

SHELTON PLANNING AND ZONING COMMISSION
SPECIAL MEETING MINUTES

Wednesday, September 26, 2018
Shelton City Hall Auditorium
54 Hill Street, Shelton, CT 06484

PZC Commissioners Present: Virginia Harger, Chairman
Anthony Pogoda, Vice-Chairman
Elaine Matto, Secretary
Jimmy Tickey
Charles Kelly
Mark Widomski
Ned Miller, Alternate (Absent)
Nancy Dickal, Alternate

Also Present: Richard Schultz, AICP, Planning and Zoning
Administrator
Anthony Panico, Consultant
Sarah Vournazos, 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. Minutes are on the City of Shelton website: www.cityofshelton.org.

I. Call to Order

Comm. Harger called the meeting to order at 7:00 p.m.

II. Pledge of Allegiance

III. Roll Call

Chairman Harger identified members present.

Chairman Harger opened the meeting at 7:00 p.m. followed by the Pledge of Allegiance.

Comm. Harger: Our first item on the Agenda is Application #18-15. Dominick Thomas, on behalf of Ricar, LLC and Mianus Holdings LLD, for Modification of Basic Development Plans for PDD # 66 (98 residential units, sit down restaurant, marina and maintenance facility) and CAM Site Plan, 704, 712 and 722 River Road (Map 22, Lot 1, Map 32, Lots 16 and 17). Before we actually get into the application, I just like to have Commissioner Panico, because we deal with PDDs on a regular basis, give a quick history of how they all developed and the intent of PDDs.

Comm. Panico: The concept of PDDs in Shelton, came about many, many, many years ago, when the Commission expressed a desire to be able to accommodate unique forms of development on sites where they're not otherwise allowed by zoning and without doing it through a generic zone change. As those of you who are somewhat familiar with zoning would understand and that generic zone change. There's a whole variety of potential uses that can occur in that zone, 50 % of those may be acceptable, but there's also the other 50 % things like gas stations, repair garages that you might not want in a certain commercial development, but the Commission didn't have the ability to sort those out. Or there might be situations such as downtown where the combination of residential and commercial is a desirable form of development. But yet to make that happen, we would have to create a multi-family zone as a bright, so to speak, with no ability of the commission to have any control over how it's put on the ground, what it's going to look like, what kind of materials are going to be used.

So, by designing the design resident PRD approach, it requires an applicant before they can get a zone change to that, to show the Commission what it is that they intend to do. And with sufficient detail, so the Commission can decide if it's comfortable with that type of development and if it's comfortable with the amount of controls that would have over it and if they're satisfied with the general way that it's intended to put it on the ground based on those conceptual plans. They can create a very special zone, a PDD zone, and it assigns it a number and the requirements that apply to that PDD zone are far and above the standard requirements of the zoning regulations. But it's something that the developer is willing to tie themselves into and the Commission is saying, if it's done that way with that control that we're going to approve it.

So, this gives us the ability to bridge that gap. The Commission learned that after using this for quite a few times, they began to realize that, gee, we had a lot of control over what the developer can do and not do what it's going to be designed to look like and what materials are going to be used on it, so that there are situations where even if a development came in, a significant development was proposed in a conventional zone that could really be accommodated by the conventional zone. The Commission felt more comfortable and having it brought in as a PDD, so that they would have that greater degree of control and what the final product was going to be because otherwise it looks up an applicant wants to come in on a certain site and say, this is a great site for a little bank, a little office building, and you get a conventional zone put in place and all of a sudden a gas station shows up. Well what happens in a pretty office building that you showed us that led us to create that zone? Well, we decided we couldn't get an tenant, so, we do have a tenant for a bank, I'm sorry, a tenant for a gas station or if it's allowed by our zoning, so that's what we'd want to build. Just takes the question mark out of it. So, if it's not part of the original basic pattern of zoning and the Commission is not comfortable in expanding a conventional zone, it doesn't do the mechanism of a PDD.

Comm. Harger: Thank you. We have some letters to be read into the record of the hearing.

Comm. Matto: This a call to the Public Hearing, the Shelton Planning and Zoning Commission of the city of Shelton, Connecticut hereby gives notice of a Public Hearing to be held on Wednesday, September 26, 2018 at 7:00 p.m. at Shelton City Hall. Application # 18-15, petition of Dominic Thomas, on behalf of Ricar, LLC and Mianus Holdings LLD, for Modification of Planned Development District #66. By modifying the Initial Concept Development Plans and amending Statement of Uses and Standards for property containing an area of 8.6 acres located at 704, 712 and 722 River Road and identified as Assessors Map 22, Lot 1, um, something, Map 32, Lots 16 and 17.

The application also includes a coastal area management site plan. The intent of the modification is to eliminate the previous approval for the construction of condominiums and a restaurant and expanded marina and replacing it with the construction of three separate buildings containing a total of up to 98 luxury rental apartment units, free-standing restaurant, free standing rowing club building, free standing maintenance building and marina. Initial Concept Development Plans are Titled, "Site Development Plan for 722 River Road, Great River Water Club" prepared by Redniss and Mead Land Surveying and Civil Engineering dated 04/13/18 and Mingoello & Associates Architects dated 02/23/16 and revised 01/09/18, along with the amended and restated statement of Uses and Standards. The project will be served by municipal sanitary sewers and public water. Said petition is on file in the city Town Clerk's office, and in the Planning and Zoning office. Said hearing, all persons will have the right to be heard and written communication will be received dated at Shelton Connecticut this 13th Day of September 2018.

And there's some correspondence relating to this application. The first correspondence is dated September 25, to Rick Schultz, Planning and Zoning Administrator, from the City Engineer, Robert F. Kulacz, P.E. (see attached). The next correspondence is from the Fire Marshall, James M. Tortora, to Rick Schultz, Administrator, dated September 25, (see attached).

Rick Schultz: Madam Chairman, Staff wants to report that all the referrals were made to the adjacent municipalities as well as to DEEP Coastal Area Management. I received an email today and they had no comments and emails dated today, September 26, 2018.

Comm. Harger: Thank you very much. Attorney Thomas, before we proceed here, we've had concerns in the past that you were well aware of the sewer connection. Do you have anything in writing yet from the city? I know the WPCA and had met and I have a copy of their minutes from July where it was on their Agenda and on their minutes as request to connect to sewer from a property in Shelton and identify the three parcels on River Road approved on May 29, 2018 pending advisement of the town attorney's office and Attorney Marino presented a progress report. I know according to the website towns, your efforts website that the August and September WPCA meetings were cancelled.

Attorney Thomas: There was no requirement whatsoever for us to produce anything, that we have been approved because the reason the attorneys aren't continuing the

discussion is because we can't present them with the approval of a number of units. We have no approval, just like for the last 30 years, you approved as a Commission initial concept plans without WPCA approval from the city of Shelton. If they don't approve it, no WPCA approves the connection until the recent approval. If this were a one step process in which you would be wearing both of your legislative and administrative hats, then that would be required. This is the concept plan, it is a zone change. What I presented to you in the packet that I gave to you, and Rick Kral is stuck in traffic, and he will be here to explain it better. But to contradict it, it's unfortunate that the city engineer doesn't read things that are part of the city thing.

So, in your packet at the very end of your packet, are two things packet; the first is the minutes of the Special Meeting of May 29, and you confirmed the minutes of July. The next document is called the Inter Local Agreement. It is still in effect. I confirmed that with your Corporation Council, even though it had a terminate day, even though it's in 1980 and is still in effect. And in fact, if you read the minutes of the May 29, I believe it is, of the WPCA meeting, the Stratford WPCA confirms it's in effect. What does that mean? And I strongly suggest if you don't believe me, you can ask your Corporation Council because, well not this Corporation Council, I went at length with your prior Corporation Council on this issue.

If you are in a sewer area, which this is a sewer area, there are nonsuit areas. For instance, White Hills is a non-sewer area. So, to give you an example, when Toll Brothers asked to extend the sewer into the vistas of White Hills, they were told by your WPCA, "no, we don't want to sewer that area." When you are in a sewer area, except in the most unusual of circumstances, and there is capacity, the applicant must be sewer as long as they pay the money that is required.

In the case of Stratford, we have confirmed the most important thing in the May 29 meeting minutes, which is that in accordance with the Inter Local Agreement, Shelton was entitled to 300 gallons. I'm sorry, 300,000 gallons per day. And in accordance with the minutes as it says in the minutes, that Shelton has a remaining flow. I believe somewhere of approximately 150,000 gallons. If approved, this project, if approved in full, would have a gallonage well below that. I'm not going to speculate. I'm going to wait until Rick Kral gets here because he knows the exact amount.

So, the steps that he took was to which the new WPCA was to ensure that they were honoring the agreement. There was no issue with the agreement, but you cannot go to them and say, we want x gallons per day because the next question is what do you approve for? The answer at the present time is nothing because we haven't gone to the approval. Now, if at that relates also to Mr. Kulacz, comment about the profiles and the connection to the sewer line, he doesn't get that. The Shelton WPCA doesn't get that when and if this is approved and we are going to final site development plans. At that point the client is obligated as he did in 2007 or eight when the first approval of the PDD was approved with the condominiums. He then went and all of the engineering plans are required to go to Stratford for approval because the line that is in that, what he referred to, I believe it, and Rick can tell you, the line that is in the road in Route 110

approximately opposite the condominium project is controlled by Stratford. So, the hookup to that as a Stratford issue, which we will have to comply with. In addition to that, the Stratford hookup fee, and I'll leave it up to Rick again, is quite substantial. I believe it said the mid six figures, so it's not a question of you just go up there and plug it in and you go. So, there is no requirement. Well we cannot produce a letter saying you're approved because of, for what? What we have produced for you is the Inter Local Agreement, number one, and the admission by the Stratford WPCA that the Inter Local Agreement still exists at 300,000 gallons a day. And I correct myself, there is a number in here. It says that this project, if approved, would be 29,000 gallons per day and is less than Shelton. If you look at the minutes that I gave you is less than Shelton's, unused allocation of 60 - 134 gallons per day as planned in the facility plan. So, he seems to be saying Shelton has 134 gallons. You're coming in here with a concept plan for 29 gallons and you're less than it. What does that mean? That means it has to be sewer. There's no question about it. Once we get a final approval. Okay. It's right in the minutes of the May 29 meeting and it is an acknowledgement that the Inter Local Agreement still exists. So, we have complied with everything that we would have complied with in Shelton. In Shelton we wouldn't have produced for you. You didn't require it of Fountain Square. You approved that.

Comm. Widomski: Can I ask a question?

Attorney Thomas: Yeah.

Comm. Harger: Let me just point out in the Zoning Regs under Section 34.6 Procedures Subsection B, and it's the procedure starts off with "upon submission of petition for the establishment of the PDD, the commission and the staff shall immediately review the petition and during this review may discuss with the petitioner the need for additional information reports. Prior to or upon acceptance of a complete petition, the Commission may authorize the preparation of such independent reports and analyses as it deems necessary to arrive at an informed decision. After acceptance of a complete petition, the Commission shall hold a public hearing on the petition and the accompanying initial development concept plan in the same manner and with the same notice as required for amendment of these regulations. The Commission may also solicit the following information for presentation to or at the public hearing. Subsection A talks about a statement from the city engineer regarding the adequacy of the basic drainage. Public streets design or the design of elements to be served by public works in the city. Subsection B says evidence from the sewer authority, that's sewers are available to the project for tie in and that the sewer lines and sewage treatment plant have the capacity for the projected volumes. So that's what we're looking for is the evidence from Stratford to Shelton.

Attorney Thomas: That was presented to you. No, I don't understand what you're saying. First of all, that language refers to your own understanding. Second of all, that was presented to you. The Inter Local Agreement exists, Stratford has admitted that exists. Stratford has said there's 134 gallons.

Comm. Harger: Go ahead, Commissioner Widomski.

Comm. Widomski: Where are you seeing 134,000? I see 60,000 – 134,000 that's available. So, we don't know what it is. You keep saying 134,000 and it could be 60,000. We don't know. Do you know that answer?

Attorney Thomas: I don't care.

Comm. Widomski: You do care.

Attorney Thomas: They're both above 29,000.

Comm. Widomski: Then my next question is on your Interagency Agreement, Paragraph Ten.

Attorney Thomas: Right. In the excessive or unusual minutes there's no excessive or unusual connection and your Chairman just read the minutes of July.

Comm. Widomski: What's unusual? What do you consider unusual?

Attorney Thomas: Something that involves chemicals. So, if you have a manufacturing company going in.

Comm. Widomski: You can't connect that to the sewer line anyway, Dominick, and you know that you cannot connect the chemical discharge to a storm line anyway, so let's go on to something realistic.

Attorney Thomas: Okay. A high capacity use or there are uses that generate too much nitrogen and things of that nature that may create a problem that may require some other actions

Comm. Widomski: So, what do you consider high use?

Attorney Thomas: They don't consider this high use, we're below it. This is a residential apartment.

Comm. Harger: All right, Ladies and Gentlemen on the Commission.

Attorney Thomas: I would suggest you get an opinion from your council.

Comm. Harger: We will. Okay. But be that as it may, and I'll ask the other Commissioners here on the Planning and Zoning Commission

Is there a consensus that this is an appropriate thing to do tonight? I think that unless you have submitted some evidence from the Stratford Wpca to the Shelton WPCA that sewers are available for this project. Mr. Cook's position is the same. This project has regulated activities and requires the Wetland's application and we need to know if you want to proceed tonight with the possibility that this could be denied with that understanding or do you want to withdraw it without prejudice and address the deficiencies?

Attorney Thomas: I have addressed the issue of the Wetlands Commission numerous times. It doesn't need to be applied for. First of all, there's no jurisdiction, I believe in Wetlands because this is a Title Section. There is no jurisdiction so that Mr. Cook, it would be nice if he knew his own regulations. There's no jurisdiction there. With respect to it and it has been addressed numerous times. When Attorney Sousa wrote the letter, I responded to that in an email that's been presented to this Commission a half a dozen times. He agreed with me orally. Again, you can go back to your council. At this point we'll decide it in writing. There is no requiring, none, in the Statute for somebody who understands English to do a Wetlands application before a zone change and your planning consultant just got through explaining to everybody that's what this is and not a site plan, so there is no requirement.

And so, Mr. Cook is completely wrong. Number one, even if he, even if it were a regulated activity for Wetlands jurisdiction, I believe that Housatonic River is a tidal river uh, I don't know if it's all the way to the damn. I don't think it's quite that far. I think it's somewhere beyond. I know it's somewhere beyond the condominiums and going down towards Toll Brothers condominium is. I believe that jurisdiction lies with the

department, the DEEP. It does not lie with the Wetlands Commission. But, I believe 8-3G is abundantly clear. I could pull it up on my computer, I can put it up on the screen and I could read you the language in very simple direct point. It only applies to a site plan that when there is a site plan, and I can give you an example, the best example I can give you is Fountain Square. We are required at this point now to go to Wetlands after you approve the Initial Concept Development Plans and we got the Wetlands approval for the activity that was going to take place in the pond that is being worked on. For the last 30 year, that's the way this Commission has operated because that is the law.

