, I don't either, I agree.

Comm. Harger: That's just it, our zoning regulations call it to be a relative and then they're violating that.

Comm. Matto: Right, I don't see how it would be any different if its an old house or a new house.

Comm. Harger: It's a different concept.

Richard Schultz: You could appreciate at the time, 21 years ago, we were still doing 80 to 100 homes and we didn't know what was going to happen.

Comm. Matto: But if you're inspecting these places annually, people are going to know they're not going to be able to turn it into a two family.

Richard Schultz: Everyone is really forthright and cooperative. Obviously, there are a lot of illegal in-law apartments.

Comm. Dickal: Absolutely.

Richard Schultz: Because they try to sell.

Comm. Dickal: And you can't police every one of those.

Richard Schultz: Shelton never grandfathered in like the Town of Trumbull did.

Comm. Harger: Attorney Thomas, I'm just a little curious as you description of the two front doors?

Dominick Thomas: I just thought that was ridiculous. Take a trip around the beautiful homes, especially the older large capes or colonials in Woodbridge and after I had a case that involved two front doors, I took a ride around and I started counting the number of houses with two front doors and almost all of them had two front doors. That was the way to go and it wasn't 2 apartments, there's the door that I call the mud room. So you had the mudroom door. Basically, you had a garage and there's one that's gorgeous; it's about a half a mile away from my house. It has a garage; the garage entrance is the side entrance and at the end of the garage you have, I assume, I haven't been inside the house, a mudroom entrance then you have the main entrance and I would venture to say that that main door probably is used 10% of the time as that other door and they park their car and walk through the garage.

Tony Panico: Once again, you have the issue that the Commission did not want to see two front doors side by side. So how do you arbitrarily create that separation, and being unable to come up with a reasonable way of doing it let's just say well let's not have two front doors. Then Dominick explained the situation well sure, you can't just design something in but how do you write that criteria into a regulation without making it subjective?

Comm. Matto: Well, that's where they could go to ZBA.

Comm. Dickal: To me, you have a three-season sunroom, a garden. I would think that whoever is going to be the architect could figure this out.

Dominick Thomas: Maybe take a good look at the regulations going forward.

Comm. Harger: Anybody from the public, Thank you, Attorney Thomas.

Dominick Thomas: Nobody signed up.

Comm. Harger: I'll call again for the second time.

John Fitzgerald: John Fitzgerald, Ridge Court, Shelton

I am a builder in town and I would just like to echo Dominick's comments concerning everything you've just discussed we just lived through in the last 20 years. The last two houses I did, in-laws right from the go, right from the start because the people, just like Dominick expressed, everyone wants to bring along and take care of a parent. They also have kids coming back from college. On a street that my father built years ago, what Dominick's referring to is the Parson's porch; we have two houses there just like he described the garage, mudroom door and they're not in-law apartments but they could be and it's just very easy to have architectural review on

any of those houses when you apply, so the other thing which the Commissioners touched on was the economics of it. A lot of people can't afford a convalescent home so everything that's been said here, it just seems that the 5-year restriction and the text changes proposed would be a great help. A real estate agent of mine could not make it tonight. She has two calls in to me. We have two appointments this week and people have said they will buy if they could build brand new and they want to bring the grandparents together and they have a son in college who wants to stay local. He does not want to go away. So there will be 3 generations in one house, but they want to build brand new, so that's what we're discussing. I just want to echo that I am in favor of the text change and reducing the 5-years, eliminating that. Everything can be accomplished by architectural review. Also your metering and that's done when you build a brand new house. Thank you.

Richard Schultz: Madam Chairman, something has just come to mind. We have a new law called the 'granny pod.' Our town did not opt to say no and I think this will ensure that we don't have to go down that road. A 'granny pod' for the new Commissioners is a free standing structure to assist families in need. You could bond the heck out of it, so it is removed within a short period of time. It has not happened in Shelton. Most of the people who I've talked to said it just doesn't work. I don't know, Dominick if you -.

