



**CITY OF DANBURY**  
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PLANNING COMMISSION  
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**MINUTES**  
**FEBRUARY 1, 2023**

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The web-based meeting hosted on Zoom was called to order by Chairman Arnold Finaldi Jr. at 7:35 PM.

Present were Robert Chiochio, Helen Hoffstaetter, Perry Salvagne, Alternate Kevin Haas, and Arnold Finaldi Jr. Also present was Deputy Planning Director Jennifer Emminger and Associate Planner Allie Smith.

Chairman Finaldi asked Mr. Haas to be seated for the vacant regular seat for the entire meeting.

Mrs. Hoffstaetter made a motion to accept the January 18, 2023 minutes. Mr. Salvagne seconded the motion and it was passed unanimously by voice vote with five ayes (from Mr. Chiochio, Mrs. Hoffstaetter, Mr. Salvagne, Mr. Haas and Chairman Finaldi).

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**FOR DISCUSSION AND POSSIBLE ACTION:**

**Discussion & Possible Action on the proposed Capital Improvement Plan FY 23/24 – FY 28/29.**

Mrs. Calitro said the following documents were provided to the Commission members: a one-year Capital Budget for FY 23/24, the complete Six-Year program through 28/29, and a list of Unfunded Projects for FY 23/24. She said the various Departments submitted their requests and projects identified as being potentially eligible for use of a portion of the City's allocation of American Rescue Plan Act (ARPA) funds are noted in the Capital Budget and the Six-year Program, with proposed amounts shown on the Six-year Program in FY 23/24. She explained that use of these funds will require subsequent vetting and approval by the Mayor, City Council, and a public process and projects must meet the eligibility requirements of the Department of Treasury. Additionally, projects in categories which may be eligible for use of any funding from the Infrastructure Investment and Jobs Act are subject to eligibility requirements. She said in accordance with the City Charter, the Planning Department is responsible for coordinating City department requests for capital

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improvement projects and preparing the CIP for approval by the Planning Commission. These documents represent a six-year program for the expenditure of funds on capital projects for the purpose of conserving resources and promoting the orderly development of the City. Each year, the Capital Budget is reviewed and the Capital Budget and Six-Year Program revised as necessary based on project priorities and funding. Although the CIP is separate from the Departmental operating budgets, it is an integral part of the Mayor's proposed budget that he presents to City Council for the next fiscal year. She said the funding for these comes from the following sources: (1) General Fund Capital, (2) New bonds that must be authorized, (3) Notes to be issued, (4) LoCIP funded projects, (5) CDBG (Community Development Block Grant) funds, (6) State and/or Federal Grants or projects funded by State agencies, (7) Enterprise Funds which are supported by user fees, and lastly (8) ARPA potentially eligible projects. She said the complete six-year program includes the proposed expenditures for FY 23/24 as well as all projects as requested by the various departments and enterprise funds.

Mr. Salvagne made a motion to approve the Capital Improvement Plan as presented by the Planning Director. Mrs. Hoffstaetter seconded the motion and it was passed unanimously by voice vote with five ayes (from Mr. Chiochio, Mrs. Hoffstaetter, Mr. Salvagne, Mr. Haas and Chairman Finaldi).

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CONTINUATION OF PUBLIC HEARING:

Sugar Hollow Associates LLC - Application for Revised Special Exception/Revised Site Plan Approval for "The Shops at Marcus Dairy" for (1) new stand-alone fast food restaurant [Sec 5.A.2.b.(16)] with Drive-Thru Window [Sec. 3.E.8.] and (2) Cumulative Trip Generation in excess of 500 vehicle trips per day [Sec. 3.E.2.] in the CG-20 Zone - 5 Sugar Hollow Road & Backus Avenue (G17002) - SE #663.

PE Dainius Virbickas from Artel Engineering, spoke in favor of this application. He said at the previous meeting, there were still some items left to be addressed. He said they are waiting for approval from the Federal Aviation Administration (FAA) and their surveyor is working on an updated survey. He said they also had received a positive report from the Airport Administrator Michael Safranek. Lastly he said they have submitted updated drawings this afternoon which show the new light poles. He asked Attorney Neil Marcus if he had anything to add. Attorney Marcus said that he believes that they have addressed all of the comments.

Chairman Finaldi asked if there was anyone to speak in opposition to this application and there was no one.

Chairman Finaldi asked Mrs. Emminger if they could close the hearing. Mrs. Emminger said they really only are waiting for is the obstruction analysis from the FAA. She added that it could be received after the public hearing is closed. She reiterated that they are also

waiting for the updated survey of the site. Chairman Finaldi said the open items are more timing issues rather than deal breakers, so they can close the hearing.

