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PLANNING COMMISSION
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MINUTES
MARCH 19, 2014

The regular meeting of the Planning Commission was called to order by Chairman Arnold Finaldi Jr. at 7:32 PM.

Present were Fil Cerminara, Helen Hoffstaetter, Joel Urice, Arnold Finaldi Jr. and Alternate Robert Chiochio. Also present was Associate Planner Jennifer Emminger.

Chairman Finaldi seated Mr. Chiochio for the vacant seat left by Mr. Keller's resignation.

Mr. Urice said there was a minor correction on page 5 of the February 5th minutes. He added that he had let the secretary know and it was corrected. He then made a motion to accept the corrected February 5, 2014 and also the January 25, 2014 minutes. Mr. Chiochio seconded the motion and it was passed unanimously.

Chairman Finaldi said first he wanted to remind everyone to please use the microphones. And second, he wanted to note that the April 2, 2014 meeting is the only meeting scheduled in the month of April due to Passover. He then said two items on tonight's agenda will be tabled: the Continuation of Public Hearing for Pondview Estates and the second item listed under Referrals.

PUBLIC HEARING

Randhawas Corp. Inc. -- Application for Revised Special Exception/Revised Site Plan Approval (1) for uses generating over 500 vehicle trips per day and (2) allow Fast Food Restaurant ("Mobil Service Station Expansion") in the CG-20 Zone -- 40 Backus Ave. (#F17007) -- SE #425.

Mr. Urice read the legal notice. Attorney Paul Jaber introduced their traffic engineer, Michael Galante from Frederick Clarke Assoc. and the project engineer, Dainius Virbickas PE from Artel Engineering. He said the applicant, Tony Randhawa is also present. Chairman Finaldi said the Planning Dept. staff report as well as the traffic report was e-mailed to the Commission members.

Attorney Jaber said this site is located at the corner of Backus and Kenosia Aves. The current operation includes a gas station/convenience store and car wash. The gas station includes twelve pumps (eight in front and four in the rear). The four rear pumps will be eliminated as part of this proposal; the convenience store will remain the same. There is a third business known as "Deli Express" that serves pre-packaged

to-go foods. He submitted photographs (Exhibit A) saying they currently serves two hundred plus or minus meals above and beyond what the other businesses do. He added that this will be eliminated if the fast food is approved. There is also a carwash which is totally self-service; there are no additional employees. Mr. Urice asked if elimination of the "Deli Express" could be a condition of approval. Attorney Jaber said if the fast food is approved, that would be fine.

Dainius Virbickas, PE, Artel Engineering Group said the proposed changes will be elimination of the four fueling stations and a 1,900 sq.ft. addition to the existing convenience store. He said the building is currently served by City sewer and water; they will install a grease trap which is required by the Public Utilities Dept. They do not need to make any changes to the store drainage; everything rolls to catch basins at the corners of the site and out to Backus Ave. There will be a drive-thru on the northeast side of the building which will require at least 100 linear ft. of stacking from the window. He added that there is adequate room for double that amount. There will be no changes to the car wash, which has a ten vehicle stacking distance. He said there is a bypass lane between the car wash and the drive-thru area. There are twenty-one parking spaces provided on the site. They plan to increase the landscaping on the front corner to provide protection for the four parking spaces there. They are relocating the trash enclosure to put it out of site. Mr. Cerminara asked if they would have another curb cut by the car wash instead of directing traffic back out to front. Mr. Virbickas said no, because they felt it would be better and more controlled to keep traffic flow to the front. Ms. Hoffstaetter asked what kind of signage they will have so people understand when they come out of car wash that they have to turn right and follow the extra lane around. Mr. Virbickas said there will be right-turn only sign coming out of car wash.

Michael Galante, Frederick Clarke Associates, said he prepared the traffic report. Said there are two driveways each on Backus and Kenosia, the proposal is to close one of the Kenosia driveways. All signage will be upgraded to the current world accepted signage. He said they focused on the two signalized intersections and the driveways into the site when they did the traffic counts. Traffic generation is based on the number of gas pumps; normally the traffic would be reduced due to the removal of four pumps, but it gets added back in because of proposed fast food. There is a net increase of about thirty trips (fifteen in and fifteen out) during one hour. The net increase is very small because they can take credit for taking the pumps out. He said they made a recommendation to City traffic engineer to modify the existing signals so as to reduce delays and these will be incorporated into future timing changes. The traffic impact that this proposal will have is insignificant because this roadway can accommodate the additional thirty trips. They looked at the accident history for past three years; there were no accidents at Red Lobster light and five accidents at the Backus/Kenosia intersection. Of these five, there were no bodily injuries, just property damage; so accident history is not a concern. Mr. Urice asked if the access/egress is properly configured now. Mr. Galante said the existing conditions are somewhat uncontrolled due to amount of pavement but it is adequate. Mr. Urice asked what maintenance plans are included for the grease traps. Mr. Virbickas said the grease trap is actually for the fast food restaurant and that schedule is set by Public Utilities.