Dominick Thomas: Several towns have opted out of it. I do believe, I hope this serves as a starter. The friendlier your in-law apartment regulations are, the less you -going to have a granny pod because dumping granny in a pod is a lot less desirable than having her in the house. It's one of the things you really need to take a look at - there are a lot of older homes in Shelton; older very nice homes that have a detached garage which is a thing of the past to a greater extent. You went through it. I know the builder was George Sheehy. He had to redesign to get the common wall. He wanted the old breezeway. I was thinking about it when he was doing it and thinking about my Aunt's house in Bridgeport; not that it would have been suited for it. One car detached garage and then the breezeway. The design in the 50's was the breezeway then you had that roof on the breezeway and it connected but if somebody wanted to put the in-law apartment above the garage, and have a connection, you don't have a common wall and hopefully this will serve as the thing to generate. The more friendly you are to it, and Shelton, thankfully, has the staff to regulate it, so the more friendly you are, the less chance you are to have 'granny pod.'

Richard Schultz: Has anyone seen a 'granny pod' in Connecticut yet?

Comm. Kelly: No.

Richard Schultz: Because I would like to take a picture for the Commission.

Dominick Thomas: I will speak of Mr. Botti, who is coming to the next public hearing, he said to me, the advantage to allow the people to build them, is you have a coordinated building structure.

Comm. Harger: Anybody else from the public?

On a motion made by Comm., Matto, seconded by Comm. Tickey it was unanimously voted to close the public portion of the meeting regarding App. #17-20.

Richard Schultz: We are going to do B and C together because they are related.

Comm. Matto: (Reading description)

B. Application #17-21, James R. Swift for Amendment to Zoning Regulations (Section 34:31: PDD Standards)

Comm. Matto: (Reading description)

C. Application #17-22, 636 Cooke Street, LLC for Initial Development Concept Plan, Detailed Development Plans and PDD Zone Change (mix use development), 523 Howe Avenue (Map 129B, Lot 36), IA-3/CBC Overlay District

Comm. Matto: There are two pieces of correspondence; The first is from the Fire Marshal dated January 25, 2018 addressed to Richard Schultz. The second piece of correspondence is from the City of Shelton, Office of the City Engineer, dated January 23, 2018.

Richard Schultz: FOR THE RECORD, Madam Chairman, I forgot to acknowledge under Application #17-20, that referrals were made to the Council of Governments and DEEP. Letters of recommendation are forthcoming and you will receive them before your next meeting.

Comm. Harger: Okay, thank you.

Jim Swift: Good evening. My name is Jim Swift, Professional Engineer, and Landscape Architect. Stated these are two applications that are related but they do actually stand alone to some extent. The first application for zone change has to do with the plan development district. As the Commission and Zoning knows that the Planning & Zoning District does have minimum areas that go along with it. They vary from area to area. In most cases, it's 60,000 sq. ft. In this case, we are talking about the central business district and the PDD is intended for use on parcels that are 10,000 sq. ft. or larger, in this particular district. At this point, I would like to pass out a handout to the Commission. So basically, what we're asking for is pretty clear. The intention of the minimum area and the downtown planned development district regulations is to try to get a handle that the PDD is going to be used on very small parcels or parcels that aren't appropriate for the planned development district and hence the 10,000 sq. ft. was chosen as the area. That was a very logical thing to do considering back in the old day, most lots were in the 50 x 100-lot range. Around that size going back 50 or 100 years ago, that was typical so you have many lots that size around and even in the downtown area. If you look