Mr. Chiocchio made a motion to close the public hearing. Mrs. Hoffstaetter seconded the motion and it was passed unanimously by voice vote with five ayes (from Mr. Chiocchio, Mrs. Hoffstaetter, Mr. Salvagne, Mr. Haas and Chairman Finaldi). Mrs. Hoffstaetter made a motion to move this to item #2 under the Old Business on tonight's agenda. Mr. Salvagne seconded the motion and it was passed unanimously by voice vote with five ayes (from Mr. Chiocchio, Mrs. Hoffstaetter, Mr. Salvagne, Mr. Haas and Chairman Finaldi).

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OLD BUSINESS FOR DISCUSSION AND POSSIBLE ACTION:

Ye Olde Road LLC – Application for Special Exception/Site Plan Approval for Proposed Commercial Building for Storage of Building Materials & Construction Equipment and Outdoor Storage of Building Materials & Construction Equipment [Sections 3.E.4., 6.A.2.b.(14) & 6.A.2.b.(15)] in the IL-40 Zone – 2 Ye Olde Road (E17066) – SE #770.

Mrs. Emminger reviewed the draft resolution dated January 26, 2023 and pointed some of the more specific points. She said this site is in the transition district of the airport so they had received the obstruction analysis from the FAA and the Airport Administrator had signed off on the plans. She then went through several of the conditions regarding the restrictions on the outdoor storage areas, and the prohibitions on the outdoor storage, sale, or rental of materials and equipment in the front yard setback. She said there also is a condition that the Zoning Enforcement Officer shall obtain verification from the Airport Administrator that the plans submitted for permit review do not result in any change or increase in the height of the building. She explained that sometimes by the time they come in for permits, there have been changes made to the design of the building, etc. and the Airport Administrator is not aware of the changes until after the construction starts. She noted that the planting plan must be abided by and the required approved fencing must be installed. And of course, all of the right-of-way improvements, the road widening, and the driveway aprons, must all be completed to the satisfaction of the Department of Public Works. Lastly she said there is the necessary land conveyance, which will come back to them as an 8-24 referral. At this point Mr. Haas asked if they could add language which would require the applicant to actually construct the building and do the site improvements before they start using the site as a construction yard. Mrs. Emminger said that is a very good point especially in this situation because of all the roadway issues. She suggested adding a condition like “all site improvements including construction of the building, landscaping, fencing and right of way improvements shall be completed prior to the any business operations taking place on this site”. Everyone agreed that this language said what they wanted it to say and that it should be added to the resolution. Chairman Finaldi asked if there was any further discussion and there was none.

Mr. Chiochio made a motion to approve this per the resolution as amended this evening. Mrs. Hoffstaetter seconded the motion and it was passed unanimously by voice vote with five ayes (from Mr. Chiochio, Mrs. Hoffstaetter, Mr. Salvagne, Mr. Haas and Chairman Finaldi).

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Sugar Hollow Associates LLC - Application for Revised Special Exception/Revised Site Plan Approval for "The Shops at Marcus Dairy" for (1) new stand-alone fast food restaurant [Sec 5.A.2.b.(16)] with Drive-Thru Window [Sec. 3.E.8.] and (2) Cumulative Trip Generation in excess of 500 vehicle trips per day [Sec. 3.E.2.] in the CG-20 Zone - 5 Sugar Hollow Road & Backus Avenue (G17002) - SE #663.

Chairman Finaldi asked the Commission members to give staff guidance so they can prepare a resolution for the decision. Mr. Chiochio said he does not think this will bring any additional traffic and as long as the FAA approval comes through, he is fine with approval of this application. Mrs. Hoffstaetter said she agreed with Mr. Chiochio and she knows that staff will be sure the few outstanding items are addressed. Mr. Salvagne said he is in agreement with what has been said and has no problem with approval as long as the outstanding issues are resolved.

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REFERRALS:

8-3a Referral: Petition of 3775 LLC (as Applicant), 1, 3, & unnumbered lot Pembroke Road (G08029 [owned by Robert Morsey], G08030 & G08098, [owned by 3775 LLC]) for Change of Zone from RA-40 to RA-20. Zoning Commission public hearing scheduled for March 14, 2023.