Toufic Chartouni, 54 Kenosia Ave. said he has known the applicant since 2005 and he runs a good business, keeps the site clean and controls the traffic. He added that he has never had any problems with him as a neighbor.

Chairman Finaldi asked if there was anyone to speak in opposition to this application and one person came forward.

Paul Rotello, 13 Linden Place, City Councilman for 6th ward, said this intersection is in the middle of his ward. He said he does not have specific issues with project; food service in this area does well. The site plan is a fairly decent design and he is glad they are removing pumps and cutting back on the existing food service business. He said he is hopeful that the additional trips will offset the loss endured by removal of the gas pumps. He questioned if this will have impact on firehouse adding that he would like to hear from Chief Herald. He said exiting the site is not an issue; it is the westbound traffic waiting to enter the gas station that is the problem. He said it is not bad for people going to the Mall or businesses in this area, but his concern is for people just trying to get through this area. He said he would like to see the people be forced to enter the site from the Kenosia Ave. driveway.

Mr. Galante spoke in rebuttal to Mr. Rotello's comments. He said the traffic signal has video detection built in to let the signal know when to bring up the green arrow. He explained saying there is a pre-emption when the fire truck leaves fire house, so the signal will change to green as the fire truck approaches it. He met with the City traffic engineer at the driveway of the site and the volume of traffic turning left into driveway was not high, so they agreed it is better to leave it that way. There was lot of discussion on that issue before traffic study was prepared. Mr. Urice pointed out that even if they close that entrance, it only moves the stacking traffic up to the next intersection. Mr. Galante said there is only a one car difference which is why they decided to leave it as it. Mrs. Emminger said she had received comments from the City traffic engineer today and his conclusion is that there will be no impact. She said they are still waiting for Police Chief, and the Fire Marshal's comments, but neither of them sees any issues regarding fire trucks getting through this intersection or access through the site. Mr. Urice suggested that they could give staff guidance this evening. Mr. Urice made a motion to continue the public hearing. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

CONTINUATION OF PUBLIC HEARINGS

Elizabeth Healy & Knapp Family Land Mgmt. Rev Trust. -- (1) Application for Waiver to Chap. 4, Sec. B.9.2. of the Subdivision Regulations, and (2) Application for twelve (12) Lot Subdivision ("Pondview Estates") of 38± acres in the RA-80 Zone -- 95-97 King St. (Portions of B06006 & C06121) -- SUB #14-01.

At the request of the applicant's Attorney, this matter is tabled for tonight.

OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION

Estate of Richard E. Molari -- Application for two (2) lot Subdivision of 6.15 acres in the RA-80 Zone -- 145-149 Brushy Hill Rd. (#J20037) -- SUB #14-02.

Mrs. Emminger distributed the draft resolution. She said revised plans were submitted this past Monday and have been forwarded to the Engineering Dept. She added that all of her comments have been resolved and this resolution is very straightforward. It is conditioned to satisfy the Engineering Dept. letter dated 2/27/14, they must convey land to the City for future road widening, and the stone walls must be removed prior to the Zoning Compliance being issued. Ms. Hoffstaetter made a motion to approve this per the draft resolution. Mr. Cerminara seconded the motion and it was passed unanimously.

109 North Street LLC -- Application for Special Exception/Site Plan Approval for Fast Food Restaurant generating over 500 vehicle trips per day -- 109 North St. (#I11012) -- SE #734.

Mrs. Emminger said the members should have received a draft resolution from her. She reviewed the conditions contained in the resolution noting that it contains the same condition regarding the traffic signal as the Caraluzzi resolution did. She said the Police Chief's comments were received after the hearing was closed and he expressed some concerns. One of them was that he suggested no right turn on red, but Mrs. Emminger said that was discussed during the hearing and it was established that DOT would make that determination. Mr. Urice said he is reluctant to vote in favor of this if that is not included. Chairman Finaldi said it is a legitimate issue but this report arrived after the hearing was closed so the applicant cannot respond to it. He added that a professional traffic engineer presented several hours of testimony, so the Commission did look at this issue. He said they could recommend it but they cannot make it a condition and the DOT will make the ultimate decision. He added that this is an unusual situation where the Police Chief disagrees with the City Traffic Engineer, who is the City expert. Mrs. Emminger said the City Traffic Engineer will have significant input on the signal. Chairman Finaldi said he does not think it is right to include the Police Chief's comments since the applicant's traffic engineer did not have the opportunity to comment on them. Ms. Hoffstaetter said she assumed the businesses could be open while the road work is going on but Mr. Urice said the Chief's letter requests that the business not be opened until all of the DOT improvements are in place. Mrs. Emminger said the applicant's engineer and the City traffic engineer had agreed that the applicant would install the traffic signal and allow the fast food restaurant to open. Chairman Finaldi said the applicant was hoping to move this project forward by offering to install the signal. He then questioned if the Chief had access to all of the information presented during the hearing process. Mrs. Emminger said the State will control the signal so they don't approve the applicant's plans, then the applicant will have to come back to the Commission. Chairman Finaldi said this is not the time to be debating the traffic issues. Mr. Cerminara said he does not think they should make any additional requests at this time other than "no right turn on red and a northbound left turn arrow". Chairman Finaldi said they can direct Mrs. Emminger to add the language so that the City traffic engineer will have this when he works with the DOT. Ms. Hoffstaetter made a motion to approve this per the resolution subject to the additional language as stated by Mr. Cerminara. Mr. Cerminara seconded the motion and it was passed with four AYES and one NAY (from Mr. Urice).