at the handout I gave you, you will see that this happens to be the northern section of the central business district. You could see that's defined by a white line. This is from the Assessor's office and you could see approximate dimensions on the lots. If you look at the lot in blue, you could see it's 100 x 100 ft. lot. That's the assessor's lot, that was the original filed map and you look at a lot of these other maps and if you were to look at other lots on the hand out and if you were to look at other lots on the central district extending south when it's all the way to its limit almost to Route 8, you will see a lot of lots that have these similar dimensions. I would suspect that when you actually have final surveys done on a lot of those lots, a lot of them are going to fall short of what the requirement is. I'm going to read, just a little bit, on the proposal that was submitted and, as I quote, the 10,000 sq. ft. minimum parcel was intending to accommodate two adjacent 50 x 100 ft. parcels, those dimensions being common subdivision configurations during the establishment of the downtown area. Accuracy and survey performance it resulted in many parcels failed to meet those dimensions by insignificant amounts. What we're stating here is that the 10,000 sq. ft. was a guideline but it may prevent parcels that would otherwise be considered for the PDD or appropriate for the PDD from being considered for that reason. What we're proposing is a zone change amendment that would allow those parcels to fall within these regulations. We did have meetings with Tony Panico, the town planner and with Rick about this situation. Clearly, the intent of the Commission would have created these regulations for down town. The staff thought that it would be inappropriate to wholesale change the square footage or to do anything else that really took away from the original intention, so I'll read now, the proposed text for that. If you were to read 34.3.1 you would read in there that these are the minimum areas; when it got to the central business district it would say 10,000 sq. ft. and our proposed amendment is and I quote, "Notwithstanding the above; the minimum parcel area in the downtown business district, special development area may be reduced by no more than 10% provided that the parcel has adequate frontage, shade and buildable area to satisfy the intended use." The logic for that is not to just take the 10,000 sq. ft. and throw it away, but to give parcels that, I think were already intended to be included in the PDD downtown and get them in as long as they had certain characteristics that would meet the original intention of that square footage. I'm sure the Commission is going to have a lot of questions for Rick and Tony as to how that would work, but that is the intention of the proposed zone change; is to try and meet the original intention from the Planning & Zoning Commission, but also give a little bit of leeway to parcels and lots that are just a few square feet short of the strict interpretation of the areas.

Comm. Harger: Are you going to go on to #22? Are you going to discuss #22?

Jim Swift: I am because its part of the application but I -.

Comm. Harger: Okay, can we stop there for a minute then?

Jim Swift: Yes.

Comm. Harger: AJ, how does this fit in with you as to what this can do to work against us and work for us?

Tony Panico: Well, I think Jim pretty much explained it. There is no down side as long as the Commission has that opportunity to include the usage on a very difficult site. It is somewhat subjective. The Commission has to make a decision that it is appropriate. It is a minor change but you do have to have limits; you do have to have sizes. As much as Jim explained, there are parcels that we took for granted as being a quarter acre, when in fact, when you go to do a field survey, you might find that it don't quite measure up to that. I think it's a workable amendment and it does not destroy the original intent of that 10,000 sq. ft. minimum.

Comm. Harger: Okay. I just don't want this to be something down the road, come back and hurt us in the long run. We would still have the ability to look at each one of these on an individual basis, right Rick?

Richard Schultz: Absolutely, and this avoids the applicant going to the ZBA. You don't want that to happen.

Comm. Harger: AJ, Rick was mentioning something.

Richard Schultz: Yes, this avoids the property owner from going to the ZBA to get relief of that 10,000 sq. ft.

Tony Panico: Theoretically, they would not be able to get that because there's no specific hardship except an economic one.

Richard Schultz: And they would have difficulty wrestling with it.

Tony Panico: It's really a planning decision more than a zoning decision and it's a couple of feet less than 100 feet normally doesn't hurt anything. I think this amendment provides some needed flexibility.

Comm. Harger: Commissioner Pogoda? Do you have any comments?

Comm. Pogoda: As AJ said, I think it's a good amendment. I think we're being proactive. We could always go back and look at it. But I think it helps us and there are parcels downtown which could use this and if we could develop them, it brings more to our tax base.

Comm. Kelly: I agree.

Comm. Harger: Commissioners, any comments?

Comm. Dickal: I agree. It's working in a positive way.

Comm. Kelly: Absolutely.

Comm. Harger: Commissioner Widomski?

Comm. Widomski: I'm good.

Comm. Harger: Okay. Anymore comments, Rick, from yourself.

Richard Schultz: No. This map is very helpful. There are some 46' wide lots. As Mr. Swift indicated, we don't know about those 50 footers; they may be 49.5 or something. This regulation will be helpful for the Commission and our redevelopment in the future.

Comm. Harger: Should we do the public portion for this, just this one?

Richard Schultz: Yes.

Comm. Harger: Mr. Swift, do you have anything before we go to the public?

Jim Swift: No.

