



CITY OF DANBURY
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PLANNING COMMISSION
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MINUTES
AUGUST 3, 2011

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The meeting was called to order by Chairman Arnold Finaldi Jr. at 8:00PM.

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

Absent were Kenneth Keller and Edward Manuel. Chairman Finaldi noted that the Commission has two vacancies at this time, due to the passing of Mr. Deeb and the resignation of Alternate Paul Blaszka.

Chairman Finaldi asked Mr. Cerminara to take Mr. Keller's place and Ms. Hoffstaetter to take Mr. Manuel's place for the items on tonight's agenda.

Chairman Finaldi announced they would table acceptance of the minutes.

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PUBLIC HEARING

8:00 PM — Lee Farm LLC – Application for two (2) lot subdivision (23.326± ac.) in the IL-40 Zone – Wooster Heights Rd. (#G18048) – SUB #11-01.

Ms. Hoffstaetter read the legal notice. Chairman Finaldi announced that this application is only for the subdivision of land. He added that it is not a plan for development at this time. He said at this point they have no information about the applicant's future plans for the land. This is just an application to draw a line on the map. Also, the Federal government is exempt from the local planning and zoning regulations. Federal government supersedes local ordinance so they are not required to go through the traditional approvals processes.

Attorney Paul Jaber spoke in favor of this application. He said the purpose is to create a 17.236 acre parcel located across the street from the Lee Farm Office Park. This new parcel adjoins the former site of the Bartlett Tree company. He said the Planning Dept. has asked them to demonstrate that the land that is remaining after this lot is cut out, complies with the Zoning Regulations. He said the US government intends to purchase this new parcel to construct a facility for the Army Reserve and the National Guard, but they have no plans yet for this. He said they believe they have complied with the Subdivision Regulations, but the Planning Dept. has brought up some issues that need to be addressed. He said he would try to do this but in order to do this, it is necessary to understand the background

of the property. He said Frank Lee, who was a furrier and hat maker, amassed some 500 acres of land, which this was a part of. He sold some to the State, to Perkin Elmer, to Bardens, to Lee Farm and was left with about 350 acres. During this time, Old Boston Post Rd. ran from Wooster Heights Rd. to Starrs Plain Rd. and always had houses on it, so they always believed it was a road. Attorney Jaber said it is for this reason that they believe the burden shouldn't fall on them to prove ownership. It was not until the Subdivision Regulations were enacted that the deeding of roads came about. Roads that were never deeded continue to exist until the town legally abandons them. He added that there is case law that the Planning Commission has no jurisdiction over roads. They don't really care if it is or is not a road. He said Matt Reynolds of New England Land Surveying has old maps that prove all of this history. He then said the small parcel to the right of the new parcel (a.k.a. the remnant parcel) will be merged with the large adjoining parcel. He said there also is case law regarding this and suggested they could limit development on the remnant parcel.

Matt Reynolds, LS with New England Land Surveying said his knowledge of this property dates back to having surveyed this parcel and worked in Danbury for past 40 years. He showed the Commission aerial photographs dating back to 1934 and 1953 showing homes and other structures in this area. He said this road has been damned up although people walk on it all the time. He said he went to the State to see what information they had for Wooster Mountain Park, but was not successful. He added that Old Boston Post Rd. is shown on the Lake Waubeeka subdivision maps which start with Town Clerk map #1284.

Also speaking in favor were Thomas Saadi, 24 Tobins Ct, said the military is looking at this as a place to build a reserve center. The US government is working with the City to comply with concerns and issues. He reminded everyone that State and Federal regulations, especially regarding environmental concerns are much more stringent than local ordinances. He said he believes there is enough information before them to demonstrate that the road has never been abandoned. He added that the Commission does not have to find that this is a public road to be able to approve the new lot. The time frame is pressing and the sooner they can decide this, the more likely it will happen. He added that he is speaking as a citizen because his National Guard unit is not slated to move here. He asked that they approve this because it will be beneficial to the City.

Paul Rotello, 13 Linden Pl, said he echoes Mr. Saadi's comments. This has been worked on for over a year and they have managed to save some of the most visible and valuable land in Danbury. The owners of this property have considered the road private for generations. He said he hopes they put a sidewalk along the frontage because it will be a nice place to walk.

Chairman Finaldi asked if there was anyone to speak in opposition to this application and there was

Lyn Hottes, 46 Wooster Heights Rd., said she has questions about what will happen to the other parcels on the street. She said much of this land is wet and to walk on Boston Post Rd. even in the summer requires boots. Attorney Jaber said the army will not use Old Boston Post Rd., the access will be from Wooster Heights Rd.

Chairman Finaldi asked Attorney Jaber to explain the remnant of land. Attorney Jaber said it was leftover because of the minimum lot width requirement. Mrs. Emminger said the applicant needs to submit a revised map with the meets and bounds of the entire parcel

and to deal with the roadway issues. Attorney Jaber said he thought the application was fine the way it was submitted and they could submit the revised map even if the hearing was closed. Mr. Urice said they are not looking at the future use; they are looking at drawing a line on the map so the new parcel can be sold.