So, Mr. Cook is wrong and as far as the WPCA, you have approved numerous projects with the WPCA without WPCA approval of a project, you have approved concept plans. Then we must come back in with a specific approval from the WPCA, once we can go to them and say, "we have this approval which will generate this much gallonage". That's the case here and Mr. Kral is here to explain it to you further as to what the correspondence is and what specifically has been going on. So, if you would have denied without prejudice, you would be acting patently, illegal, and without a legal support for your actual thing. This is not a site plan and we are before you for a zone change and a zone change does not require that. It is conditional upon meeting all of the standards of a zone change and we have produced evidence to you. There is the Inter Local Agreement, whether it's 60,000 or 134,000 and Commissioner Widomski or Mr. Kral can answer that better, but I don't care if it's 60,000. Ours is below it and ours is below 29,000 so it really doesn't make any difference. We are sewer and the Inter Local Agreement is in effect. So, there is no need for us to withdraw without prejudice.

Alternate Dickal: The way I see it right now.

Comm. Harger: Nancy, let me give you the microphone because the recording secretary has to pick up.

Alternate Dickal: Oh, I'm sorry. With no disrespect here with anybody. We got two letters that were an objection to this and you actually work for the developer. Okay. I think we would be more comfortable with getting more information from our legal counsel because there is definitely some doubt. Okay, and there's no need to get upset about it. To make everything work properly, we need to have all the facts.

Attorney Thomas: What I'm upset about is the fact that I've stood up here and said the same thing on this application, which is Chapter Three, Chapter Four, something like that, every time. So there has been plenty of your time. It is frustrating because it is to me extremely clear because of the conduct of this Commission over the last 30 years. That's the way you operated and that's the way you've operated with respect to Wetlands. It's the way you've operated with respect to WPCA and now someone has attempted to change the way you operate without the basis of any legal advice. Sure. You don't have to believe me, the language in the Statute is abundantly clear. It's like there's no ifs, ands, or buts and it's not ambiguous.

With respect to Wetlands, there have been circumstances in which I have advised clients, you know what? You should go to Wetlands first and that's when there is such a severe situation it could possibly impact the concept plans. So that's the only time. It's at the discretion of the developer.

Comm Matto: My understanding would be that if we approved the plan, discussed the pros and cons of this plan, and we granted the PDD, if they were not able to get this Board approval then the plan would not go forward. So, we're going around in circles for no good purpose at this point.

Comm. Widomski: I just have a question.

Comm. Harger: Thank you Commissioner Matto:

Comm. Widomski: You keep referring to 8-3G. What's your interpretation please? Because I'm a little confused because reading it here and what you were saying are two different things. So, if I'm understanding what you're saying.

Attorney Thomas: Do you want me to pull my copy up?

Comm. Widomski: No, I'm not. I'm just asking you a question here.

Attorney Thomas: I've got to have a copy.

Comm. Widomski: I have a copy for you. Okay. Can I give this to him?

Comm. Harger: Sure.

Comm. Widomski: So, if I'm understanding your reasoning here, Eric.

Attorney Thomas: Okay.

Comm. Widomski: Let me ask my question before you answer, you're jumping the gun here. If I understand what you're saying, we have to grant a PDD because it's not a site plan, it's a conceptual plan.

Attorney Thomas: You don't have to.

Comm. Widomski: That's the way you're saying we've done it in the past. You've come here before this commission in the past seeking a PDD change without going to Wetlands, right?

Attorney Thomas: Well, when it's a two-step process.

Comm. Widomski: Okay, so, so you're saying that the PDD conceptual plan is not a site plan.

Attorney Thomas: No, it's not a site plan application.

Comm. Widomski: So, then let me ask you a question. At what point does it become a site plan?

Attorney Thomas: When you refer to it, and I'm going from memory right now, I believe in 34.6 or 34.7 that's when it's called a final site development plan. So, the second step, which you can do in one step, the second step is called the final site development plan. It means that that is a site plan application. A site plan application is an application that is made by an applicant to comply with existing regulations because in a site plan application, the Commission switches hats. All that Mr. Panico said was very correct and the reason the Commission has told individuals to come in with a PDD is when we are before you with a PDD, when an applicant comes before you, he is lectured by me if I'm his attorney that the Commission is wearing its legislative hat and applicants will say to me, well, what does that mean? That means they have complete discretion. They are discretionary, they are doing the zone change. They're wearing their legislative hats. When you're done with that approval, you cannot put a shovel in the ground.

All it did was create the zone change. Now, once the zone change is passed, there is in Statement of Uses, a list of uses. There is in the Statement of Uses a list of bulk standards. The applicant must then file a site plan application which you refer to as final site development plans. That must comply with your approval of the concept plan. This

is when it's done in a two-step process. 8-3 says, now again it's referenced to site plans is a reference to the site plan application. There are site plans submitted with numerous applications because that's what they're called in the lingo of engineers. They're called site plans. Okay. That's the terminology. So, you have a site plan which is a piece of paper that you have up on there, that's a piece of paper of the site plan. A site plan application means there is a set of regulations that have been approved by this Commission, whether in the book or in the PDD that you have to comply with. So, then you sit there at the site plan application with a checklist that you go through. If there is a regulated activity in that site plan because once there's an approval of the site plan, shovel can go in the ground.

Comm. Widomski: Right.

Attorney Thomas: Okay. So, if there is a regulated activity for that approval, you need to file simultaneously with or prior to the site plan application a Wetlands application. In this case, and I'll be honest with you, for I don't know if any of the Commission members were on it when this happened. I learned about the Title issue when the infamous trees were cut down opposite River Ridge condominium. Okay. And Wetlands freaked out, sent out violations. I called DEEP up because it was the deal that to my client to cut the trees down. And the person said, why are you before Wetlands? I said, what do you mean, we're before Wetlands because of the bank. She says, no, it's titled and we have control over so come to us. And at that point my clients did actually come up with a plant, you know, to satisfy both parties. But that's the purpose of it. And by the way, when you were reading your regulations, if you go a little farther on, I don't have my regulations open in front of me. It talks about in PDDs you are to consider existing and proposed utilities. In this case, it is a proposed utility, meaning sewers, which is a utility. Just like if there wasn't electricity here and we were going to be bringing polls in, know what I mean into a piece of raw land. It's the same thing. We don't have to bring them in before and we don't have to show how much or anything like that. That is for the second step. However, Commissioner Widomski, if we were on a one step process for you, where you're going to do with smaller projects sometimes. Then we would have to get a Wetlands first. We'd have to go to WPCA.

Comm. Widomski: Basically, what you're saying is because this is what we've done in the past, makes the correct.

Attorney Thomas: No, no.

Comm. Widomski: I'm just asking because you referenced it a little while that this is what we've done for 30 years.

Attorney Thomas: You're following the law.

Comm. Widomski: Are you following the law? I'm not sure.

Attorney Thomas: I don't know what it says.

Comm. Widomski: We're going to move on because I got another question.

Attorney Thomas: Establishing and changing zoning regulations in district.

Comm. Widomski: I'm not going to argue this with you. This is for Corporation Council. Rick, do we have an updated Energy and Environmental Protection? 39.55

Rick Schultz: No, remember, I indicated for the record that they contacted me through an email. They have no comment.

Comm. Widomski: And if so, are we going with what the original was?

Attorney Thomas: No.

Comm. Widomski: I'm asking Commissioner, I'm asking Mr. Schultz.

Rick Schultz: I've never experienced a situation like that, so I need further clarification.

Comm. Widomski: Because there's some issues in here that I'm reading.

Attorney Thomas: Here's the problem. That was the prior proposal. All those issues were addressed in spades. You cannot and you should not be getting that document without my response letter and the responses. If you were to consider something that was on a 164-unit project, without the restaurant, without sufficient public access, so it has no relationship whatsoever. My understanding is the individual has refused to write another letter, that is totally inapplicable, but we responded to it and in my response, which I responded to her and presented to this Commission and I challenged her to respond to all of the things I pointed out that were erroneous in that letter and she ignored it. So, to me it's worthless because it's a different plan. It was 164-unit plan without the restaurant, I believe, which is and without a lot of the other public access issues with planning that she commented on. So, it's a totally different plan.

Comm. Widomski: Rick, can we get another email out to them and get something more updated please?

Rick Schultz: Yep.

Comm. Harger: Any other Commissioners have any comments or questions because if not we need to proceed. I think the recommendation that we get some legal opinion is appropriate and correct and we will do that through Mr. Schultz. Is it possible for you to consolidate your presentation because of the fact that we want to get that legal counsel opinion and that's going to carry a lot of weight on this application? So, can we do something where you can pretty much do your presentation and comment on what things are going to be re-entered from a prior application?

Attorney Thomas: We're re-entering a little bit from the prior month. We're making our presentation and this isn't a public hearing. There are a few things that we have from the, when you say from the prior presentation for talking about from the February presentation. I won't comment on what happened to that and why we're here.

Comm. Harger: All right, Attorney Thomas. Do you want to begin then?

Attorney Thomas: Yes, we're ready to go.

Comm. Harger: Are you doing a presentation on the screen?

Attorney Thomas: Some of it's going to be on the screen, much more of it later, but I think it would be appropriate too.

Comm. Harger: One thing that I'm going to have to go over quickly just for the record is the procedure for tonight's public hearing, especially if there are some newcomers to the audience. But any member of the public who wishes to address the Commission on this item, needs to sign up at the podium. Please make sure that you print your name and address on the Sign-in sheet. And that's especially, to help the recording secretary and the stenographer to correctly identify speakers when during the minutes and the transcript of the hearing. The applicant and his associates will make a presentation to the Commission. During the presentation, the Commission and or its staff may ask questions to which the applicant and his associates will be given the 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, public will be given the opportunity to address the Commission about the item being discussed tonight.

What's very important is that all questions or comments from the public needs to be addressed to the Commission Chair and to the Commission Chair only, not to the applicant and or his associates, there is no dialogue between the two. During the public hearing dialogue is not permitted between the applicant and associates as I had mentioned. Members of the public are expected to practice appropriate etiquette when making the presentation by being and during the applicant's presentation by being quiet, observant, and respectful. No shout outs or comments from the audience is permitted. All comments, when the public does come up to the podium, your comments should be informational, directed to the criteria of the zoning regulations and not personal feelings. Unless a member of the public has new comments or questions of the Chair, members of the public are asked to briefly indicate whether or not they're in agreement with the previous speaker and not to repeat the same testimony verbatim when they come to the podium.

The applicant's attorney and our consultant 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. it will remain open and continued to another evening at a date to be announced, and at that time the public hearing would be up in the point when it was left open. If the public hearing remains open, then the Planning and Zoning Commission is not allowed to make any public comment, discuss any part of the applicants 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 included their presentation, they've answered all questions and they address all concerns from the Commission and or public, the Chair will ask for a motion to close the public hearing. All right, Attorney Thomas. Thank you.

Attorney Thomas: Okay. Attorney Dominick Thomas, Cohen and Thomas, 315 Main Street, Derby, Connecticut, representing the applicant. I would state for the record that the notices in accordance with your regulations along with photos of the posting and copies of the GIS Radius Map had been presented to your Planning and Zoning Administrator at the commencement of this public hearing.

A little bit of a history of the applications related to do this. Back in I think 2007, this project was approved for 31 condominiums with a restaurant, at that point, and a rowing club and a substantially larger number of slips. Subsequent to the approval and they're honest which they were processing through at that point, I will point this out, as they were going forward, impacted by the recession, they did get approval from Stratford to cut that project to the Stratford sewer system because as I said to you, when you're in a sewer area and there's capacity and there's an agreement in place, they must sewer you and can't say no. So, that project fell by the wayside mainly due to the market and the changing of the market. I think the good example, even though it's finally been sold out at the condominiums farther down the road, which took years to sell out and substantial changes.

So, the applicant came back in a few years ago with a 164- apartment complex. There was no restaurant, there was a boat service and a smaller a marina at that point. After

discussion, we were under the impression it was going to be an approved at a much lower number, 140-units. And one of the things that was part of that project was a connection to the Shelton WPCA because at that point, the Shelton WPCA embarked upon a study of bringing the South end of town back into Shelton. They had two reasons. 1) They wouldn't have to pay what Shelton pays to Stratford in accordance with the Inter Local Agreement. But in addition to that, realizing that there was a limited amount of capacity, as you can see from the Stratford minutes, and they needed to do something about it. At that point, the applicant was going to save the city \$2,000,000 by connecting up to a pump station and running in that same line, a 10-inch line, which was sufficient for the WPCA. The last minute, the WPCA apparently said, well, we're not sure we're going to hook it up. And part of it had to do after I had a conversation frankly, I'll tell you what, the executive, here, that the concern was, no, we're just going to keep going to Stratford and we want to save Shelton's capacity. So, at that point, the applicant came back in with after studying it, after listening to the comments about the restaurant, after listening to the comments of the Commission, concerning views, concerning public access, concerning the amount of green space and retention of the walkway around the entire site, reduced it to this proposal of 98-units in basically the same area as where the condos were located. They are in fact, that I think will be explained to you by the architect, lower than how the condos were done, those were very large condos. And put a restaurant back in, put the walking path that was discussed back in the proposal for 164 and created a larger parking area to increase the public access. The extent of the public access will be discussed further by Mr. Krawl.

Market wise, you ever been presented with evidence over the years about apartments. This is not apartments in downtown and this is not apartments on Bridgeport Avenue. This is a unique location that are water centric, so to speak, apartments. In other words, focused on people that want to be near the water and focused on a great number of people that want to have interest in boats. But what you've seen over the last several years, whether you've approved things or haven't approved things, you are seeing the uncontroverted evidence that especially in Shelton, there is an extremely low vacancy rate. There's tremendous success of approved projects. Sighting for instance, the Mark which was basically filled within six months of its last CO. And then one of the things that happened within the last six months, was that Avalon Huntington sold for over \$33,000,000 or 300,000 a key. This is a project that has a value in prior of marketing studies of approximately \$190,000 a key and yet it's sold in this market for \$300,000 per key. The unique nature about this site is the water and boating access and we believe it will be imminently as successful as this other project. In addition to that, this is a substantial economic development project. Currently, it houses a marina and two houses. It has gross taxes of approximately \$28,000, the gross taxes of the apartments if you're using, for instance, Avalon Huntington, which has a similar number of units, would be eight or nine times the amount of the taxes here and that is not counting the motor vehicle tax.

The traffic report, which was filed and then refiled, has addressed and answered all of the traffic issues. The testimony of Dave Sullivan from the prior public hearing, I would ask to be incorporated into this public hearing, but the traffic report was submitted with

the new application. The benefit at that point, and the use of the three entrances that are shown here and how they impact traffic were detailed in both his presentation and his report. Now, I do want to go in a little bit to the comment in the engineer's report on Murphy's light. I will say that I admire Mr. Kulacz for trying hard because he tried this once before. Excuse me for a minute.

Several years ago, Waterview was approved. I'm not sure whether it's a PDD or a PRD just located right here. Our sites right here, and Murphy's Lane is right here. Waterview was approved, all single-family homes and Mr. Kulacz insisted that the sideline be fixed. The applicants at that point, the owners took an Appeal and once it was handed to the city's attorney's for Appeal, they immediately came back to this Commission that said it's not illegal condition. You can't do it, and the problem is the city's problem, not an applicant's problem, not this applicant's problem. The traffic report that you had before, you showed no impact whatsoever, minimalist list if any on Murphy's Lane and there's nothing to contradict that. Mr. Kulacz makes a bald faith statement without any evidence.