Comm. Harger: Anybody from the public that would wish to speak on Application #17-21?

On a motion made by Comm. Kelly, seconded by Comm. Tickey it was unanimously voted to close the public portion of the meeting regarding App. #17-21.

Comm. Harger: Mr. Swift, would you like to proceed on #17-22?

Jim Swift: Again, my name is Jim Swift, Architect, and Engineer. I'll stand over here and talk loud enough, I trust. Just by a wild coincidence, this happens to be the parcel that is not quite the size that we thought it was. Also for the record, Brian Botti, the applicant, is here if you have any questions for him. You may find this particular application and property familiar, that's because it was submitted and approved as a special development, special exception some 5 or 6 months ago but we found a flaw in the application, so even though we had outstanding approval, it doesn't quite do the job for us and that's why we are coming back under a PDD. So the location of the site is located right next to Shelton Pizza Palace. It's a vacant lot right now at the moment, so I think it's familiar to the Commission, on a state road, Howe Avenue. I could report that the exact land area of this parcel is 9,805 sq. ft., so it's slightly small. I'll go through this even though the Commission is familiar with this from the previous application. It's a 4-story mixed use structure; it's in the downtown business district. I understand that we're looking for mixed use down there and that is precisely what this is. We have commercial underground floor, law office and some rental apartments on the upper floors. It's a 4-story building and I will show you the architecture in a second. The ground floor commercial is about 2600 sq. ft. of commercial floor area. On the upper floors, we have a 5 studio apartments and 6, 1 bedroom apartments. There are no 2-bedroom apartments. We are also providing, as expected, to provide parking for the residents for the apartments and we do show 11 parking spaces, so we are providing one parking space per apartment. Looking down towards the front, it's getting a little beat up. We're just outside of the area where a lot of the sidewalks and brick pavers so we are going to continue that across our frontage. New sidewalks, street trees. The brick pavers, certainly the state has been accepting that all through downtown and we see no reason why they would change it here. There is existing parking on the street. We're not going to affect that at all; StreetSide parking will stay, so there will be no change there. The site is very flat. It's undeveloped right now. There's no structures on it. It's very flat so it was a pretty straight forward design. For drainage, we are putting drainage in the back. We are also putting in some in ground infiltrators to control drainage in that way. Those overflow into the state drainage system, so we've got no impact to any of our neighbors from surface water or any kind of discharge water. It's all controlled on site. Just for the record, we

have all necessary utilities for this development. This was presented; this special permit but I'll reiterate it. We had some facilities back in this corner and in working with the staff there is an outside possibility that this site might be able to provide access to the rear sites that are back by the railroad. Unlikely but possible, I know that there's been some talk about a city parking garage or something but nothing in any final plans but what we did do is we relocated the transformer which is something that you're not easily going to relocate. We relocated it to this side so if that was ever going to take place that their wouldn't be any impediment to doing that. For landscaping, you could see that we have areas that we could take advantage of. We have a lot of existing trees and plantings, so that's not an issue. We're putting in some shade trees and lots of ground coverings. We have an adjacent so we are going to do a lot of screening and buffering.

Comm. Harger: Mr. Swift, where's your dumpster?

Jim Swift: The dumpster is in this corner.

Comm. Widomski: Just out of curiosity, can you go back to the parking lot? Where are you putting the snow?

Jim Swift: Snow is going to be -.

Comm. Widomski: Is there enough room to put snow like we have been getting?

Jim Swift: If we have snow -.

Comm. Widomski: I don't want to see snow ending up back on Howe Avenue.

Jim Swift: They are probably going to have to remove it. If we were to get an absolute major storm, they would have to try to figure out if they don't have full occupancy, if they steal space for a while. But beyond that, if we were to get a major storm, that couldn't be handled on these side areas -.

Comm. Widomski: Those spots are going to be numbered.

Jim Swift: They are specific for the residents.

Comm. Widomski: There's going to be signage out in the front; signage that says 'tenants only?'

Jim Swift: We could certainly do that because that is intended; that is for the residents only.

Comm. Tickey: I remember asking this the last time, there are 11 parking spaces but one of them is handicap. So you would have 10 parking spaces and one handicap.