REFERRALS

8-24 Referral/March 2014 City Council Agenda Item #7: Community Sewerage System Agreement for Jensen's Lakeview Community.

Mrs. Emminger referred to Mrs. Calitro's report which explains that the Superintendent of Public Utilities has agreed to enter into a Community Sewerage System Agreement with Jensen's Inc., the mobile manufactured housing community located on Christopher Columbus Blvd. This community consists of 182 homes and accessory buildings. They have proposed to install and operate a sewer collection system which will discharge to the Danbury sewer collection system. This agreement is required by the DEEP application to register the discharge of domestic sewage into a municipal system. This community has had problems with their septic systems for many years and since it is located within the Proposed Sewer Service Area as shown in the POCD, both the Planning Dept. and Public Utilities support this proposal. Mr. Urice made a motion to give this a positive recommendation subject to the standard conditions: submission of all plans and documents required for acceptance/conveyance in form and content acceptable to the Engineering Department and the Office of Corporation Counsel prior to recording on the Danbury Land Records. Mr. Chiochio seconded the motion and it was passed unanimously.

8-24 Referral/March 2014 City Council Agenda Item #8: Expansion of City Sewer Service Area -- Great Plain & Great Meadow Rds.

Mrs. Emminger referred to Mrs. Calitro's report which requests that the Commission table this item until more information is received. Mr. Urice made a motion to table this. Mr. Chiochio seconded the motion and it was passed unanimously.

8-24 Referral/March 2014 City Council Agenda Item #9: Sidewalk Easements for 42-46 Beaver Brook Road.

Mrs. Emminger said the only comment in the report is that the map needs to be amended. She said there was a site plan approval in place for this property when Mr. Coffey bought it. He has done the building and is now trying to finish everything up. Mr. Cerminara made a motion to give this a positive recommendation subject to the submission of a revised map that deletes the comment "for future road widening". Also all of the standard conditions are to be included: all documents are to be reviewed and approved by both the Engineering Dept. and Corporation Counsel's office prior to recording on the Danbury Land Records. And as pointed out in the report, the applicant should be sure the proper address is used on all documents. Mr. Chiochio seconded the motion and it was passed unanimously.

NEW BUSINESS

8-3a Referral -- Petition of Dev Patel to Amend Sec. 5.F.2.b. of the Zoning Regulations. (Add "Hookah Bars" as a Special Exception use in the C-CBD Zone). Zoning Commission public hearing scheduled for May 13, 2014.

8-3a Referral -- Petition of J.A.R. Associates, 1-7 South St. (#K16161, #K16159 & #K16158) for Change of Zone from IL-40 to RMF-4. Zoning Commission public hearing scheduled for May 13, 2014.

Cotswald of Danbury -- Application for Special Exception/Site Plan Approval to allow cluster development ("Heatherwood Acres") in the RA-20 Zone -- Padanaram Rd. (#F07052) -- SE #735. Public hearing date to be announced.

Chairman Finaldi said all of these applications are on file in the Planning & Zoning Office.

OTHER MATTERS FOR DISCUSSION & POSSIBLE ACTION

Randhawas Corp. Inc. -- Application for Revised Special Exception/Revised Site Plan Approval (1) for uses generating over 500 vehicle trips per day and (2) allow Fast Food Restaurant ("Mobil Service Station Expansion") in the CG-20 Zone -- 40 Backus Ave. (#F17007) -- SE #425.

Mrs. Emminger reminded the Commission that they were going to give her guidance regarding what they want to do with this application. Mr. Urice said assuming that the City Traffic Engineer and the Chief of Police concur, he has no problem with this. He said if they do not agree; he reserves the right to change his opinion. Chairman Finaldi said he is very familiar with this site as his office is located very close to it. He added that there is plenty of room to move around and he has never had any problem getting in or out. Ms. Hoffstaetter said this does not appear to be that much of a change and as long as the fire trucks can still get through the intersection, she has no problem with this either.

Chairman Finaldi said listed under For Reference Only were the revised Floodplain Permit for 40 Backus Ave. and the public hearing scheduled for the April 2, 2014 meeting.

At 9:00 PM, Ms. Hoffstaetter made a motion to adjourn. Mr. Urice seconded the motion and it was passed unanimously.