So, what is the problem? Well, I'm going to show you what the problem is and I'm going to show you that actually it's a city problem potentially in discussions with the state, but Mr. Kulacz doesn't even have correct in his statement what he's talking about. This is the view current view today. About 1:00 p.m., from the Stop Bar that the city of Shelton has painted next to the Stop Sign. As you can see, it's kind of ridiculous to stop at the Stop Sign and not roll through it because you can't see anything. What you can see is there's one of the buildings of the condominium and you could see some trees here and you can see this. This is what the point of my car, which is not a small car, which is the point of my car at the edge of the Murphy's Lane pavement. As you can see, it's still not very good. Now this is an existing condition of a city road, so, if there's a problem, it's the city's responsibility because the city chose to put it there at the stop sign and a ridiculous place. This is what the front of my car, short of the white line in line with the white line. Now you can see traffic and that's mostly what people do when they come out to turn left. If you are turning right and you sort of turned your cart to the right, you can see they're a little sooner. I am perfectly perpendicular to River Road at this point.

So, what is he asking for? He's asking for a stone wall to be relocated in this location. Please note the trees, even though this building is farther back, if no idea what geo tech issues would exist if someone started doing it, which is probably the reason why the city hasn't started doing it, but please look at his report. He says, relocate the stone wall. Well, if you want to know where the stone wall is, stone wall is down here, way down here. you. This is what's on the corner, ledge not stone wall. If you look way down here in this part here, then it becomes a stone retaining wall. Well after the area you would do it. If you start chipping away at ledge, if the city starts chipping away, who knows what is going to happen to the support for that kind of condominium, but regardless of that, it's not our problem. It's the city's problem. So, I would suggest that if he feels it's necessary to be fixed, he writes a letter to the Board of Aldermen and ask them to spend the money to have the department of Public Works do it.

I want to go back to the colored site plan set. Just briefly to point out the fact that at a prior public hearing, both at the public hearing a couple of years ago and at the public hearing last Fall, there was great concern about public access. It is pretty well known that along the Housatonic River along River Road, there is a limited amount of public access. I believe they're for both purposes, there is Sunnyside, I don't know of any other ones in that point, unless you go beyond the dam potentially up towards the Maples and Indian Wells. But down in the lower end there's limited. There are some conservation easements in open space potentially along the condominium projects, very limited to the public, very limited access. What we are proposing is a substantial amount more public access, allowing the public to come in here, allowing the public to traverse the walkway if it wishes, allow the public to use the restaurant and Rick will explain to you, allowing the public to use the uh, uh, and become members of the bulk of a boat house and use their boats and put their boats in the water. He will also explain more about the marina, but I think that it's very important.

My next thing to go into was going to be the sewers, but I think we sort of hashed that pretty good at the beginning. Yeah. I'll pass on that and I will call upon the developer and owner Rick Krawl to explain to you a little more detail and with a little clarity, his lengthy conversations and what is going on with the WPCA and also to talk about the open space.

Richard Krawl: Richard Krawl the owner of the property. Did you want me to talk about the sewer issue with Stratford or is that pretty much covered?

Comm. Harger: Can you elaborate a little more?

Richard Krawl: Okay. Thank you, Commissioner Harger. I was present at the Stratford WPCA meeting May 29, 2018 and the minutes of that meeting are available online. I do have a copy here. I believe there's a couple of important points that are involved that are included in those minutes. If you look in Section Four Roman Numeral IV, of the report, the second paragraph states that regarding Shelton, the city of Shelton had estimated their flow contribution to Stratford for the 2001 facility plan at 225 gallons per day. In 2004, an additional study for work was completed, by Shelton to estimate their future flows which resulted in a revised estimate of 300,000 gallons per day. This included a mix of residential and industrial uses. Based on flow metering information it is estimated that Shelton is currently discharging an average of 165,500 gallons per day. That is a 60,000 less than their original estimated future flows and 134,000 less than the revised.

What we had presented to Stratford that evening was the exact site plan that you have in front of you this evening. We went through our report that had been presented by our story professional, all of the studies and the numbers that didn't apply to the residential units into commercial uses on the site and the Stratford WPCA agreed with those numbers and felt that they were very accurate. The total average daily flow for our project is around 27,500 gallons. Call it somewhere around the neighborhood of 30,000 and given the difference that is allowed at the day of noted right now of 165,000 leaving the 134,000 would still be over 100,000 gallons of average daily usage available for other uses in the future.

With the current engineering plan that is in place for both Shelton and Stratford WPCA. It was agreed at that WPCA meeting that this property is in a soaring district and thereby has a right to sewers. Due to the Inter Local Agreement, the property has been diverted to this strapping facility. We did and Stratford was aware that we had applied or that the Shelton WPCA had considered taking the effluent and bringing it to its own sewage treatment facility, but that had been changed after some decisions internally between the Shelton WPCA, the Mayor's office and the budget committees and more relative decided that long range planning, was not beneficial to the city at this time. If and at what point they went over the 300,000 gallons capacity, that they would address it at that time. There was some development that push it above there.

So, there has been the appropriate adaptations to the studies. We fall well within the current study and still leave over a 30% of the capacity going to Stratford from Shelton, available to other developments that may be coming on board with me happen down in this area of the city. The Stratford WPCA approved our application and actually amended their vote to have our matter sent directly to the town attorney to draft an agreement and put together the legal notices that would have to be established with our attorney at that time who was Attorney Barry Knot who's handling it for us at Stratford and the town attorney and Attorney Knot are together putting that agreement, the two together. They obviously cannot complete it until we have our zone change here, and approval from this body on a preliminary basis of the number of units and exactly what the designs will be of the storage system or hopefully get over that hurdle.

As I think I told you at our last meeting, being an applicant and in this process has been very challenging. There are no written directions as to how you go about this. So, we got bounced back and forth trying to work with this city of Shelton in order to work with this WPCA where our facility is and where we pay taxes to hopefully improve the cities. We got caught up in a lot of high hopes and wishes and maybe it could have happened. It didn't. We had to move on. So, we're going down through Stratford as per the direction of our local WPCA here in Shelton.

Comm. Widomski: In the minutes it says the proposed 29,000 gallons is less, etc. It can be accommodated with little impact at a town's collection treatment system except for the Ryder's Landing pump station. What are they referring with that?

Richard Krawl: The current line that is just South of our property on the River Road, ties into the Ryder's Landing pump station. The consultants at that time, we're still evaluating the float with the Ryder's Landing pump station. It was one of the pump stations that they had not completed the full evaluation because there is an additional development being proposed on the Stratford side of that sewer main. We've talked to and I had a conversation, latest is this morning with the Chair of this Stratford WPCA. They are still figuring out how that's going to work, but they are going to upgrade the pump in the Ryder's Landing pump station to not only take the capacity of Shelton and what is currently forecasted, but even upgraded another 10 or 15 percent. I don't know what numbers were above what their capacity is believed to be forecasted to be right now.

So, when they upgrade that pump facility, there may be an additional charge to all of those tying in to help offset the costs at that pump.

Comm. Widomski: Do we know when that study will be completed?

Richard Krawl: I don't know exactly. We'll hopefully hear in the next short period of time. In either case, the current pump that is there is capable of handling the capacity of the 300,000 gallons that has been forecasted to come from Shelton. It's the future development of Stratford that will push that pump station above its capacity and that's what they're working on. That it would not inhibit our development in any time frame.

Comm. Widomski: Okay.

Richard Krawl: When we get our approval here, we have the exact numbers of the gallon flow that will be required. A final design of the storing system that will be implemented on this facility and tying into the Stratford main will be submitted to the Stratford WPCA for their approval under the Inter Local Agreement. So, we will be working with them in order to approve the tie in and how everything will come off of our site into their main and down to their treatment facility. In the end, to be honest with you, Stratford was actually relatively excited to bring this project on board. The connection fees alone from this project, if approved as is in front of you this evening, would bring them about a half a million dollars in connection fees that they're looking forward to using to improve their storing system and future developments. And they're north end of that community.

So, they were a little bit more, in my humble opinion, aggressive about raising the fees and generating the revenue in order to improve their facilities rather than not. So, it's encouraging at least to know that we're able to get through that process and that we have that to suffice in. What I was told when I originally came to the preliminary meetings with the Planning and Zoning Commission here, that all was required of the applicant at this phase was to state that you have the ability to get someone to get storing. So, I've got an original plan had come to you with three different alternatives for storing and obviously the one that is most apparent was shoveled. The other was Stratford and the third was an onsite facility. All of those are viable. They were able to be used here onsite, had raised some issues with some of the folks. We obviously took that off the table. We're encouraged to go to Shelton. I went to Shelton, I worked with Shelton, and we spent a lot of great deal of time, money and effort to make things happen for that project. In the last minute, it was pulled out from underneath this. So, here we are, we're back to Stratford and you know, obviously falling in as a sewer property in this district, going to undergo Inter Local Agreement and under the direction of both Shelton and Stratford's WPCA. 1.10

Any other questions on the WPCA? It's been a long process with them as well, a long-time consuming process, but we've gotten through it or to this stage. I believe we've addressed the concerns of the city of Shelton and this Commission very well. Following that process and following the directions and trying to at the same time incorporated all of the other input that was given through the other applications to include the public access as Attorney Thomas pointed out where the public gets this walkway, with a public access restaurant, where the additional public access parking places to the point

where we don't even have to indicate them on the site plan because the whole back parcel as 200 and some odd parking spaces that are open to public access in that parking area. The diminishment in the number of units, do all the incorporate the area of the footprint that had originally been approved and the 2010 plan for residential units.

An architect jumping well over the designs. We worked very hard to incorporate the existing topography and did exist in grade, to ensure that we disturbed as little as possible of the natural contours. And drainage that were going on, we designed drainage facilities and our engineers here this evening to talk to you about that to ensure that the storm water runoff, storm water was handled properly. The first floor of every building has been designed so that it's either parking or parking and storage so that it can remain at the elevation that is just add or below. Even put the flood stages are under the regulations. Those uses are permitted in the flood zones, so those foot prints are being used very environmentally sound and economically in order to design the buildings, and we had worked very hard with the site plan, even the fire department to create the turnaround rather than having to connect the upper and lower driveways on the North end.

So, we have that little area there. In the original site plans, there had been a connecting driveway that required a lot of structural work in the natural bank and the grade there, we were able to work with them and create this turnaround can keep the driveways. There's a big drop, as you can see, a retaining wall right there and that drop now allows us to maintain the existing grades and the way out to the very North end of the property that leaves open space and green space, brand new to walk in and take a view of the river, watch the boats or what everyone may enjoy doing. Eventually, we would anticipate maybe a small Gazebo or sitting area in that little area that's on the switchback part of that walkway.

The marina facility itself remained the same. We kept about 100 slips and the low-profile dock for launching of the crew boats and kayaks or canoes will be part of our club. We will have those boats available as we do with our facility in Shelton through our club use program. It's kind of like a freedom boating program, so if you're a member, you can take those boats out and use them. Members of the public can buy a daily or seasonal launching permit. If they want to use the launching facility. We would also encourage, obviously that's our business, them to become members of the club and take advantage of everything else that we have to offer there as far as the program grows. The slips are available to the public, you know, we would also hope that we would create some attention from our tenants in the residential units to want to keep their boats there. It's not a requirement. It would be an added benefit. We will have slips available for members of the public remain members of the club to join and keep their boats there as well.

Obviously, it's our goal to try and fill the boat slips mean currently we have now about 40 boat slips down there and we struggled to fill. I understand that they're not in the best shape, but it's a difficult part of the river with the current and it's a bit of a challenge at times to maintain the marina. But we feel as though we've got a good design with the

docks and we've located a little profile float in order to accommodate the boaters and make sure that we can take care of service that properly. There are no plans for fuel on site at this point in time. There will be a sanitary pump out for the boaters that will tie into the sanitary sewer system. So, that's part of getting the sewers completed here so that we can have a full-service marina in that capacity.

There will be amenities to service the marina in the buildings, i.e. bathrooms and facilities for them to enjoy as well as the restaurant, the clubhouse area that's in the main building in the center of the site. The building to the South of that, will be used to house the crew shells and rowing training programs. Right now, we have Sacred Heart University rowing with us and we have the Great River rowing club that is also established, that we've had working for both a masters and junior level that rose out of our facility at this time and those uses will remain. These will be updated in progressive facilities and similar to the ones that we have Greenwich facility now and we're hopeful to make that successful here is we did there, especially with our junior programs.

Comm. Widomski: The pump out station for the boats, are people will be pulling up that don't have those services at the other places on the river to use yours to get pumped out?

Richard Krawl: That is correct. It's actually a program that's run through the DEEP. They run the pump out programs in state.

Comm. Widomski: Right. How are you calculating that added in to your, to your sewage? How much is that going to add going to Stratford?

Richard Krawl: A nominal amount for a seasonal basis.

Comm. Widomski: Right. Just want to make sure. I'm not a boater. I don't know how much comes out of those things.

Richard Krawl: It's not a whole lot given what happens on this river, we're a smaller boater community. We don't have 50, 60, 70-foot yachts that come in and out. So, the smaller holding tanks that are on most of these boats now are reasonable, maybe 10 gallons, 15 gallon holding tanks and we really only see them coming in the Summer months, June, July, and August. So, it's a very small amount that was anticipated in the calculation for the marina. The commercial part of the effluent flow that Dimar had completed for this stuff.

Comm. Widomski: The Army Corp of Engineers are they on board with the docking out to the channel. How does that reach out into the channel?

Richard Krawl: Yes, the Army Corp, just going back to the original 2010 approval, when we had gotten all of the necessary Army Corps permits and DEEP permits for the marina. Those we've kept flowing, kept alive ever since. We've kind of put them on hold until we've got to this process. We have renewed them all along. So, the permitting process is there. There was a move afoot by the Army Corps to eliminate the channel North of the Sikorsky Bridge. I'm not sure if everyone is aware that. I'm not sure where it stands, but as of today, right now the channel still does exist. Relocating or realigning the channel was something that the Army Corps actually would hope that we had done back in 2010. So, they are staying in contact with us because they would like to see the channel realigned and straightened in that area.

Comm. Matto: Say he only had 40 slips now and you can't keep them all. Your hope is that these renters are going to bring in extra. Is that how you figured this is going to go

up to 100 slips?

Richard Krawl: Hopefully it's about 60 more clients and we're hopeful that with the residential community and the improvement in our facilities. I mean basically right now the dock is very generic, very basic. I think with the improvement in the facilities, new docks going in, having the pump out, good electricity flowing, fresh water that's consistent, a good strong dock so they don't have to worry about the title and in river flows and storms and rain events such as yesterday. I don't know if any of you got down to the river yesterday, but it was a challenging to be out there with the current that came down and even the drainage that came off of River Road into our site created a lot of rooms in a lot of stuff. All of that will be addressed through the engineering plans and hopefully create an environment where we'll be able to sell more and that's why we are more conservative now though. The, the original plan, if you recall the original plan back in 2010 had 300 boat slips. So, the economic environment in the boating world has definitely changed. So, we've scaled back. We think that 100 is a big number and we should be able to facilitate and hopefully meets our business model.

Comm. Matto: We had at one point talked about winter storage of boats or since be a big part of what you do now and that would that be over to this side?

Richard Krawl: We did include some storage racks on the very Southern end of the project. We do have some additional parking area in the back if we wanted to store, you know, a few boats on trailers and things. With your storage is the fact of business. It's really not a factor of the marina. The majority of our boats that we store on land now, don't stay with us. We bring them in from all over the clubs and everything down as far as Westport to Milford and Brantford just do because are rates are very inexpensive. For example, our rates this year, we just went up to about \$40 a foot for over 30 feet. The rates in Greenwich for that same boat would be \$80 a foot for storage, so almost double. So, with those kinds of rates that we're charging for Winter storage, a number of the big boats and if you'll notice that most of the yard is full of the bigger boats that we are keeping.