Mrs. Emminger referred to the Planning Department staff report dated January 26, 2023 saying that this petition is a request to rezone three parcels on Pembroke Road from RA-40 to RA-20. A previous petition to rezone these same properties from RA-40 to RMF-10 was withdrawn last August. The three parcels comprise 5.149 acres and the area requested to be rezoned per the petition totals 5.39 acres. The difference, or approximately 0.241 acres, is the area within the right-of-way of Pembroke Road. She said there are two properties (not included in this petition) located to the north of the subject properties that are zoned RA-40, and slightly north/east is land zoned RA-20 (the site of the Amber Room). The lands to the south are zoned RA-40 as is the property immediately west (The Cue Restaurant). The Stetson Place development, zoned RMF-10, is located to the north across Pembroke Road. The proposed rezoning would extend the RA-20 Zoning District south but would leave the two properties to the north zoned RA-40. Both of these RA-40 lots are non-conforming with regard to area and one of the lots contains nonconforming commercial uses. The 2023 Plan of Conservation & Development (POCD) Future Land Use Map (FLUM) designates the subject parcels as appropriate for neighborhood

residential. This complies with most of the zone change criteria listed in the Zoning Regulations although previous maps and the rezoning map indicate that there are wetland areas and a grade differential on this site that will need to be considered when designing the proposed development. Mr. Salvagne made a motion to give this a positive recommendation for the following reasons:

- (1) Changing the zone to allow development at this density appears to provide an opportunity to develop smaller homes on smaller lots to address the housing supply needs in the Danbury market.
- (2) This complies with the POCD because the 2023 POCD Future Land Use Map (FLUM) identifies this area as neighborhood residential.
- (3) This proposal generally complies with the zone change criteria in Section 10.I.3 of the Zoning Regulations as described in the Planning Department Staff report dated 1/26/23

Mrs. Hoffstaetter seconded the motion and it was passed unanimously by voice vote with five ayes (from Mr. Chiochio, Mrs. Hoffstaetter, Mr. Salvagne, Mr. Haas and Chairman Finaldi).

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8-3a Referral: Petition of South Park Properties LLC, 130, 132-134, & 136 South Street (J15059, J15058, & J15056) for Change of Zone from CN-5 to RMF-4. Zoning Commission public hearing scheduled for March 14, 2023.

Mrs. Emminger said this petition was withdrawn by the applicant this afternoon.

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ZBA Referral – Application #22-29: OTROP Investments, LLC (Property Owner), Mazzucco, Esq. & Lichtenauer, Esq. (Agents); 61 Liberty St. (I14304), RMF-4 Zone. USE VARIANCE. Sec. 4.B.2 in accordance with Secs. 9.C.1.a. & 11.B.2.b.: to allow change in use from one non-conforming use (club) to another non-conforming use (restaurant serving liquor) in the RMF-4 Zone and Sec. 3.F.2.: to allow Special Permit Use in RMF-4 Zone. ZBA Public hearing scheduled for February 9, 2023.

Mrs. Emminger reviewed the staff report dated January 31, 2023 prepared by Planning Director Sharon Calitro. Mrs. Emminger said this is a request to allow a restaurant with the sale of alcoholic beverages in an existing building in the RMF-4 zone. The RMF-4 zone is a multi-family residential district in which restaurants and the sale of alcoholic beverages are prohibited. She said this lot is 10,150 sq.ft. in size and contains an 8,700 sq.ft. two story commercial building. This lot is nonconforming in size and the location of the building on the lot is nonconforming with respect to the setbacks and other requirements of the zone. Until approximately 2001, the building was used as one of the Portuguese clubs in the City. It was sold to St. Peters church who sold it to Our Lady of

Aparecida for use as a community center. In 2022, it was sold to the current owner, who is the applicant on this application. Mrs. Emminger said the report goes into great detail regarding the existing development on the site, including the parking that is provided. It also refers to a Zoning Compliance letter that was issued in May 2022, which noted that the use of the structure on the lot as a church community center is preexisting and nonconforming. The report points out that granting a use variance gives one property rights that other properties located in the same zone do not have. It also states that good zoning practice dictates that we eliminate non-conformities whenever possible. This request does the opposite of that because it would allow a potentially more intense use of the site that has the potential to negatively impact and intrude in the surrounding residential neighborhood. And the granting of this variance will open the door to the other properties coming in for the same type of variance. The hardship listed on the application does not meet any of the hardship conditions that are listed in the Zoning Regulations and the State Statutes. The existence of the club/community center's kitchen facilities does not justify allowing the site to be used for another more intense nonconforming use. The 2023 POCD Future Land Use Map (FLUM) designates this property as appropriate for downtown mixed-use. The report suggests that a feasible option exists for this site and that is to rezone it to C-CBD. The C-CBD zone is located directly across the street and it permits restaurants with liquor licenses, which would make the proposed use on this site conforming. In closing, the report states that allowing the proposed restaurant use by variance and exacerbating or intensifying the use with the sale of alcoholic beverages in a public restaurant setting is contrary to the purpose and intent of the RMF Zone and should be avoided. Some of the many concerns with this proposal include allowing a more intense nonconforming commercial use, the finding of a hardship, and the lack of on-site parking, when there is a reasonable alternative (rezoning to C-CBD) available. Mr. Chiochio then said he thinks that this request will only increase the nonconformity of this site. Mr. Salvagne said the staff report is well reasoned and since there is an alternative available that will lessen the nonconformity, they should give this a negative recommendation. Mrs. Hoffstaetter said that the better method to achieve the desired result is to rezone the site, especially because all of the requested variances will only make it more nonconforming. Chairman Finaldi said they all seem to agree that they want to give this a negative recommendation because there is an alternative available that will make what they want to do legal. Mrs. Hoffstaetter then made a motion to give this a negative recommendation and to attach a copy of the Planning Department staff report dated January 31, 2023 to their recommendation. The following reasons were given for this motion:

- (1) This proposal is inconsistent with the Plan of Conservation & Development (POCD) and given the intense nature of a restaurant with the sale of alcoholic beverages and the potential for impacts and intrusion into the residential neighborhood, the proposed use is also contrary to the purpose and intent of the RMF Zone.
- (2) Since the C-CBD Zone allows restaurants with the sale of alcoholic beverages via special permit, a reasonable zoning alternative exists to the granting of variances, so rezoning this lot to C-CBD would be more consistent with the POCD than the issuance of these variances.

- (3) Lastly, these requests raise the following concerns: allowing a more intense nonconforming commercial use in the RMF-4 zone, the lack of compliance with the POCD, the question of available parking to support the existing structure, and if there really is a valid hardship.

Mr. Salvagne seconded the motion and it was passed unanimously by voice vote with five ayes (from Mr. Chiochio, Mrs. Hoffstaetter, Mr. Salvagne, Mr. Haas and Chairman Finaldi).

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NEW BUSINESS:

Tower Investment Group LLP Application for Special Exception/Site Plan Approval for Apartment House (“The Legacy On Main”), Bank, Trip Generation in excess of 500 vehicle trips per day [Sec. 3.E.2.], and Required Parking in excess 100 spaces [Sec. 5.F.2.b.] in the C-CBD Zone -- 30 & 34 Main Street (I15254 & I15335) – SE # 792. Public hearing scheduled for April 5, 2023.

Chairman Finaldi said this application would be on file in the Planning & Zoning Office.

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OTHER MATTERS FOR DISCUSSION & POSSIBLE ACTION:

Discussion & Possible Action on (A) Request from Attorney Neil Marcus to extend the approval of Savannah Hills Resubdivision, 193-207 Great Plain Road, SUB #06-09 (“Resubdivision”); and (B) Issuance of proposed notice of expiration of Resubdivision.

Mrs. Emminger reviewed the resolution of denial dated January 26, 2023, saying that the first page gives the history of the resubdivision and the extensions that have been granted. She said it then addresses the most recent request for extension and the opinion of Corporation Counsel that this is not eligible for extension, which results in the expiration of resubdivision as of December 2022. It also states that the applicant must file a new application in order to develop any of the remaining lots. In closing, she said that approval of the resolution authorizes the Planning Department to take the following four actions:

- (1) Provide a written notice of expiration of said resubdivision to the applicant;
- (2) File the notice of expiration on the Danbury Land Records;
- (3) Note the expiration on the resubdivision plan on file in the City of Danbury Town Clerk’s Office; and
- (4) Publish the notice of expiration in the News-Times.

Mr. Salvagne made a motion to approve the resolution of denial and permit the staff to move forward with items one through four as listed in the resolution. Mrs. Hoffstaetter

seconded the motion and it was passed unanimously by voice vote with five ayes (from Mr. Chiocchio, Mrs. Hoffstaetter, Mr. Salvagne, Mr. Haas and Chairman Finaldi).

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Request for Five Year Extension of Site Plan Approval in Accordance with Public Act #21-163, 80 Mill Plain Road - SE #652. Approved April 1, 2009, Five year extension granted to April 1, 2023.

Mrs. Emminger explained that when this Special Exception/Site Plan was approved, the approval period per the statutes was a nine-year period, with one five-year extension. During the pandemic, Public Act #21-163 was enacted to give property owners that meet specific criteria an additional five years to complete projects that had been approved without having to seek re-approval. She said that there are several site approvals that meet the necessary criteria and this is the first of them. There were no questions from the Commission members. Mrs. Hoffstaetter made a motion to approve the extension to April 1, 2028. Mr. Chiocchio seconded the motion and it was passed unanimously by voice vote with five ayes (from Mr. Chiocchio, Mrs. Hoffstaetter, Mr. Salvagne, Mr. Haas and Chairman Finaldi).

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Chairman Finaldi said there was no Correspondence and under For Reference Only there was one public hearing and three applications for floodplain permits.

At 8:59 PM, Mr. Salvagne made a motion to adjourn. Mrs. Hoffstaetter seconded the motion and it was passed unanimously by voice vote with five ayes (from Mr. Chiocchio, Mrs. Hoffstaetter, Mr. Salvagne, Mr. Haas, and Chairman Finaldi).

Respectfully submitted,



JoAnne V. Read  
Planning Assistant