Mr. Urice made a motion to close the public hearing. Mrs. Emminger suggested they continue this so that the note regarding the non-buildable area could be added to the mylar and staff would have a chance to review it. Mr. Urice said he did not believe that was necessary. Ms. Hoffstaetter seconded the motion and it was passed unanimously. Mr. Urice then made a motion to move this to number two under Old Business for discussion and guidance. Mr. Cerminara seconded the motion and it was passed unanimously.

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CONTINUATION OF PUBLIC HEARING:

C & W Development LLC – Application for Special Exception for Sewage Treatment Facility (“Coffey Environmental Solutions”) in the IG-80 Zone – 46 Beaver Brook Rd. (#K12176) – SE #710.

Attorney Paul Jaber started by submitting a revised operational plan (**EXHIBIT AA**) and a report from their odor expert (**Exhibit BB**). Mr. Urice asked Attorney Jaber to repeat what this application is for – sewage or septage? He added that the applicant had said there was to be no sewage, just septage. Attorney Jaber said then septage must be correct.

Benjamin Doto PE, described the exhaust fans and how they will work. He added that this is outlined on page 6 in Mr. Federico’s report. He said they cannot put the operating manual together until the system is installed. It will be done at the same time, but will not be done before this is decided. Mr. Urice asked about the polymer that is used because the MSDS sheet is not in the record. Mr. Doto said it is not hazardous or toxic but will irritate the eyes. The biggest danger is that it is extremely slippery, but this will be addressed. It breaks down in the cold, but has a high ignition point. It will not self-ignite but will burn if there is a fire. Mr. Doto said the next thing is the requested modified turning plan. He said the site has the ability to accommodate 11 trucks which is more than 50% of what they expect to do per day. They are proposing adding traffic directional signs. Beaver Brook Rd. has unimpeded traffic whereas Old Newtown Rd. has a stop or yield sign, depending on which way you are going. He added that the driveway location was very carefully chosen for the previous approval and they felt it was the best location. He submitted a revised floor plan (**EXHIBIT CC**) showing the wider doors. The eye wash and shower area have been added also. The site is still to be capped at a 50,000 gallon per day maximum, the changes that were made to the building were to give them more room for the additional safety measures. Ms. Hoffstaetter questioned the hours of operation. Mr. Doto said they are still waiting to hear from the Public Utility Dept. to determine when they will be permitted to discharge. The size of the staff will be determined once that it is decided what time of day they will discharge. Ms. Hoffstaetter also asked where the emergency plan is. Mr. Doto said they are still working on that also. Mr. Urice asked how the building will be heated and how often will it be cleaned. Mr. Doto said the heat is forced hot air and they have not yet decided on the cleaning schedule. He added that some of these things have to be coordinated with the actual operations.

Chairman Finaldi asked if there was anyone to speak in opposition to this application. Before calling on the first person, he asked the following of all speakers: (1) Please try to confine the comments to the application as submitted. (2) Please do not repeat things you have already said, all of the meetings have been tape recorded, and your comments are included in the minutes of those meetings. And if necessary, we can listen to the tapes at any time to hear these comments again.

Kathleen Kelly, 38 Beaver Brook Rd., said another meeting and another document from the applicant. The neighborhood may not have a loud voice but they do have a practical voice. Some of these remedies can take for a long time to work and with no guarantees, how can they have any faith in this applicant.

Robert Taylor, 53 Beaver Brook Rd. said he had asked earlier about the possibility of bugs and did not get an answer. He said he was told there was a 5-10% chance that there would be noise and odors.

Donna Durnell, 1 Beaver Brook Rd., said they cannot deny this is going to smell. No one would want this in their neighborhood if they had a choice. She said these trucks are going to cause problems but the only ones who care are those who are in opposition to this.

Bill Carboni said he is a Professional Engineer from Newtown who had taken a look at these plans. He presented a letter of what he had said at the previous meeting. This was designated **Exhibit DD**. He added that this does not meet the DOT standards for traffic because the driveway although carefully placed on the site, is not 100 ft. from the nearest intersection. He added that with regard to the six items required by the Zoning Regulations for approval of a special exception, there is no letter stating that sewer service will be available. Also there is no letter in the file from the facility in Naugatuck where the stuff will be transported to. And lastly, why would you put another plant within one mile of existing municipal plant that is currently operating at below its capacity

Emilius Otile, a competitor of Pembroke Pumping said he read in the newspaper that no other application of this kind can be submitted, so this is really an economic issue. He started to comment on City fees compared to this when Chairman Finaldi said they would not comment on any proposed limitations.

Jim Kelly, 38 Beaver Brook Rd, said in the three months that this application has been before this Commission, they have gone from no opportunity for odor control to a state of the art system like no other for odor control. He added that the original application was for a horrendous treatment plant and the applicant has made many changes since the first night of the public hearing.