Comm. Matto: I'm just asking because of the aesthetics of the Winter storage. When you go by there it's not appealing.

Richard Krawl: Oh, the shrink wrap and things?

Comm. Matto: Yeah.

Richard Krawl: No, most of that is not going to be incorporated and anything we do would be in the racks. I don't have those pictures.

Attorney Thomas: Would you explain the racks? I don't know if they know what they are.

Richard Krawl: I didn't bring the pictures with the docks of the racks and I apologize. You know what the boat racks are they stack, keep things neat and orderly. So, there will be that ability for us to do that on the South end and when we come in for final we can show you exactly how that will show up. Obviously, with a club environment and with the residential environment that we're trying to create here on an upper scale. If you use us it ensures that everything is neat, clean and tidy and looking well. I think we've done a lot of work in landscaping area, getting the public access, walking paths, and grading everything and making everything work so that it is an inviting atmosphere of the liking in that way.

Comm. Widomski: Anything for the Fire Department to use down there?

Richard Krawl: There will be a boat slip. We were asked by the Fire Department to give them a boat slip and then will be reserved, posted for the Fire Department. Absolutely happy to support them that we do a lot of their work now service on the outboard. A lot of municipalities in the area will continue to do so. Anything else?

Attorney Thomas: No.

Richard Krawl: I think you did a good job. I mean, we don't need to get too far into the legalities of it. I've been through it on every waterfront parcel that is in the can zone that they'd say the canned area. The jurisdiction falls to the DEEP, not the local Inland Wetlands agency. It's been the same on every property that I've worked on in Stratford. Shelton, Greenwich, Milford, Norwalk, any of those properties that have been involved in our helped put together. Their programs are rowing programs. It's the same thing the DEEP holds jurisdiction. I believe in this case they've deferred comment because we addressed their concerns. Typically, if they do have, as you saw on the original letter some significant concerns, they will express those in writing.

I think this time around, we address them from the original application to where we are today. I believe that they see that we are creating the marine facility. We are trying to keep the water independent uses there. It's a great resource to get out on the Housatonic River and the Housatonic River is a great resource. We've been there for 18 years now. We know it very well. I believe the project that we proposed is very conservative and take into account the sight lines, the view lines from both the street and the river that will encourage, all types of use on the river including the past few seasons of just walking, observing, maybe some fishing from the side as well as more active deuces on the rowing programs and the boating, canoeing, kayaking.

So, we will facilitate something that something Shelton is, I believe, kind of lacking in providing a quality place for everybody to who enjoys the learning, get out there and partake in what goes on. There are great ones, great fishing and everything is a great. Even the rowers and when we bring rowers in from other communities to row with us and we'll have a competition, practices and things. Then we'll get rolling on this river. It's a great place, definitely under some resource for the city of Shelton in my opinion. And we hope to bring some of that together here and put Shelton on the map as a bit of a waterfront entity and with your support, I think we can get there.

Attorney Thomas: Before we go to the engineering and architecture. This was the packet that you should've had was presented at the prior meeting, but I just want to go with a packet of photos that identified views and addressed some of the issues. This is the view basically from the driveway, looking out that exists right now. This is the view towards the steep bank up towards the condominium complex as is this. I just wanted to impress because there's a lot of talk about what are the views and what, if anything is obstructing. One of the important things with the redesign is the South end of the site no longer has any building logo.

Richard Krawl: Excuse me, it does not have the high rise, high rise built.

Attorney Thomas: I'm sorry, not that logo. It does have the logo. The logo with no other buildings that you can't see. We're trying to show you what the views are along the road here. At this point we could have been David Ginter come up and address the site plans

and address some of the issues. If have a letter from the city engineer, you should all have a cap of the site plans. You should all have a site plan set of 11 x 17. Not in the packets I gave you tonight but these were given to you and I do have them up on the screen.

David Ginter: Good evening, David Ginter, professional Engineer from firm Redniss & Mead in Stamford, Connecticut. We are the site engineers for Mr. Krawl here. We've been working with him on the property for many years. The development in front of you. We want to walk you through what we're doing from a drainage standpoint. So, it was presented in the past to you, the storm water management on properties fronting on a coastal resource, is mainly handled and treated is done via water quality treatment. What we're proposing here on a site that currently does not have any water quality treatment to it and all of the runoff from the site is able to leave untreated and in terms of the river.

We are proposing a series of catch basins, manholes, and other infrastructure to treat that water before discharging, to improve the quality and clean out any pollutants from the storm water runoff. We're doing that in two ways. Two locations. We have two infiltration systems. One, a large infiltration system in the North end of the property on the driveway that takes you to the garages for the three residential buildings. All roof runoff from those buildings as well as the runoff from the driveway up against the river and the runoff from the parking lots on the West side of the buildings will be directed into that infiltration system where it will be allowed to infiltrate into the ground during a normal storm events and then overflow in the in the larger events into the river through an existing a headwall penetration.

On the South end of the property, again, similar design. We have an infiltration system located here in the South end of the site where the runoff from the parking lot near the marina, will be collected and treated in the infiltration system again and discharge through the existing district location, roughly the middle of the property here.

From a sediment erosion control standpoint. We know that's always a sore subject. Construction activities lead to a lot of disturbance, especially when you're on a property front and on the river. We have a robust sediment erosion control plan here that indicates where so fencing is going to be located in a stockpile location, etc. One of the keys to a plan like this on a property of this size is the location of and the design of temporary sediment traps, a temporary holding basin, if you will, to collect storm water runoff when the site is disturbed. The water will be able to sit in these locations, allowing sediment to filter out and settle out before directly discharging into the harbor.

We have taken a look at the comments from the town engineer today and I think the ones that I can address are relatively minor. The first comments that he has regarding the first floors are labeled incorrectly. I don't know that they're labeled incorrectly. I think it's just a clarification. What we have indicated, and it was very difficult to see on the drawing of the scale here, but we did indicate elevations of the garage, as well as access points from the upper or western parking lots. We had called that the first-floor

elevation in reality, building number one, you're entering at the second living level or the third story, if you're going to count the garage as a story. Buildings two and three, we're entering the building and the third living level or fourth story. And if you're counting the garage, the actual first floor elevations for the first livable floors here are going to be somewhere in the range of elevation 24, 25, approximately 10 to 11 feet above flood elevation. So, from a female compliance standpoint, those residential buildings are in compliance.

Comm. Harger: David, please repeat the information about building one, did you say you are entering from the second?

David Ginter: Correct. Building one will be entered at the second living level. And then buildings two and three at the third.

Comm. Harger: And is that Bridgeport Avenue side not the water side?

David Ginter: That's correct. River Road. The rowing club, restaurant, buildings, in these two buildings located on the Southern end of the site here. Both have been designed where the slab elevations are minimally at elevation 14, which is the flood elevation in this area. The habitable space, if you will, the restaurant, the locker rooms, things like that. Those will be elevated on the second floor. The first floor will be the storage locations for the rowing boats like that. So, all storage and that is allowed to be set at these elevations and be in compliance with a regulation. So, it's just a minor clarification. Again, I don't think there's anything significantly wrong with elevation list on our plans here.

For a grading standpoint, the surveys that had been prepared by our office, the system condition survey, which is the background, the light gray conditions that you see in front of you here. They are on the data that the town engineer here as requested. That is a standard flood zone, to have all your existing conditions and elevations to be based off of there. So, there's no issue there. We have notes on our plans and if he wants us to put more notes on, we certainly can.

The last comment I'll address here has to do with the sanitary sewer system on the property. Again, at this scale, it's difficult to see, but located right here in the middle of the property. So, the pump station and the manholes that will accumulate all of the sanitary sewer flow from this facility are located here in the middle of the property with a backup generator. And the record represents the control panels. That elevation I did look at today. We currently have it proposed at somewhere around elevation 13, so it is below flood elevation. It is located in a landscape area and I don't see why we couldn't be raising this up by the couple of feet to have the tops of those structures be set to the one foot above flood elevation that the town engineer is requesting.

In terms of all other manholes and infrastructure on the property there, it's all going to be watertight a piping. The manholes service all of the buildings. There's a manhole here to collect the lateral from this building. As part of the conveyance network down to our central point here and again, manholes off of these rowing facility buildings here. Again, those were all at elevations that are above or pretty close to elevation 14. Now we can look at the grading plan when we come to the Final Site Plan application and look at raising these up to at least be a set at the flood elevation, and then there's things

that we could do to ensure that these remain one or time. We can specify that the tops will be bolt down tops with rubber gaskets. So, in the event of a flood, water is not able to penetrate into the system and overtax the sewer system with freshwater.

Comm. Kelly: Excuse me, did you say to extend the generator above one-foot above the base flood elevation?

David Ginter: Correct.

Comm. Kelly: That's what he says here, that it really is not appropriate. It says, this critical infrastructure should be designed to be elevated or protected to a greater flood, like with public health and safety ventures. Right now, it is, according to him, above one-foot as he said it could easily be raised up. He said that it was shit engineer said it was this his foot.

Comm. Panico: As he said, it can easily be raised up.

Comm. Kelly: No, he said if it was below. Isn't that what you said?

Comm. Panico: The city engineer said it is below and it is below by about one-foot. But it's in an area where there's landscaping and stuff so it can't be raised a couple of feet.

Comm. Kelly: No, it's only a foot above the base flood elevation. This is what the city engineer's saying. It's not below, it's actually above.

Comm. Panico: It looks like it's below.

Comm. Kelly: But he says it should be more than the one foot.

Comm. Panico: Yeah, I think I agree with him.

Comm. Kelly: I agree too. Yeah, it's the third paragraph down.

David Ginter: Yeah, I'm just double checking our plans here. We have flood elevation at 14 and our infrastructure is indicating that it's structured and we technically meet it at 15. I may have misspoken when I said it was below, so, I apologize for that. But again, we have the ability to pick this up out of a flood hazard.

Comm. Kelly: Pick it up to what though? What do you feel would be more appropriate than the one foot?

David Ginter: I'd have to take a closer look at the grading plan to see. I think a foot is easy to achieve. Could I potentially get two feet? I don't know much more before you start impacting the visuals effects down here, which was not necessarily anybody's concern when it comes to flood safety.

Comm. Kelly: This is a critical part that. That's for a generator. I mean you have regular power, you have alternating power. In other words, if they don't have power for the utilities, this would take the place. And people with sedentary lines that they need something to pump it up.

Comm. Widomski: Why wouldn't you put that generator up on higher ground, just out of curiosity?

Comm. Kelly: Because of the draw. I understand that.

David Ginter: Correct. The draw is the big thing.

Comm. Widomski: You can be a bit bigger generator for your wire going down there.

Comm. Kelly: No, no, no, no. The draw from the sanitarium. How it flows.

Comm. Widomski: No, no. I'm talking about the generator. Not where your manholes are, I'm talking about the generator.

David Ginter: We can.

Comm. Widomski: I'm thinking you're saying from building one you're entering from the second floor, essentially. Why couldn't you put the generator up in that area there where you definitely 100% out of the water?

David Ginter: I'm not an electrical engineer. I don't know how much bigger the generator would need to be to run the several hundred feet down to the pump station and generally you want to have them in close proximity, to make it a more efficient system.

Comm. Kelly: I don't think you're maybe talking several hundred feet I generators.

David Ginter: We'll look into it and see if we can come up with a better solution.

Comm. Widomski: Is that just running the pumping in the event of an outage?

Comm. Kelly: The power to the pump.

David Ginter: That will be running those pumps and the control panels. That's correct.

That's all I had, unless you have any other questions for me.

Alternate Dickal: Can I ask a question?

Comm. Harger: Sure.

Alternate Dickal: The property that you said is going to be for a walkway. Is that going to be for the public or people who want to come in with your fishing gear and go over here and fish?

Richard Krawl: The public access is for passive recreation. We do not typically encourage fishing from those areas just because of the people that are walking in the areas. People casting hooks and different things and it's really something we haven't encouraged in the marina area. We definitely do not encourage offshore fishing or anybody going down into the docks. There is a no fishing area.

Alternate Dickal: The only reason why I was asking was if they were lazy with their lines. My daughter is a wildlife rehabber and we rescue a lot down by the river.

Richard Krawl: Well, I don't want to try to put an end to fishing because obviously fishermen are who we try to support but off the land in these areas, I'd agree that this is not an area that would be conducive to fishing.

Alternate Dickal: That's great.

Richard Krawl: Sure. Thank you.

Attorney Thomas: At this time, we call Joe Mingoello.

Joe Mingoello: Good evening. Joe Mingoello of Mingoello & Associates Architects, office located here in Shelton. Starting with the residential, basically, the buildings one, two, and three architecturally are all the same. The only difference is the elevation site tapers off from one side to the other. On this site, you notice that there was a road on the water side, which is really access to our parking underneath. So, each building has 24 parking spaces under the building. We also have a trash compactor here, compactor container storage here. The lower level area here is the stair and the elevator. So, you park your car and come in this lower lobby. Take the elevator up to whatever floor your on.

Comm. Widomski: How tall is it, that garage?

Joe Mingoello: Oh, I would have to say I don't know what the floor. It's in this section. When we get to the building section, I can tell you floor elevations.

Comm. Widomski: The dumpsters are way on the inside.

Joe Mingoello: No, the dumpsters are right here. These are the compactors inside.

Comm. Widomski: How will a truck get in to empty them?

Joe Mingoello: A truck won't go in. These are compactors they're wheeled out just to

this line just outside the building and they're picked up there and then wheeled back in. That's how a compactor works.

Comm. Harger: Excuse me, did we get these drawings?

Joe Mingoello: Sure, yes.

Rick Schultz: They were previously submitted to you when we accepted this application.

Joe Mingoello: The first floor in building one. Okay. The entrance to this elevation or to this plan, is that the upper elevation. So, we have another lobby. This lobby is a core. It goes all the way up through the building from the parking level of the upper level. And here you have some mechanical equipment, a trash room. So, you have your trash, you come down here, you put it into the trash room, into this shoot, and it goes down to the compactor. Okay. We have some storage here on the interior part of it for tenants. And then we have these are typically a two-unit, two-bedroom, a space or a unit. The two corners are the same. The three in the middle are one-bedroom units. Okay. The two units on here also two bedrooms, 1600 square feet. These are really nice size units. 1,300. I think we're at 960 for the one-bedrooms.

The next level, this is a building, this is the floor and they're all the same here. Two, three and four year. Here's our entrance from the parking lot. We have a parking lot right out front here. Okay. And this is your stair elevator lobby. So, you come in here where you can come on down to this quarter. Some storage for each unit. A corridor that goes from one end to the other, end to exit stairs. Again, plans are the same. Two-bedroom, two-bedroom, three one-bedrooms in the middle here. You're above grade at this elevation. So, we have a two-bedroom or one-bedroom, one and a two-bedroom. Okay.

Alternate Dickal: Are laundry facilities inside the apartment?

Joe Mingoello: Laundry facilities are inside, correct.

Comm. Widomski: You don't have that labeled as a three-bedroom unit.