Jim Swift: Correct.

Comm. Tickey: So, I remember asking this the last time, you have 10 parking spaces and one handicap so do you know of a tenant that will be needing a handicap space, otherwise you don't have one per tenant if you don't need a handicap space.

Jim Swift: What we don't know for a fact that we will have anybody handicap and that's an excellent point. We will make that probably a subject for discussion. I'm not 100% positive, I'm 95% positive that that's a similar situation to the other downtown – perhaps staff can advise the Commission.

Comm. Widomski: It seems somewhat odd that you have 10 spots for 11 apartments.

Comm. Matto: Maybe some discussion if there wasn't anyone who requires that then they could use -.

Comm. Widomski: Once it's marked as a handicap spot, you can't park there.

Comm. Harger: What if there was a visitor there that was handicap?

Jim Swift: That's an excellent point.

Comm. Tickey: It's not the first time I brought it up.

Comm. Harger: AJ, were you going to say something?

Tony Panico: I'm just going to comment that the safety zone is associated with the handicap space. It provides a guaranteed access from the parking lot to the sidewalk.

Comm. Widomski: Which sidewalk? The sidewalk out in the front or the sidewalk to get into the building?

Tony Panico: No, the sidewalk in the rear. There's a piece of sidewalk and there are 3 spaces that bump up against it. The access to that walk is conveniently over the protected zone for the handicap space. So you'll always be sure that you could have adequate space between the cars and be able to get to the walkway.

Comm. Harger: Right.

Tony Panico: I had a question for Jim and I think we had talked about it and I'm not sure if he had a chance to look at it – are we going to need protective guard railing and fencing along that back property line?

Jim Swift: Yes, we did talk about that. There is a steep drop off. I don't think it shows up on the drawings. No it doesn't, but there's a lot of brush and trees along that back property line and then it does drop off very steeply. All these drawings were put in, for the record. So we have a 4-story building. (Jim is describing the appearance of the building). We would like to do some kind of awning work. Given the size of the retail, we are only expecting a maximum of 2 tenants. You could see that there's 2 doors towards the front.

Comm. Widomski: Does that match anything else downtown?

Jim Swift: I think it matches a few things but -.

Comm. Widomski: It's not going to jump out at you and say, "Here I am".

I think we should keep some kind of a 'downtown' theme.

Jim Swift: I think it matches everything. It's not going to jump out. The buildings are fairly old. Hopefully it will jump out as being new.

Comm. Harger: I thought this came up before from the previous application, the need for something on the sidewalk because/for a restaurant or something, and not having enough space for little café tables.

Jim Swift: It sort of is what it is in this area. We looked at some original schemes that we were talking about – parking to the side, things like that. Everybody felt, in the long run it was very important that the building be at the sidewalk because that's the downtown vibe if you will.

Comm. Harger: So it's line up with Shelton Pizza and the rest of the -.

Jim Swift: Exactly. You could see Shelton Pizza here.

If we were to try to do anything like that, frankly, I don't see a restaurant here, but if we did anything like that, we'd certainly be coming back to the Commission for any kind of approval for anything that happened.

Comm. Harger: There hasn't been anyone else for a food establishment. Down at the other end where Roma is – Amici's across the street.

Comm. Widomski: That was the old Shelton Laundry and do you show any contaminants from the laundry business?

Jim Swift: We'll be doing the phase 1 and the phase 2 as we get into financing and things like that.

Comm. Pogoda: Are you going to be using the unfinished basement for storage space for the tenants or what?

Jim Swift: The tenants and possibly some of the retail.

Comm. Harger: I was going to ask and have you do each of the floors. Do you want to start with the basement then?

Jim Swift: So the basement, referring to the site plan, the upper floors in the building and all the way back to here – so this is covered parking, so when we look at the basement, it's only in that front portion. It obviously is all completely underground. There's no ability to put any windows or anything like that, so that's going to prohibit it from using it for any other than storage. The way that the floor plan weighs out is we have the 2 retail areas, covered parking here a lobby towards one side with an elevator and stair, so trying to get down to the basement I'm not sure which of these stairs we'll use. I'm not sure we decided we are going to use that for any residential storage.