Joe Mingoello: I'll show you. That's okay. That happens at the fourth floor. This is the three-bedroom, unit. And when we show you the elevations, there's a couple for it. So, you come into this unit, there's a stair, you have your kitchen, dining area, living area, a bedroom here, this just a master suite here. Okay. And then you have your mechanical equipment here and your laundry room. You take this stair on up and you've come up to this level. Now this is in when you view, this is just sort of in the attic. Okay. You have two bedrooms up front here with the dormer. Alright. You have a little office space or tv room, a bathroom and some storage. There's only two of these three bedrooms per building.

The floor elevation is at least 10 feet floor to floor, like nine-foot ceilings.

Comm. Kelly: I think it's 12-feet or something.

Joe Mingoello: 11-feet. I think we added a little bit more for the floor structure. So, this is, you're coming at this grade level elevation here, you come into the lobby, you go up and come down, parking under the building here, and you can take the lobby space all the way up.

Comm. Widomski: So, if you're standing down by the water, it's essentially a five and a half story building.

Joe Mingoello: That's correct. This is building number one and you can see it's three

stories from Route 110. Okay. This is the lobby space. Glass atrium. All right. It's designed in a very traditional architectural New England style. We have stone veneer for the lower level and then I think we have shingles on the upper level, asphalt shingle roof, with some dormers. So, this is basically a three-story building you see from Route 110. Buildings two and three, the ones up further. If you go to that plan there, there are two stories of height. From the water side, here's our parking and you have one, two, three, four stories here. And here's our fifth story, the dormers and built into the roof. So, that's the water and they're all the same from the water's view. They're six stories total technically.

And this is building two and three and this is the elevation for building two and three. They're much shorter and there's a big difference in grade from Route 110. We tried to work within the topography it's a two-story residence at that point for two of the buildings. And then the one that's done at the lowest is a three-story building. From the water this is the typical elevation and a typical elevation from this side. Do you have your rendering? So, this is the three-story, this is the taller one. This is building number one, little parking out front, but that's what it would look like. And you can see we're up here elevation wise slopes down, probably good 10 feet from Route 110 down to our entrance or a lobby space with this grade. And it's a three-story building. And here it is from the water. These are the three buildings. Okay. And that's what they would look like from the water. And the six stories are from the water, from Route 110 or two and three stories.

This is the middle building between the residents and a crew building. This is the restaurant, the up here. So, we'll start at the lower level. Okay. You've got two bays for a boat storage these two for storage. Okay. This is where the kitchen, some storage, kitchen access, a mechanical equipment, and some more storage. This is the lobby to the restaurant. So, you'll come in this door. Here we have an elevator that takes you up to the next story, up to the restaurant, the stair. Then you come up into the restaurant. This is the dining. We come in here and waitress would be right here or host. This is your elevator. Come out of the elevator. Elevator lobby. Little waiting area right there. Men's and women's toilet rooms tucked in the back here.

It's just the kitchen. You come in here. This is the dining room where you come on in and here's the bar. This area all around here, is a wrap-around deck. Okay? These walls here, here, and here are foldable, like a nano wall. They're glass walls, okay. And we're going to fold them up so that on a beautiful Summer evening, you can enjoy the outdoors sitting out here, or even if you're into the dining room, you feel like you're outdoors. Same thing with the bar, okay? When this glass folds in and it folds this way into these pockets here, these bar seats here or out on the patio basically, but it's all very open. And I think a terrific for the summer events. This is a stair to get you back down. So that's the restaurant building and how it will work.

There's a fireplace right here in the middle that is open. And this is a glass wall. So, all of this can function as one big space or you can divide it up into the bar, the dining room with a see-through fireplace. And this is the elevation. This is the River Road elevation.

You got this glass atrium space here. Two stories in the height and the wrap around patio up here. This is the water, all the patio here. This is an elevation and the other opposite of elevation with the two doors that lead to the accruing a storage boat storage patio.

Attorney Thomas: We'd like to point out that when he said River Road elevation, you can't see that from River Road.

Joe Mingolello: The difference in grade. Just so you understand that. The entrance to the site, is at elevation 60. And this great is elevation about 15. So, we're 45 feet below River Road. And next building is the cooling building.

Comm. Harger: Is that 45 feet down to the first level?

Joe Mingolello: That's right. Difference in floor from River Road to the lowest elevation, correct. Here's the cooling building. We have three bays of boat storage here. The crew boats. Okay. We have a rowing tank. So, I guess when the weather's inclement Winter time, you can still work out. This is the entrance, the vestibule, a lobby, reception area, elevator, a toilet room. Okay.

Next elevation up is a mezzanine basically. This is an equipment deck area for exercise equipment. It looks back down into the lower areas. Okay. Which is the boat storage. We have men's locker room here, women's locker room here, some mechanical equipment space, a couple of offices, some storage, and then we have one more level above this, and it's basically a training room, a gym. Okay. Mechanical equipment and a flex space here. Elevators and stairs here to get you back out. Elevation wise, what it looks like. This is the River Road elevation. Okay. Again, this is an elevation 15 and River Road is 16. So, we're way down at the water's edge and probably from you can see right over these buildings to the water. So basically, it's some stone, some vertical siding, shingles, asphalt shingles, roof dormers, make it look very traditional, New England style. And these are the different elevations, the water elevation to end elevations. This is the overhead doors for the storage and boat storage. This is technically three stories. One here. You got the mezzanine because of the height of this and then you got here. So, it's really a three-story building.

Comm. Pogoda: Joe, what's the material on the vertical?

Joe Mingolello: The vertical? It's probably a vertical shiplap siding. Material wise, it could be pvc, it could be wood, but I would think something that's going to be by the water. Less maintenance. I would think more of a plastic, a pvc type of material. Something that requires minimal maintenance. It looks clean and just power wash it. The rest of it are shingles asphalt shingles. We have a deck out here that faces the water.

Comm. Harger: Asphalt shingles on the side of a building?

Joe Mingolello: No, the roof. This is wood shingles. Any questions about the architecture?

Comm. Widomski: Do you have six, three-bedroom units?

Joe Mingolello: Six, three-bedroom units, that's correct.

Comm. Widomski: How many two bedrooms?

Joe Mingolello: Building number one has 34 units and building two and three has 32 units. I didn't break out the number of three. We have a total of six three-bedrooms. I forgot how many we have in terms of whether or not I may have a total.

Richard Krawl: The 50 two-bedroom units. 42 one-bedroom units and then six, three-bedroom. And as we discussed in the past that three-bedroom, two-bedroom design, it's something that Joe was able to incorporate it in the plan as an option.

Comm. Widomski: Are these apartments, right?

Richard Krawl: Right.

Comm. Pogoda: The three-bedroom, are they two-bath, two and a half-bath?

Joe Mingoello: Two and a half bath.

Comm. Pogoda: What about the two-bedroom?

Joe Mingoello: Two bathrooms.

Attorney Thomas: I would like to point out one thing about units, the sizes of units and thinking about who's going to go in here possibly. One of the things that was presented to you in a prior proposal that didn't go forward by Stan Ninsowski, was the comment that the apartment demand is not just being driven by young people. They found out it's being driven by boomers and it was pointed out at the chamber event, for those of you that did go to the ribbon cutting for the Mark Howard Rappaport, that the average age says it was around 40 and it was balanced between younger people, people in the forties, but also boomers. This was a few years ago, in November, 2014 when they were doing the final site development plans and everything.

The last four years, the trend for boomers to apartments has increased so much so, that the two projects that I'm handling in different communities, the developer has since authorized the architects to increase the size of the two bedrooms because of demand for boomers for those people interested not in going into condos, not going to 55 and over, but going into apartments where they have literally no responsibility, so to speak if the furnace goes. And what's happening is the two bedrooms actually in these places are being expanded in size up to 1400 or so, 1500 square feet to accommodate this demand, which is much more unusual than the demand you'd get from a younger person or a younger couple. And these are people who have been going into them who will go two or three months to Florida in the Wintertime but still maintain their apartments. So, there are people that are very well off. The demand really for the three bedroom, if you want to call them pent houses, whatever, for the larger two bedrooms, there is a substantial demand there and I would believe that the water access, that demand will be quickly used up here in this project. But it is something to keep in mind. Are there any more questions?

Comm. Kelly: Joe, for the buildings one, two, and three, what's the total elevation? Total elevation from top to bottom there.

Joe Mingoello: These buildings have flat gross. It's in the Statement of Uses and Standards. That's where we went to.

Attorney Thomas: I believe it's 67 feet.

Comm. Kelly: Would that be for the tallest building?

Joe Mingoello: Yes. That was from the ridge, the highest point of the roof to an average grade.

Comm. Kelly: So, is that like 22 feet above the road line?

Joe Mingoello: No, I'm going to say no.

Comm. Kelly: Are you at 60 feet, the road line, right?

Joe Mingoello: Elevation 60.

Comm. Kelly: But, you're 15 below. So that's 45 feet. So, you could get 45 from 67, so that's 22 feet above the road line.

Joe Mingoello: Yeah, probably right. Oh, you see between the buildings, right. And there's nothing but houses and trees there. This will be opening it up. You'll have some view right now you have not.

Comm. Widomski: How many total parking spot you guys have?

Richard Krawl: One point eight five (1.85) per unit, including the enclosed under the parking garage. It's the semi covered and open spaces that have been basically committed on the residential North end of the property and it worked out to about at one point eight five numbers per unit. And then there are 247 public parking places are open parking places that will facilitate the restaurant, boathouse and marina.

Comm. Pogoda: And how many for the apartment side? You're saying 247 for the left side and that's for the public?

Richard Krawl: Yes. 183 for the apartments.

Comm. Pogoda: Is that including the spaces under the building?

Richard Krawl: That's correct. There's 24 under each of the buildings.

Comm. Pogoda: Right.

Comm. Matto: And are those assigned?

Richard Krawl: Certain units will have access to those in the parking garage and then others would have covered and every unit would have at least an open parking place so, you can upgrade your parking, but they're all having an assigned parking place. They don't have to. As we had discussed, I know what your concerns were that you ran into a situation downtown. They started charging extra for additional. Well, every unit will have an allocated parking space or two, depending if it's a one bedroom or two-bedroom. And then they'll have the ability to upgrade if they so desire.

Comm. Widomski: How many visitor spots are you going to have?

Richard Krawl: We haven't allocated any visitor spots because we almost have two per unit in that area. We have 180 for the 98 parking places.

Comm. Widomski: My count comes up to for the apartments alone, you need 208 spots for the residents and 50 spots a, I'm sorry, 200. You'd have 208 spots. For the three-bedrooms you need two parking spots per unit, for the two-bedroom units you're going need a for the first five you need two spots for the other 45 and will be one point five for the 42 one bedrooms you need for the first five, 10 spots and then 37 remaining spots.

Attorney Thomas: You're referring to the parking regulation and the Statement of Uses and Standards. Rick, do you have the amended application? It has the Statement of Uses and Standards in it.

Richard Schultz: Yep.

Comm. Widomski: I guess my question is going to be, I mean, unless you're one point eight five spots, it's essentially two spots. I mean you can't have one point five eight cars. So, let's use real numbers here.

Richard Krawl: Right.

Comm. Widomski: Do you have enough spots? So, the people may have to walk from the main lot?

Richard Krawl: Correct. Which isn't that far. I mean it's all part of the same size as you see. So, additional overflow if there was a need for our guest parking spot. There's plenty if that's something we need to facilitate for the marina in the restaurant, club-

house and the boating facilities.

Attorney Thomas: And if you recall, I believe it was submitted, but if it wasn't, I'll resubmit, resubmitted the 14 year marketing study of studios, one bedroom, two bedroom, three bedroom apartments combined, taking the parking count because I think, hopefully, this Commission is beginning to realize that the asphalt companies have made much too much money off of a parking regulations and zoning regulations over the years where there's numerous over asphalt of sense. So, they did that study, and that study was presented to you and at least two projects and I believe it was presented in this and I will present it.

And when you looked at every single one, which they took, and remember they did their parking count between first between 10:00 a.m. and 1:00 a.m. and then between 12:00 a.m. and 1:00 a.m. over a 14-year period. And you've averaged every single one of those out, it came to one point four three (1.43). If you did the math, and I've done the math and it was presented to you the proposal in the Statement of Uses and Standards for the residential parking, especially given the fact that we have the extra parking is one point five spaces per unit with an additional point two spaces and unit in reserve area. That was proposed in the Statement of Uses and Standards, what has been provided to you is actually, as Rick said, two spaces per unit with respect to it. I think it's an abundant parking, but plus the fact that you do have a situation where if there is that individual who are those people who rent and who have other cars, this is a site in which they would be able to park, would probably be minimalistic, but they wouldn't be able to park in the other section. This is the unusual circumstance where with the residential, you have shared parking. I think, you know, so it does, work with it.

We've certainly, if approved would be going over the Statement of Uses and Standards. But I think, for instance, the mark was two point zero and three in reserve I believe. And if you go through the mark, which is pretty much flowed, you won't find any issues with parking, you will find some parking spaces that are renting. I've driven through it in the evening, which is the time you should be driving through. It's phony if you to try to drive through the day, obviously we tried through as late in the day as possible.

Comm. Harger: So, residents have to from one of the buildings, park in the big one?

Attorney Thomas: If they have that possibility. Our position is they will not have a parking issue at all.

Comm. Harger: But if do have one, will that be somewhat designated?

Attorney Thomas: They would probably get a permanent parking space. If you look up at the screen momentarily when you were talking about this is the opposite Murphy's Lane and to the north of this view is where the houses are. The houses area where there is no view of the river is where the construction took place and I don't know if Joe explained, the condos were actually taller than or about the same height. Obviously, this picture was taken when no leaves on the trees. This is looking back from that point, from Murphy's Lane back towards the South.

This is now looking down from the North. When you get over here, you can see in this picture, possibly if you look through, this is I believe Murphy's Lane is right in here. And you can see here, this is a very heavily foliated area. And as you go farther North,

there's the two houses that formed the other property. And this was because early on there was a claim that the condos view. This is what we had buildings proposed for the South area, which there are no buildings that extended above River Road from the South area. So, the purpose of these photos were to rebut the presumptions that people were making that somehow, some way, if you were in a condo, you could see the buildings and I will admit that if you were looking in the middle of Winter with no leaves on the trees and you might be able to see the buildings that are down here, but you really have to stair to get to it. You could see there, there's really no, there's pretty much of a solid wall of a deciduous trees that are affecting the views from the condominium area. And along the river, and I guess maybe had some photos there.

When you get to the two houses and you can actually get a mild look if you have the, if I can approach, the notices that I presented to the Commission, I don't know what Rick did with them. The notices that I filed, I always file notices with photographs. This is from one of the houses. So, I'm standing in the road taking a picture of the sign so, you could see that there is absolutely no, you have anything for the two houses. So, the area actually once it's built, the area where the houses are, I'm sorry, the area where the apartments are proposed will give a view of the river that does not exist now because nothing exists. I mean, I know you can't tell from here, but basically there are the two houses and their foliage and everything. Now, being on the river at this location, you'll be able to look in between those buildings, the two story, two and the one three-story and see the river.

Comm. Harger: Attorney Thomas, can I see that?

Attorney Thomas: That's it. Does anyone have any questions? I think we've pretty much covered every point. I think if you are going to seek legal advice, as you said, I would appreciate it since you have a hearing scheduled for October, the public hearing can be kept open because if you're going to get an opinion, I'd like to be able to respond to the Commission with concerning that opinion, which I can't do if you close the public hearing.