Brian Botti: The idea was NOT for residential storage.

Jim Swift: Okay, for commercial storage.

Brian Botti: They tend to leave things.

Jim Swift: So basement storage for commercial.

Comm. Widomski: There's no street access to the apartments from the second floors.

Jim Swift: It's all in the back. You have your lobby and your stairs towards the back and this is how the residents come in. Coming up to the second floor -.

Comm. Matto: Is there a mailroom?

Jim Swift: I don't think we have an exact location for it. It's a reasonably generous lobby space. We have the elevator and the stairs and we would expect it somewhere near the elevator. So on the second floor, we have an office area towards the back over where the covered parking spaces are; that's about 560 sq. ft. It may be owner occupied; it may be leased as office space but just general, professional office space and then three apartments on that floor and then the upper 2 floors are similar.

Tony Panico: If you in fact do rent that space out as office space, you'll need to provide it with lavatory facilities.

Jim Swift: Yes, They'll be inside there depending on configuration of -.

Tony Panico: Might it not be a better use for a portion of that office as storage space for the tenants?

Jim Swift: It's possible. But we're looking for to maximum mixed use as much as we can. The lavatory and the office space, we only need one, a unisex.

Comm. Widomski: Security wise, you are going to have apartments there, I would think that you'd have a secured building to keep the undesirables out that don't live there; you kind of create an access if you are going to put in an office there for a mixed use type and that will give access to the entire building.

Comm. Harger: That's a good point.

Comm. Widomski: To me, if I'm going to move into a mixed use building, with retail on the first floor, I want a secured area where I know I don't have people just walking in and roaming; you're inviting trouble and by opening that up to the public, I think it creates problems.

Jim Swift: It's a fair point that it would be open to the public if its office space.

Comm. Tickey: Do you expect them to park on the street?

Jim Swift: Yes.

Comm. Widomski: That's the next question, with the retail downstairs you have 10 spots for 11 apartments and you have 2 retails; we'll say there will be an average of 2 workers in each of the retails, I mean we're putting everybody out in the street that's going to shop there and work there.

Jim Swift: That's what the Commission has been doing for every mixed use development.

Comm. Widomski: I'm just checking

Jim Swift: That pretty much covers it, unless anyone has any other questions. The only other thing is if the handicap parking space should be put out on the street or not; it's a thought; I'm not sure if it's practical or not.

Comm. Harger: Mr. Schultz has a comment.

Richard Schultz: Jim, did you determine the floor area ratio because we have a provision for downtown to exceed the .80. I didn't see it on your data.

Jim Schultz: I believe it's in the Statement of Uses and Standards.

Richard Schultz: Does it exceed the .80. Okay, so you're good.

The Commission can allow a higher percentage.

Jim Schultz: Again, the Statement of Uses and Standards addresses that. We will have to look into it to see if it meets what the statement of uses and standards says.

Comm. Harger: Any Commissioners have any comments, questions or concerns other than what we already brought up?

Comm. Widomski: Their all one bedrooms.

Comm. Harger: And studio.

Comm. Widomski: Right. So I'm assuming that everybody living there is single.

Comm. Dickal: There's the problem of more parking.

Comm. Widomski: That's what I'm going towards, I mean if you have one other person married, significant other -.

Comm. Dickal: You don't want to come down because it is a difficult place to try to find parking.

Jim Swift: Again, that's a decision above my pay rate.

Comm. Dickal: If we keep moving forward, we have to do something about addressing it.

Jim Swift: We're doing our part; we're going to give you access to the new parking garage.

Comm. Harger: There has been no parking garage that has been put on the table.

(laughter)

Jim Swift: We're meeting all the standards that have been used for downtown.

Comm. Tickey: I have a question. If god forbid a firefighter needed to tend to the building can they get through the back way or will you be servicing it through the street?

Jim Swift: I'm sure they would be servicing it through the street. I don't think any fire department in their right mind is going to try and get in the back. Remember, this lot, there's not a whole lot of room. But again, we have the letter from the Fire Marshal.

Comm. Widomski: Did we get anything from EMS, Rick?