Comm. Matto: Can I ask a quick question about landscaping? I assume there are best practices in terms of run-offs of fertilizers and phosphates and would that be controlled by the DEEP?

Richard Krawl: I think during the construction phases, we address how controlling issues were completed.

Comm. Matto: I mean when it's done.

Richard Krawl: When it's done obviously, we'll try to maintain best practices. We are water front business. When you do spend a lot of time trying to encourage best practices and doing everything else, we can support those environmental concern. So absolutely. I mean we run our facilities now in the same manner. Don't use fertilizers in the Greenwich facility. We do have sprinklers, so we do use a sprinkler system. We don't have as much as grass at that facility as this one, but you know, we are focusing on what goes on. The facility in Greenwich is one of the only fully certified clean marina that was done in the state that had a full pump out retention system put into place for all wastewater and wash water from the boats and all the practices that we put in place down there. We even have the doggy disposable bags along our walkway to make sure that members that are walking their dogs clean up after their pets. So, we do a lot to

make sure that we're environmentally sensitive.

Comm. Matto: Is that voluntary?

Richard Krawl: That is correct.

Comm. Harger: Going to the public portion. The first person who signed up is Greg Tetro. Please make sure you identify yourself when you approach the podium for the recording secretary and stenographer.

Greg Tetro: Gregory Tetro, 281 Buddington Road. Just a couple of quick points. As I looked through, 22 feet is not really not above River Road. The question is how much really is seen, what do we see in the Winter? I think it's a little too high. I liked that they went down in the number of units a little bit, but it still is a concern. It still is going to sit out there and it's going to obstruct some views. Also, there was a question on 8.3G at what was correct or what was not correct and if we should have Wetlands at this time. I struggled with the fact of conceptual because conceptual means, this is what we're thinking of doing and this may be not what we do is kind of a bait and switch and it's a constant battle back and forth over it.

We're going back to 8.3G and going to back to Corporate Council and back in April of 2016, John Cook did go Corporate Council to ask for a determination on 8.3G, whether or not the application should be concurrent. And then back in June or July of 2016, a letter was sent back from Corporate Council to John Cook. And was copied to Rick Schultz also stating yes, it should be done immediately. So, Corporate Council has already discussed it, has rendered their opinion on it, and we're two and a half years later and now we're wondering what Corporate Counsel may think. I find that a little disturbing. Thank you very much.

Comm. Harger: Next is Chris Russo, on behalf of residents of 156 Kyle's Way.

Attorney Russo: Thank you, Chair and members of the Commission, Chris Russo, of Russo and Rizio LLC. offices at One Post Road in Fairfield, here on behalf of Harlan and Debra Bowles. I'm council for Harlan and Debra Bowles who live at 156 Kyle's Way. Here again, before you in opposition to this application. Honestly, I don't know why the applicant is putting us in this position of hearing this application again. To use a term from law school, this application is Res Judicata. It has been adjudicated and you rendered a decision on the same application. Nothing has changed. The basis of your decision has not changed. And I know you know your decision that you just made back in May, but just for the record is a copy of the letter from Mr. Schultz that said that you had denied this application without prejudice. The basis of that decision is that the applicant did not provide evidence from the WPCA that sewers are available for the project you denied without prejudice, but that doesn't mean you can just submit the same exact application with the same problem, which this application has heard the applicant's testimony earlier. It's a little confusing that he says that Stratford can't give them approval, but there's been an application to the Stratford WPCA where a lot of details of this project were discussed.

The units and there were somewhat of an approval. It's not a real approval because the WPCA says that the approval is contingent on a presentation to them by their legal

counsel. The applicant hasn't submitted that application that was submitted to WPCA, the information that was submitted to Stratford WPCA what exactly was approved. There's no approval letter from Stratford WPCA, there's no agreement, even though there was discussion tonight that there has been an agreement discussed back and forth and there's no details as to what the Stratford town attorney needed to discuss as far as legal and financial details. That hasn't been submitted with this application. I think it's a requirement of this application and was the reason for denial last time, and really that this application should be being heard again because you've already made your decision on it. It's the applicant's obligation to show that there has been change that would warrant this application being heard. I also think the Plan and Profile should be submitted as this as your own city engineer has requested. This is this a proposal. Every application is a proposal. So, there should be a proposed Plan and Profile that should be submitted per what is being proposed here.

The regs require that a PDD must be served adequately by municipal sanitary sewers. So, this applicant should be required to show the plans that they can provide adequate service that the design they can provide a design that will give adequate sewer service. If the city engineer is wrong in what the approval is that's needed from Stratford WPCA, then I don't understand why the applicant hasn't spoken to the city engineer. If the city engineer continues to be wrong on his opinion on this, why the applicant hasn't been turned to the city council, the town attorney for Shelton, and had them instruct the city engineer that they're wrong in their interpretation. The public relies on the analysis of the city's experts. They can't pay their own consultants to analyze every aspect of a P and Z application and the city engineers and satisfied than the application to what work is needed to correct it or if they're an error, to speak with the council, to educate the city engineer as to why he's, he's incorrect because the city engineer, the port that's been submitted states that we have the exact same problem that we had on the last application that was denied.

Honestly, I don't believe there is enough evidence and the application that's submitted that allows this Commission to change its decision that's already made. So I, I think this application is incomplete if the applicant is saying that they're going to get approval from WPCA or an agreement that we should wait until we get those documents, that a Plan and Profile's been approved, or at least seen by the city engineer to know that it's feasible and at that time then maybe this application will be timely and maybe it will resolve the issue from its previous denial.

Beyond the WPCA issue, traffic is a main issue with this application. This is a deadly road. Unfortunately, every time there seems to be a break in this application, another terrible accident happens. This same case here, my client lives off of this road, my godmother actually lives off this road as well. In speaking with both of them, this road scares the hell out of them. I believe it's warranted for the city to hire an independent traffic consultant to do a signal warrant analysis, something that traffic experts do, you're probably familiar with it, but an analysis can be done to see if a signal traffic is warranted. There's a bunch of calculations such as daily trip, eight-hour vehicle volumes, peak rates, different numbers that would warrant a traffic signal at this site.

I actually, I just did a similar mixed-use project on what's defined by the state of minor arterial road, similar to River Road. River Road is considered a minor arterial road, and they were able to get a signal approved by the state.

I don't see in the applicant's traffic report whether a full analysis has been done. All of these warrants, and I think the residents in the city would be well served to have an independent consultant look at whether this project would be warranted for a signal. Also, I strongly disagree about the comment from the applicant that offsite improvements that are intersections are not appropriate when it's in such close vicinity of the project, when it's a correlated to the project, they have to be correlated, but the intersection and the engineer's report that he's talking about, the sight line issue clearly is correlated to this project. And, I think rendering that issue would go along to a go a long way to improving the safety in this area. But, I've been a part of a number of applications. Countless applications were offsite improvements to intersections as long as it's not somebody else's property, but that offset offsite improvements are included as a condition of approval.

Comm. Harger: Attorney Russo, are you referring the stone wall?

Attorney Russo: Yes. Attorney Thomas referenced another case and I don't know if it was found that intersection was not correlated to that project. But, I think clearly in this case, this intersection is correlated to this property. When I checked the application this afternoon, I hadn't seen the DEEP comments. So, I'd like to reserve my comments just, until I'm able to review that.

With regards to the Inland Wetlands permit, again, this is another issue where if the town is the same as experts or are saying it's needed and they're saying it's not, why hasn't this with all this time in this application, why hasn't the applicant approached either Inland Wetlands or counsel that this doesn't need to be resolved at this time. I know personally with my applications, we go and address Inland Wetlands before we go for a zone change. We will do that. We don't go for his own change then go back to Inland Wetlands and go back to P and Z. That's all time that we go and get our Inland Wetlands permit approval first before proceeding to P and Z.

And, with the buildings proposed here there are a lot of issues that my client has with them. The height is extreme. I think it's out of the balance of what's permitted in your regulations, that the height that's being proposed, there seems to be, this perception that residents can't look down. They can only look at street level and they only see in two dimensional. If you're looking at this from the side, you see the whole bulk of the structure and if you're looking down, you see the bulk and it doesn't need to be. The entire bulk doesn't need to be hovering over you for you to feel its presence. If it's in your line of sight, if you can look down and you can see this massive bulk, and it's out of character and it's extreme.

I don't believe it satisfies requirements or regulations to have this increased height. I believe that the bedrooms, there's also questions about the bedroom designs, or the

unit designs that is the ability to add extra bedrooms to some of these units, particularly in the three-bedroom. That would really bulk up the density and obviously increase the intensity in a lot of areas, not just parking for traffic. And for those reasons, my client is opposed to this application. Again, I don't think it's appropriate for it to be before you because you think that you've already made your decision on this particular application, but the applicant has proposed it. And, I'd just like to be able to reserve the right to comment on any material that's submitted after time. Thank you for time.

Comm. Harger: That's fine, Attorney Russo. Next on the list is George Robik, 60 Magnolia Circle. Speak into the microphone please.

George Robik: We moved to Shelton because we thought it would be a little country, and all of a sudden, you're putting in pretty large looking buildings right out on River Road. Is that eight acres you say? It's a lot of buildings for eight acres with a lot of little buildings. It's got to be a lot of traffic and you can't drive down River Road now. There are numerous accidents. With Sikorsky's in the morning, it's a nightmare. People are afraid to come to Shelton now for the traffic and you hear that all the time. You're building stuff on Bridgeport Avenue, you got Scinto building stuff all over the place. Shelton's taxes are pretty damn low and that's why everybody's comes to Shelton for. I don't go how far along this thing is, but I I don't think it's going to be a good thing. How you resolve it. I don't know. Smaller thing. Maybe a smaller club. I don't know, but you want to give it some real thought before you approve it. Thank you very much.

Comm. Harger: Thank you, Mr. Robik. And the last person on the list is Sarah Graham, 3 Murphy's Lane.

Sarah Graham: Hi, I'm Sarah Graham. I live at 3 Murphy's Lane in the Tanglewood condos across from the planned development. And I just also want to bring up the traffic issue. The condo that I live in was already involved in a court suit for a death that happened at this intersection and Murphy's Lane and River Road. The person talking earlier was talking about how her road was a state, a city problem and it's not, it's the state. The stone wall they're referring to is state property. And I presume that there should be a traffic light at the intersection of Murphy's or potentially where they're talking about for their driveway at River Road because of the amount of traffic that is already there and then the amount of traffic that this development will be bringing to that area in that intersection. We've already seen numerous accidents, my neighbors have been in multiple accidents, the deaths that have occurred there, and that the state needs to be involved in the decision for this because of the location and this being a state road. So, thank you.

Comm. Harger: Thank you. Is there anyone else from the public that wishes to make comments on this particular proposal? Is there anyone else from the public that wish to make comments for or against this proposal? And last call, is there anyone from the public who wishes to make any comments for or against this proposal? Attorney Thomas or Mr. Krawl, are there any comments you want to make?

Richard Krawl: If we could just a couple to clarify a few of the points that were brought up. As far as the sewer issue goes, I hope I made it as clear as I could from my school of hard knocks and the experience of going through the process for which there are no

clear directions. With all due respect to the prior speakers, comments, regarding that process and the reason for the last denial was basically due to that fact. When you ask people how to go about it, there's no one here to really tell you. You kind of have to feel your way. And we had to develop plans in the process and try to accommodate not only the city of Shelton but the city of Stratford and work through that process. I think we've done all that we could to accommodate everybody. Even going back to the days when trying to accommodate the Shelton WPCA who had planned to try and improve the sewer systems here.

So, I think we've gone to great lengths to get us to this point where we're at in the process of that I need the decision on the zoning change that we discussed earlier that the Attorney Thomas brought to you in order to go back to Stratford with the final calculations, with the final plans in order to properly and legally incorporate them into the decision that the Stratford WPCA will make. And then once we get that completed, we would come back to Shelton with that approval when we come for final. So, we fully understand that we're going through basically that first step, that preliminary step right now and it is a long process and one that I guess has to be done this way, but I would hope that the Commission and others as well as the town engineer who wrote that letter today. We received that letter today myself.

Now this application has been in front of this Commission since last February before I was able to get a public hearing date this late in September, so five, six, seven months, whatever it's been that we've been waiting to get in front of the public hearing. This application has been filed in town hall and it was only today that we got the letters from both Inland Wetlands and the town engineer. My opinion is that's really not professional, especially after everything we've been through with the minutes being available online with everything else that we've gone through, all the papers that were submitted to all of you, all the work that's been done to ensure that every I was dotted and T was crossed in order to get to this point. For the city engineer to address something like that on the day of the hearing, it's just downright unprofessional in my opinion. I don't mean to put somebody down, but you know, it does get a little frustrating. I don't even take it out on you. It's not you folks, but it is what it is. Same thing with Wetlands. It would have been addressed if we had to.

Comm. Harger: I just want to point out while we're talking about the same piece of property, this is a separate application than what was heard previously.

Richard Krawl: I understand.

Comm. Harger: So, we had to start from scratch again.

Richard Krawl: Right.

Comm. Harger: Technically, I believe the city engineer had the right to submit the letter.

Richard Krawl: Sure. So, all I'm pointing out though is this application for this date had been submitted back in February? No, it was a different application.

Attorney Thomas: It was submitted in June. It's still an embarrassment that he has been doing for the last 30 years. Sandbagging applicants by submitting his letter. And I've said this before you, hundreds of times, so I'm not saying anything new. On the last day. So, it's making it difficult for an applicant to respond. It is an avid. It is something that

has done not in other towns. This is the only place we have to deal with it.

Richard Krawl: But we will clearly address the engineer and the issue. Now that we have the letters.

Comm. Harger: Mr. Schultz, has there been any discussions between your office and the city engineer's office as to the timing for letters that are submitted?

Richard Schultz: Yes, that exact issue was addressed two, three years ago and his immediate supervisor had discussed it with him. All I can do is make referrals and I do that in a timely manner.

Richard Krawl: I appreciate that.

Richard Schultz: And that's to all departments too.

Richard Krawl: And that's why the hearing is being held open and we'll try to address it. I just, from my own personal standpoint, I've been a member of this community as a business owner at that property for 18 years. When we come up here and we do all this work in an effort to work with the community and make things happen, it kind of makes us look bad, especially, when you have members of the public come up here and insinuate that we didn't dot our I's and cross our T's and do what we're supposed to do. It reflects on me and as a business owner in the community, I don't want to have that appearance and that's the only reason why I bring it up and we will address it and I'm sure that we can correct any misconceptions that was there.

So, I appreciate your efforts and I'm not trying to take it out on the Commission. Just to address a couple of particular things. We went to great lengths to explain the state road and the policy on the traffic lights on the state road. We went through studies, through park and mess backwards and forwards through all the different applications which the attorney asked to make part of this application that clearly explained why there would be no traffic signal installed on the River Road at any of the intersections, even the one closer to Sikorsky. Those are there and I'm not going to belabor them tonight, but I know that the folks that had concerns about that tonight and heard those reports and I can't do anything about it. It's not in our hands. When tried and the state will not even consider an application for any traffic signals on River Road given the current traffic conditions. So, it's not as though that we didn't make an effort. It's not that we didn't do the studies in great lengths in order to support you in your decision and helping us pull forward.