Richard Schultz: I'll check with the fire chief. A fire chief oversees EMS.

Comm. Harger: Is there anyone from the public that would like to speak for or against this proposal?

John Getz: I'm John Getz, president of Shelton also the developer of Shelton River Front. I just want to clarify one item which I don't think was addressed and that is the question regarding the handicap parking space. The reason that the building has an elevator is because the building has to be handicap accessible because of the fact that it could exceed the 10 units. One unit has to be handicap accessible so that one unit has to be handicap accessible, that's just clarification.

Comm. Harger: Thank you for that.

Is there anyone else in the audience who would like to speak for or against?

Comm. Kelly: That doesn't mean that its going to be rented to a handicap person?

Comm. Widomski: You don't have to rent it; it's not designated specifically for a handicap person, therefore you are still down one spot.

Jim Swift: I think I would request, maybe going through staff later to look to see if we're still following the same protocols that we've been following for the other downtown developments.

Richard Schultz: I'll Contact the building official, because he ultimately decides. It's a fair point and I understand it, but I also want to be consistent with past decisions.

Comm. Harger: Anybody else from the public?

On a motion made by Comm. Kelly, seconded by Comm. Matto it was unanimously voted to close the public portion of the meeting regarding App. #17-22.

V. Other Business

A. Application #18-03, 223 Canal Group, LLC for Minor Modification of Final Detailed Development Plans for PDD #60 (Site C: River Breeze Residential: Architectural Changes), 223 Canal Street (Map 129, Lot 18): accept, discussion and possible action

On a motion made by Comm. Kelly, seconded by Comm. Tickey it was unanimously voted to accept, discussion and possible action regarding App. #18-03.

Richard Schultz: I'm going to read the letter from the state. The letter was addressed to John Getz, dated October 23 (reading letter).

John Getz: Just to give the Commissioners a little bit of background, basically, this was the old Beard adjacent to the Avalon site, but what took place was the decision was made that the buildings had to come down; the city was able to access funds to tie into the site. This Commission some years back adapted the Village District- SHIPPO, but what transpired was that part of the funding program the administration through Mayor Lauretti negotiated a program with the state and which included requirements of SHIPPO to have a final say or an opportunity to approve the plans. When I first brought the project in, I designed it as a very industrial building and the Commission deemed it to be too industrial and requested I go back and bring a design in to line mimicking somewhat what I want done, and I believe some of the Commissioners that were here at the time, remember that. So then I came back with a design and met with some of the Commissioners and they approved it. When the plans went back out, SHIPPO reviewed it and they had a major problem with it. It wasn't industrial, it was contemporary and it belonged on Canal Street. So we went back and forth for about a 6 or 8 month period of finally and sometime in July or August through Rick Shultz, we were able to bring SHIPPO down; the officials from SHIPPO to the downtown committee meeting and for me, it was getting very difficult to deal with because the time was just going on and on; we were getting nowhere. I went back and negotiated with them; some minor changes; they're not major and I'll just go through them with you. The original design, we had a combination of different materials, but when they looked at it, they saw just a continuation of Avalon. It's not what they wanted to see. So they had objections and I went back and forth and I negotiated with them and finally what they approved is the changes basically are the front. What I did is I provided the window details, brick etc. It was just getting too crazy. I saw it as an improvement, what we were doing. Initially they wanted me to cut the roof off and I said, "That's crazy." Ultimately what was done in my professional opinion is it improved the project

and I was pleased with the end results and I was pleased that they also came to the agreement that it was good. The building is what it is; it's been fully approved. I'm here because this is a modification and I'm asking that you go along with what we've done. If you have any questions, I'll answer them.

Richard Schultz: The integrity has been preserved.

Comm. Harger: Does anybody have any comments or questions?

Can I have a motion to approve the minor modification?

On a motion made by Comm. Kelly, seconded by Comm. Tickey it was unanimously voted to accept App. #18-03.

VI. Adjournment

On a motion made by Comm. Matto, seconded by Comm. Kelly it was unanimously voted to adjourn the meeting at 8:35 p.m.

Respectfully submitted,

Sandra Wasilewski

Sandra Wasilewski, Recording Secretary