The last thing I would just like to clarify, it's nice that people want to point out the bulk of the residential units or maybe there six stories where the river, the size of them, but it's important for everybody to understand that this is an essence of commercial property. If I were to come back to you with an application that the 10 acres of land so that it's there, that given the 430,000 square foot of land area, the coverage at 40 percent will be 170,000 square feet. The F.A.R. for that property legally based on current zoning regulations is 340,000 square feet. We could build a 340,000 square foot commercial building there under the current regulations without doing anything. What we're proposing total with the restaurants and all the residential at our lot 190,000 square feet for about half of what the F.A.R. is for that property. So, I think when you're considering what could be and what is being proposed, I think a lot of people like to compare as to what's there now. But it can't sustain what's there now. It's going to get built by

somebody. I hope that you'll give me the opportunity to bring this project to you. I think the project's been well planned. I think we've exhausted a lot of the other concerns that have gone through it and creates the public access. It does everything that you've asked for and allows us economically to make it viable for long-term. I know Dominick has a couple of other legal points to make.

Attorney Thomas: I can pretty much guarantee that the Connecticut Bar Association, Planning and Zoning section executive committee would be stunned, absolutely stunned to realize that res judicata applies to zoning applications. I mean, it would be one of the most overturning application or legal theories you could ever imagine. There is no application, there is no application to res judicata. The fact is, you made a decision, which I still believe conclusively was totally, utterly, unethical and illegal and it was clearly illegal because you did not really know the regulations with respect to sewers. But beyond that, you made a decision. You made a decision to close the public hearing and I want to bring up that issue. You made a decision to close the public hearing upon requesting an extension from me because you didn't have this room available. I consented to the extension and then without me being here, without me being notified, with the vote that involved an Alternate who was, despite the opinion of your counsel, not properly set. You closed the public hearing without ever giving me a chance to respond. So, if anybody wants to discuss what happened back in May, that's what happened. And that's why the denial was without prejudice so we can get answers. We have answered you in spades.

You're going to ask your counsel and I think that would be a very good thing to do on the issue of the sewer because the positions that were taken by Attorney Russo are not correct with respect to your regulations and have not operated that way for the last 30 years with respect to your regulations and with respect to the sewers. In addition, we went above and beyond and presented to you the fact that this is a sewer area in Stratford, which has the capacity and that we have to be sewer by Strafford and will be sewer by Strafford once we can go to them with the number of units approved, the screen is off, but as far as the size of the buildings and the problems of the people in Crescent Village, I have on my computer screen the aerial photo of their buildings. I really don't think mass buildings is something that people who live in mass buildings should talk about, but beyond that, there is absolutely no way their views are obstructed in any way, shape or form of the river because for at least six months of the year, probably, you can't see the river from them because the leaves are on the trees.

Which respect to Mr. Tetro's comment and on Wetlands. I to before that, I want to make it very clear on Wetlands. This is a Title area and you know, and I'd be glad to sit down with Mr. Cook and explain it to him, but this is a Title area and the jurisdiction rest as Mr. Cross said with the DEEP. With respect to Mr. Tetro, who for at least now, the dozenth time, has brought up this issue of the Attorney Sousa thing. I don't know whether Mr. Schultz recalls, but there was an email to me where I was informed than that and there was a response email and orally, verbally at that time, Mr. Sousa agreed with my email that it was not necessary in the zone change. Attorney Russo can waste his client's money to apply for a Wetlands application before a zone change anytime he wants, you

have the perfect way to do that. I have chosen to do it where I thought it was a significant impact upon it, but you don't need to do it because when you get a zone change you can't put a thing in the ground. I was told by Attorney Sousa that he conveyed his agreement with my response email and my statute to Attorney Schultz.

Since that time in 2016, there have been several, several applications for PDDs by myself, by Mr. Scinto, by others, and none of which at Wetlands before concept plans where they were not going for site plan approval. So, I believe that my email response was correct, but you're more than welcome to consult with your current counsel and we will be willing to discuss it. That memo response, I will submit again for the umpteenth time to Mr. Schultz. I don't know if Mr. Schultz recalls the conversation with Mr. Sousa afterward, but we had a lengthy conversation with it afterwards, but I will again submit it for the record in this application and we will address the rest of the stuff that the next meeting, I'm assuming you will continue to the October 24th. You will by the way, need another extension to complete the public hearing from, for my applicant. We will give it. I will put it in writing within the next day or two.

Comm. Widomski: This is the third time or fourth time that you've mentioned Attorney Sousa verbally. Do you have anything in writing from him?

Attorney Thomas: If you want me to ask him, Rick, do you recall talking with him after the memos?

Comm. Widomski: I'm asking you.

Attorney Thomas: I don't want, and there wasn't anything. No. As far as I know, I was informed that he informed Rick of the agreement and he didn't do anything in writing at that point.

Richard Schultz: That's the issue. That's problematic. You're regurgitating verbal comments. No one I can relay that to is accepting that.

Attorney Thomas: Did he speak with you about it?

Richard Schultz: Oh, absolutely.

Attorney Thomas: Okay, so he did. He did speak to Rick about it. He told Rick about it after I wrote my memo. But what I'm asking people to do is, I mean there is a statute that governs this. This is not a site plan application. You don't say it's a site plan application because it has a site plan. Everything pretty much that you file, you file with a plan of the site. A site plan application under your regulations is a request to this Commission to do something in accordance with your regulations. I can't do anything if you approve it, and by the way a point that Mr. Tetro made, which is totally wrong, is that a concept plan means that I can change my mind. That is so far from the truth.

The fact is that as Mr. Panico explained at the beginning, once you get the Statement of Uses and Standards approved, you are limited to what's in the Statement of Uses and Standards. Every time you change it, you have to come back before this Commission. And the most illustrative thing I could tell you about why people have to do it is what was known as the Hotel Sierra is now the Hyatt Place, I believe, built their hotel eight feet, five (8.5) inches from the back of the property line instead of 10 feet. And they had to stop, come back before this Commission and get a Modification of the Statement of Uses and Standards to eight feet so, they didn't have to rip down the corner of the hotel.

So, that's how controlling your Statement of Uses and Standards are. But we will address them and I will request Attorney Sousa put it in writing. I think you should get an opinion from Attorney Teodosio, you know what I mean,

Comm. Widomski: And until he does that, that's what we have to go by.

Attorney Thomas: Huh?

Comm. Widomski: Until such time, that Attorney Teodosio changes that, that's what you go by.

Attorney Thomas: No, that wasn't a legal opinion. He didn't write a memo of his legal opinion, he just wrote a response in an email and I responded to it.

Comm. Widomski: You call it what you want, it's still his opinion. I'm not going to argue semantics with you.

Comm. Harger: Attorney Thomas, talking about the extension. Already on the Agenda for October 24, the public hearing is the application for the apartment building across Hunan Pan at Sunwood and also a public hearing for a two-lot subdivision in Pine Rock area.

Attorney Thomas: And Long Hill Cross Roads.

Richard Schultz: Long Hill Cross Roads will probably be rescheduled.

Attorney Thomas: No, it isn't. He spoke with me and it's going forward.

Richard Schultz: Dominick, this is new to me too. This, right now.

Attorney Thomas: What you're talking about is that people have been going around spreading the rumor that Hush is down on October 24. I've had three phone calls that Hush is down on October 24.

Comm. Harger: No. They hear Sunwood and they may be confusing it because that was at the entrance of Sunwood.

Attorney Thomas: We're not going to have any speak easies in the apartment.

Comm. Harger: Okay, so to get back to here in scheduling. We were supposed to have Calandro and Guerrera as the other public hearing tonight. We're going to be able to open it and continue it and that bumps everybody else down to defer the meeting. So, are you sure you want to do it in October and not November?

Attorney Thomas: We're just continuing it for an opinion. There's no reason why you can't put this down for your meeting. We've done our presentation. I don't know what else there is from a tech perspective.

Richard Schultz: I know Corporation Council's workload because I've been questioned many legal opinions. October, 24, is going to cut it close. Just going to say that.

Attorney Thomas: I was talking about having a discussion on October 9, because all you're doing is . . .

Richard Schultz: The Commission could have it on the 9 or 24.

Attorney Thomas: Are we talking about any other response other than the legal opinions? Is there anything else any Commission members want us to present further? There haven't been any questions which address that point. I mean this is a point to respond to, but certainly, if Attorney Teodosio says to me he can't address it, I can understand that. If he can, we're talking including the public hearing by just getting the responses in. Correct?

Comm. Harger: We need to find another slot. How about our regular meeting on the second Tuesday in November on the 13? That way you're a couple of weeks after October but not at the end of November.

Attorney Thomas: Okay.

Comm. Harger: The continuation would have to be legal opinion corporation counsel.

Richard Schultz: Rebuttal of the applicant.

Comm. Harger: No, new public commentary except him.

Richard Schultz: We have in the past closed the public portion.

Attorney Thomas: The public can certainly comment on the what's presented at the hearing.

Richard Schultz: But if we close the public hearing and limit it to correspondence.

Attorney Thomas: I'm requesting that the public hearing not be closed.

Comm. Harger: We're not closing the public hearing, we're closing the public portion.

Attorney Thomas: I don't want to create an appeal issue.

Comm. Widomski: I understand what you're saying. He's part of the public. He's saying that if he gets a chance to speak and the other attorney gets a chance to speak and I understand what you're saying.

Attorney Thomas: They shouldn't be long.

Comm. Panico: As long as you limit the subject matter to them.

Comm. Widomski: To the rebuttal of the Corporation Council.

Attorney Thomas: I mean, certainly if between now and the continuation a Commission member hasn't questioned that, they didn't realize they had, they can convey it to staff and staff can convey it to us and we can respond at that point. If there's something else that you want to do this. That's the purpose of the public hearing.

Comm. Harger: For the legal opinion for Corporation Council for the comments from Attorney Russo from Attorney Thomas, can you raise your hand?

Comm. Panico: But aren't we dealing with a mood point? Is it their jurisdiction or not?

Richard Schultz: Mr. Cook is saying it is Inland and Wetlands because they regulate it. Upland area is 100 feet from the high watermark of the Housatonic River. It's an upland review.

Attorney Thomas: Even if he were correct, we would have to go to them for the final site development plan. If they render that opinion, we would have to take our position by either going before them and we would do it. That opinion relates to the final site development plans. Again, I'm going to introduce my response memo to Mr. Sousa and I'll sit down with Attorney Teodosio and we'll discuss what their opinion is on that.

Comm. Harger: So, can we make a motion to continue the public hearing until November 13 with those particular restrictions?

Attorney Thomas: Can I point out one other thing I forgot in your packet, by the way?

Comm. Harger: Sure.

Attorney Thomas: Someone raised an issue about the accident and that's the one page from your traffic study, which is part of the record, but was highlight the Murphy's Lane instances.

Motion made by Comm. Tickey to keep the public hearing open and continue it until November 13, 2018 with the particular restrictions of continuation for the legal opinion of Corporation Council and rebuttal of the applicant with limited subject matter, seconded by Comm. Kelly. On a voice vote, the PZC unanimously voted to keep the public hearing open and continue it until November 13, 2018 with the particular restrictions of continuation for the legal opinion of Corporation Council and rebuttal of the applicant

with limited subject matter for Appl.#18-15.

Comm. Harger: Next on the Agenda is Application #18-17, Calandro and Guerrera, LLC for Initial Development Plan Development Approval and PDD Zone Change (five (5) story mixed-use development: 27 residential units and commercial) 509 Howe Avenue, (Map 129D, Lots 27 and 29). Will the Secretary please read the call of the hearing?

Comm. Matto: Application #18-17, petition of Calandro and Guerrera, LLC for Initial Development Plan Development and Zone Change Approval for property located at 509 Howe Avenue and identified as Assessor's Map Map 129D, Lots 27 and 29, encompassing an area of .44 acres. The proposed PDD is generally bounded and described as follows: Southerly by Howe Avenue a distance approximately 152 more or less. Westerly, by property now or formerly of 636 Cook Street, LLC, a distance approximately 100 feet more or less. Northerly, by property now or formerly of SHH Properties LLC, a distance of approximately 228 feet more or less. And Easterly by White Street and property now or formerly of Grant's Corner LLC, a distance of approximately 185 more or less.

The Initial Development Plans are Titled Calandro and Guerrera, LLC, 509 Howe Avenue, prepared by Mingoello and Associates Architect dated 4/11/18 and NLK Associates Land Surveying and Engineering dated 6/4/18 and revised to 6/6/18. Along with the submission of the Amended and Restated Statement of Uses and Standards. The intent of the PDD is to accommodate the construction of a five-story addition to an existing commercial building identified as 509-517 Howe Avenue, former Shelton movie theater for a mixed-use development containing 27 apartment units and commercial uses supported with onsite parking. Site is served by municipal sanitary sewers and public water. Said petition is on file with city Town Clerk's office and the Planning and Zoning office. And said herein all persons will have the right to be heard and written communications will be received.

Comm. Harger: Thank you, Commissioner Matto. Any correspondence?

Comm. Matto: Okay. The first letter is from Robert Kulacz, P.E. City Engineer, dated September 25, 2018 to Mr. Schultz. (See attached). And the second letter is from James Tortora, Fire Marshall dated September 25, 2018 to Mr. Schultz. (See attached).

Comm. Harger: Thank you, Commissioner Matto. Attorney Bellis, how long do you think your presentation will be?

Attorney Bellis: I do understand that it's late. I'm going to be very quick. I have the letter that I sent to the adjoining property owners within the radius, and the radius map with all their names and the certified green cards. We posted the sign and I have a photograph of it.

This is a PDD, its Initial Concept Plans and that within Section 8-3A, you have a proposed zoning change like this, you have to find that our proposal is consistent with the plan of development and conservation and that's our 2006 plan. I have been going through that plan can tell you that it is consistent and I'll give you four or five reasons, which you can pick a few of them. It promotes economic development in additional tax

revenue. These kinds of buildings attract mostly single people and they're not going to have too many school children, if any. So, the town just gets taxed dollars. It promotes mixed-use development and multifamily development with housing within walking distance to shopping and transportation. That's a goal plan of the conservation development. It provides for housing diversity, obviously apartments as opposed to single family. And it encourages development of downtown. Obviously, that's one of the big things. So, I think that you can agree that the proposed PDD does meet and is consistent with the plan of conservation and development.

Now going right to the PDD, let me just point out that this property allies in the central business district, special development area, and what that means is that you can have a track of land that is smaller than another PDD. So, this track of land is 19,304 square feet and all it has to be is 10,000. The maximum building coverage does not exceed the 60 percent so, we're okay there. Again, since it's in this special c and d special development area, we can change the maximum floor area and we've proposed 220 percent. The height of the building is 12 feet for the retail and then it's 10 for the residential floors. So, it comes out to about 52 feet for the living area. I'll let the engineer and the architect go over because there may be a little bit of a stair tower.

Comm. Pogoda: Is the total height of the building 52 feet?

Attorney Bellis: 62 feet of the entire building. The living areas, five stories from 12, 10, 10, 10 above the grade. The PDD is serviced by public water sewers so now let me go through a little bit with us and then I'll call the experts. As I said to you, we submitted an Initial Concept Plan and a Statement of Uses and Standards and I think that we meet all the regulations under Section 34. The projects have been designed for parking on site. I think it's safe for intended uses. It has access both on Howe Avenue and on White Street. There are going to be 27 residential units, 35 on-site parking spaces and of those, 18 spaces or underground, 17 are on the street level, and then there's an additional seven right in front of the building.

Comm. Harger: Attorney Bellis, are you talking about street parking for the seven in front of the building?

Attorney Bellis: Yes, that's not on the property. That's off-site.

Comm. Widomski: So, onsite do you have 35?

Attorney Bellis: Onsite 35, offsite, seven in front of the building, and then there's 30 within 350 feet municipal parking.

Comm. Pogoda: You can't legitimately call those parking spaces.

Attorney Bellis: No, I'm just telling you what's offsite. I'm just trying to tell you how many cars can fit there. The sewer and storm management are adequate and does not over burden the facilities. I've spoken with the WPCA and they have sufficient capacity and their sewers right here on White Street. We will be submitting a letter to this Planning and Zoning Commission if you look through to approve the Initial Concept Plan. I'll give it to staff and we'll have an approval of the WPCA.

So, we will submit the letter from WPCA, but there's no issues with capacity and there's no issue about where the sewer location is. I also spoke to John Cook at Wetlands and there's no regulated activity and no upland review. The proposal will not have a significant adverse impact on the surrounding properties. There're already existing

commercial tenants on both sides. We don't anticipate any ecological or environmental concerns. And lastly, I don't think that another zoning district could appropriately be established to accomplish the purpose that we're doing. That's to retain the existing building that's there. And then to add onto it and create a mixed-use development retail on the bottom and apartments on the top. So, I'm going to let architect Joe speak to this Commission.

Comm. Harger: Attorney Bellis, just to clarify, if this was to be approved, would the existing building be coming down?

Attorney Bellis: No, the answer is no.

Joe Mingoello: Good evening. Joe Mingoello of Mingoello & Associates Architects, office located here in Shelton. Let's start with the property lines first. Property line runs around here, here, here, here, wraps around like that. This is White Street. So, we'd have access to our site, via White Street here, and we can also come in on Howe Avenue. So, this is the longest level and we've got parking under the building from White Street. So, we would access White Street alleyway here into parking and we have 18 parking spaces under the building. Get out of your car and then we have a lobby space elevator lobbies, stairs that picks you up through the grade level, and there's a mechanical space here.

Also, at this level, you come to pick up the garbage, you come in White Street along here. And we have a trash compactor in here. Exit stairs here. This is the one building that's going to remain. The next level up, which is Howe Avenue and you come in here. This is pretty much where the cut is now a, you drive in here to the line of the building is here or a new edition. Okay. We can drive in under the building and we have parking here. We have parking outside the building and a walk through this property. This is the lobby space here, so you can enter here and take the stairs or elevator up to the upper levels. This is the two commercial spaces and both of these retail spaces are 1,328 square feet. Also, for the retail, for the trash and the trash room right here. It's also a stair here.

This is the residential floor plan, the first-floor plan, here's your stair and I'll show you an elevation or a rendering of that. We have a studio apartment here, one bedroom, one bedroom's here, and a two-bedroom tucked into the corner. This is a common area. Okay. We have a laundry room or basically a community laundry, some tenant storage. So, that's that level.

And this is level two, three and four and they're all the same elevator lobbies, space, along here. We have a studio, one bedroom, three, one bedroom here and to a two bedroom here and a two bedroom here. Okay. And trash, stair, exit stair.

Comm. Pogoda: Joe, is there a laundry room there too?

Joe Mingoello: No, you'll come down to the main level. Okay. In that common area you had the laundry room.

Comm. Pogoda: How many laundry machines?

Joe Mingoello: There are quite a few.

Comm. Harger: Six.

Joe Mingoello: So, let's see, one, two, three, four, five, six. So, there's six washers, dryers. So that's quite a bit. This would be a common area with tv. You have your clothes washing and watch tv, football games on so forth.

Comm. Widomski: How many apartments?

Joe Mingoello: The total is twenty-seven.

Comm. Pogoda: Are the machines paid for?

Joe Mingoello: Yes, they are.

Comm. Widomski: How many one-bedroom apartments are there?

Joe Mingoello: There's a total of four studios. Sixteen one bedrooms and seven, two bedrooms and total are twenty-seven. The elevations. This is the existing building to remain. There's a studio and this is our new building. This is the retail. This is the entrance to the stair tower. This is the South elevation. This is the existing building up over that. And this is the North elevation and insurance for the lobby. This wraps around under the building. The buildings clad in brick, glass, and asphalt shingle roof here, dormers.

Elevation for Howe Avenue. This is our stair tower in residential and side stories. One, two, three, four, five, fifth when built into the roof, very similar to the Pierpont which is across the street, which is also five stories and that fifth stories built into the roof. This is the access to the underground as the under-building parking on that side. And we put some planters, a canopy out here. Signage for the retail. Retail entrance here. Signage, lighting.

I did get a letter, an email from Rick, and I guess the architect, Jason Williams, I guess he'd been hired by the city to comment on work being done downtown. He got back to us and these are the likes and dislikes. And I taught it was all positive. He likes to the roof system and style dormers, the large glass atrium space, but they'll be decorative lighting inside and he's got a color scheme that he actually submitted it to us. He likes the overall weight and building structure is a positive mixed-use component. Signage size was another positive and brick on the building would consider a stair feature and another material on go over that. So, he likes all of this. This is positive.

I guess his dislikes were a thin brick, horrible around the windows. Uh, it's articulated, it really was. We will use the same brick and what they call a stack bond and just basically picture frame the window in the same material, but creating a frame around it. We are never in the random, turned out to be a different color and it's protruding out. We would just go ahead and just picture frame. There are elevations, indicators, so picture frames that.

Comm. Harger: Could you explain is that brick?

Joe Mingoello: Yes, it's all brick. Grey, this is a dislike. Grey window panes in the atrium and can they be black? Downtown is becoming too brown. Okay. I'm considered a red brick with grey horizontal board. I'm going to stair feature. See attached sketch.

Consider a different color of the grey windows. So, what his little sketch indicated and I thought they were pretty positive. Red brick, which would have no problem doing. Okay. What he would you like us to do in the sketch, I don't know if everybody got this. Okay.

He's articulating the whole stair tower in a different color and different material. And I don't mind. I think that could be very attractive.

Comm. Harger: How reliable is the coloring on that?

Joe Mingoello: What we do is at final development plans is that we would rework our rendering. because the color of that.

Comm. Widomski: So, the antique brick is going to match more of the downtown?

Joe Mingoello: Yes, right, absolutely.

Comm. Harger: The one thing that I thought stuck out is the dark being too dark and that's why I was concerned about the how the colors are coming out.

Joe Mingoello: I mean I like the idea of the black frames for the glass, but I mean if it's going to be a gray, I think it needs to be a traditional art grade that matches the brick. You'd have to color coordinate those two and I think with the black canopies that could have this whole tower can be very attractive. I love the idea of the artwork inside because it becomes street art. Okay. Light up the tower, create some artwork and that could be just a terrific element. I mean he actually sent this picture and this is what he was talking about.

Attorney Bellis: He calls it a mural.

Joe Mingoello: Are there any other questions about the rendering?

Comm. Matto: Yes, to the right is that the movie theatre?

Joe Mingoello: Yes, that's correct.

Comm. Matto: So, are those low buildings going to come down?

Joe Mingoello: Yes, that's correct.

Comm. Harger: Are you talking about the low buildings that are going to be taken down?

Joe Mingoello: Yeah, those are the buildings we are talking about.

Comm. Harger: The buildings to the left of Dee's Kitchen.

Joe Mingoello: This building right here. This is the body building. Okay. So that's there. What we've done is this driveway for the body building and other driveway is over here. We're going to create a planting bed. The length and depth of the property and two feet on their side and two feet on this side and we'll plant that whole thing.

Comm. Harger: So, what's that apartment complex per floor? How many studios?

Joe Mingoello: There are four studios total. One on the first floor, there's just one. And then each floor above has one studio. So that's a total of four studios. 16 one bedroom.

Comm. Harger: How's that?

Joe Mingoello: The first floor has four one bedrooms, one two bedroom and one studio.

Comm. Harger: Yup. Right.

Attorney Bellis: The second, third and fourth are all the same.

Joe Mingoello: The second, third and fourth have one studio and one, two, three, four, one bedroom and two, two bedrooms. That's the total per foot.

Comm. Harger: Okay. What else do you have?

Joe Mingoello: That's it.

Comm. Widomski: Comm. Harger, do you have the picture with the art stuff in there? I think you should do it like the Salesforce building in San Francisco.

Comm. Harger: My concern is with the two glass corner walls. Can the two window walls be reduced by column each. Yeah.

Joe Mingoello: And just had this little skinny window?

Comm. Harger: No, not one skinny window. You've got four in the front and five on the side. To me the building is too massive. Too big. I'd like to see a residential floor eliminated.

Attorney Bellis: We can't hear you Commissioner Harger.

Comm. Harger: Yes, you did.

Commissioners: Laughter

Attorney Bellis: This is only an Initial Concept Plan.

Comm. Harger: Good.

Attorney Bellis: So, I know you have details. I'm just trying to get the zoning change and then you know I'm not avoiding your question.

Comm. Panico: Well, but it has an impact on the number of units they do whatever the effect on the tremendous.

Comm. Tickey: Yeah, I do agree with the building height and that's something we've talked about in the downtown subcommittee about the height of the buildings.

Joe Mingoello: They're all in relation. It's not like it's the tallest building, Pier Pont, across the street is the same height and that has really come up.

Comm. Kelly: How tall is the bridge?

Joe Mingoello: It's taller than the bridge project.

Comm. Kelly: That's five stories.

Joe Mingoello: The difference between their project. Okay. I mean it's, it's brick and stucko all the way up to that.

Attorney Bellis: The heights the same.

Joe Mingoello: The height, the height is the same and the number of units. But at least we've created a roof here, so, you're feeling like you're building into the roof plane. When you look at this visually. You would compare the two. This will be shorter than their building.

Comm. Harger: I do not want to see canyons downtown.

Comm. Matto: Do we have a height rule?

Comm. Harger: Yes, we do.

Joe Mingoello: What is it?

Comm. Kelly: 60 feet.

Joe Mingoello: We're under that.

Comm. Kelly: You're 62, aren't you? From the rear?

Attorney Bellis: Plus, or minus two. You didn't hear that? That can change the elevation. Depends on where you measured from.

Commissioners: Laughter.

Comm. Harger: What about the town?

Joe Mingoello: No, I'm just talking about this from here to here is a 64 less 8 so you're at 56 feet.

Comm. Harger: What about the tower? It's part of the building.

Joe Mingoello: It's an articulation is like a copula.

Comm. Widomski: I don't like the tower.

Joe Mingoello: That's the nicest part of the whole thing.

Attorney Bellis: The whole tippy thing?

Comm. Widomski: No, I don't like all of the glass.

Comm. Harger: I'm not saying to take off the tower.

Comm. Widomski: Even with the art thing? I mean I just said Commissioner Kelly, I said you got the white floors and staircases. And if you can paint the underside of the staircases.

Attorney Bellis: He's going to do a mural.

Comm. Widomski: Or I'm saying to project something onto the windows like they do on in San Francisco on the Salesforce buildings. That would look cool.

Joe Mingolello: To project something on the windows?

Comm. Widomski: Yes, something like the Salesforce Building in San Francisco. Go home tonight and Google the Salesforce Building.

Attorney Bellis: It's a similar concept where it's something on the glass.

Comm. Widomski: Go google it. It's pretty good. It's actually pretty cool.

Attorney Bellis: But again, we are coming back guys. Commissioner Harger, we are coming back. I had the engineer here. We're almost done. So, there should be no traffic issues as far as congestion because of the traffic control signal at White and Howe. It was already explained. I just want to show where the sewers are and the landscape. We have a landscape plan and a lighting plan and it's all in the package.

Comm. Harger: Can I have everyone's attention?

Attorney Bellis: We'll be really quick.

Alan Shepard: For the record, it's Alan Shepard, Professional Engineer, from Nowakowski, O'Bymachow, Kane & Associates (NOK), 415 Howe Avenue, Shelton, Connecticut. So, as were talking about as far as the plan, there will be parking off of Howe Avenue, which is pretty similar to the parking now. Just be shifted around in the back of the building. Then we will have some access to White Street which will have 18 parking spaces down below. The nice part about this is that we do have access to White Street and that allows us to take care of utilities, water, sewer. Right now, there is a driveway there right now. We'd be widening it and curb line official along there. So, a lot of our construction work will be coming in the back.

The impact on Howe Avenue is going to be similar to what it is right now. I do provide, you know, the properties basically paved right now. We've put storm water detention in, as a benefit with an oil separator for the upper outside parking lot.

Comm. Harger: Does anything like that exist now?

Alan Shepard: Technically, it's all paved for right now. So, I could say there's no increase in runoff. We wanted to because it's paved, but we're asking for a zone change here. I figured throw something in there that's, you know, we should clean up well above oil separator will have detention. Just helps out to drainage down below. We're improving it.

Attorney Bellis: The answer is yes, there is nothing that like now.

Alan Shepard: It's an improvement. The grades are going to hold pretty much that are there right now. We're just taking it out and putting the building in. So, there's nothing really exciting about the site plan other than what you see right now. It's going be fairly similar to what you see later on as far as grades and stuff like that. Obviously, the building will be bigger on top. But other than that, the grades in the back are going to be the same. Obviously, we're locked into Howe Avenue and their sewer lines. Our work is going to storm drains back. So, we're not going to interfere.

Comm. Widomski: Which one's the movie? The old movie theater they're dealing with.

Comm. Harger: What are you planning for the Southside? This wall, what are you doing with the window affect?

Joe Mingolello: The widows are on the elevation of that South building.

Attorney Bellis: So, obviously, you know what we're asking for. We're asking for a PDD Initial Concept Plan and that you close the public hearing unless there's any questions or if any opposition.

Comm. Harger: I would recommend that we keep this open until October 9 to give the Commissioners time to digest this, and put it on the Agenda to discuss this.

Attorney Bellis: But we got most of the bulk of this in anyway.

Motion made by Comm. Pogoda for the continuation of the public hearing and to keep it open until October 9, 2018 for the Initial Development Plan Approval and PDD Zone Change, seconded by Comm. Widomski. On a voice vote, the PZC unanimously voted to for the continuation of the public hearing and to keep it open until October 9, 2018 for the Initial Development Plan Approval and PDD Zone Change for Appl.#18-17.

Comm. Harger: Ladies and Gentlemen, we're not done with this meeting. The last item on the Agenda has to do with Application 18-20. Highland Golf Club of Shelton for Final Subdivision Approval (3 lots), 261 Wooster Street, (Map 128, Lot 78). This is under Old Business and there was a letter received from the applicant.

Richard Schultz: The municipal sewers are not available and they need onsite septic.

Comm. Harger: There was communication from Mr. Swift. In light of the letter from the city engineer, we request the Commission table our application after this meeting. The contract purchasers of the lots have decided it will be much more expedient to just designed a septic system and we have already made the testing appointment with Naugatuck Valley Health Department. I will then submit the new plan to them and expect a review of the design prior to the Planning and Zoning meeting October 9.

Motion made by Comm. Pogoda to table Appl. #18-20 until October 9, 2018, for Final Subdivision Approval, seconded by Comm. Matto. On a voice vote, the PZC unanimously voted to table Appl. #18-20 until October 9, 2018 for Final Subdivision Approval.

Motion made by Comm. Pogoda, to adjourn, seconded by Comm. Kelly. On a voice vote, the PZC unanimously voted to adjourn at 10:45 p.m.

Respectfully submitted,

Sarah Vournazos, Recording Secretary