Paul Rotello, 13 Linden Pl., said with regard to the City, it is easy to undercut the City fees when we're being forced to accept the product at a lower rate. He said he finds this entire application disturbing and we are going to move forward and examine this whole process. He added that he wanted to make it clear that this has nothing to do with the Planning Commission. He said hopefully, this will be is the first and last application that we see like this because I don't want to see anymore of these. It disturbs the entire system that we have set up at Veolia and the sewer system that's been built on the back of Danbury taxpayers for nearly two-hundred years. He said in his opinion, this is a parasitical operation. He then said he had a couple of specific comments about the things that Mr. Doto said earlier in the meeting. The first thing is the noise levels from the fans that were

discussed. He can't even begin to imagine the roar that will be coming off this building. He suggested that they might want to discuss the dba levels from the fans and the machinery. He questioned the condition of the pipe that leads from this facility to the municipal plant saying it was not designed for this kind of flow. He then asked who will be responsible if the flow damages the pipe. Will the City be liable for a loss of income, if the plant goes down? Finally, he said he is not a believer in remediation when it comes to smell. He cited New York City being unsuccessful in trying to get rid of the smell from the plant in Harlem despite spending a great deal of money on remediation or attenuation of odor. He said even if they can contain the smell within the building, the trucks themselves smell. And that means that the smell from the trucks along will be noticeable in the neighborhood even before they enter the facility. He suggested that maybe the Commission could insist that the trucks be washed before they enter the facility. He said regardless of whether or not the plant itself smells, he would not want to live in a neighborhood that has a steady stream of these trucks coming through it. In closing, he said that regardless of whatever remediation methods the applicant uses, this will smell at least for several months of the year.

Attorney Tom Beecher stated he was working with Attorney Jaber and questioned who the "we" is that Mr. Rotello is referring to in his statement "we are moving forward...". Mr. Rotello said the "we" he was referring to is the Common Council.

Nunzio Sasso, 43 Beaver Brook Rd., commented on Attorney Jaber saying that other facilities in area create the smell. He said the stuff in the septic tank is not the same as what is in toilet. It is a concentrated black stuff that is filled with bugs. He said the City plant does smell but it was there before everything else was built. He added that it not fair that everyone has to suffer so one individual can benefit. He asked where the containers will be washed. He then said he still has so many more questions but knows he cannot talk all night.

Tom Saadi, 24 Tobins Court, said he wants to address that someone at previous meeting said regarding the fact that AWD and the City plant do smell. Odor and noise complaints are rampant for these two facilities. Odor remediation is good thing but could result in more noise. He asked the Commission to also look at noise issues related to the odor control devices. He said the City has tried to engage in some odor remediation over the years and it has gotten better at different times.

Maria Sasso, 43 Beaver Brook Rd., which is right next door to the subject property, said her main concern is the odor. She has a child with Asthma, which is triggered by the odor.

Dave Bonan, 18 James St., said he is still not satisfied with answer about the Still River because a healthy river means healthy community. Chairman Finaldi suggested he go into the Planning Office and review the file to see if his answer is in there.

Phil Chiarella, 20 Old Mill Plain Rd., said he had two concerns this evening. Why are the solids being kept on the site and where will they be taken to. He said he did some research on solid wastewater management and grit handlers, so he submitted something explaining that organic materials can be recycled (designated **Exhibit EE**).

Mrs. Emminger said they are still waiting for comments from the Public Utilities. Dept so they can prepare the final staff report. She then asked Attorney Jaber if they will be submitting anything else.

Attorney Jaber said they would not be submitting anything else for the record. He said that it should be stated in the record exactly who Mr. Carboni represents. And to correct what someone said, the original plan had an odor control system. It just was not as elaborate and the one they are planning now. He said regarding the comment that other facilities emit odor, this facility will set the standard for controlling odor. And all other facilities should meet this standard. He said there is a spill control plan in the file for the person who asked about the Still River.

Mr. Urice made a motion to continue the public hearing. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

Chairman Finaldi called a five-minute recess to clear the room. The meeting was called back to order.

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

Sugar Hollow Associates LLC – Application for Revised Floodplain Permit for “The Shops at Marcus Dairy”, Backus Ave. & Sugar Hollow Rd. (#G17002 & #G17019) – SE #663.

Mrs. Emminger reviewed the resolution saying that it contains the same conditions as were put on the previous floodplain permits for these properties. Mr. Urice asked about the site plan issue regarding the rear loading docks. Mrs. Emminger said they designed to flood. Mr. Urice made a motion to approve this per the resolution. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

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Lee Farm LLC – Application for two (2) lot subdivision (23.326± ac.) in the IL-40 Zone – Wooster Heights Rd. (#G18048) – SUB #11-01.

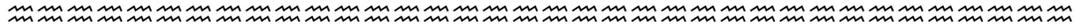
Chairman Finaldi said they moved this here so as to give Mrs. Emminger some guidance as to what they want in the resolution. Mr. Urice said they should include the proviso as discussed during the public hearing regarding the non-buildable lot that is adjacent to the new parcel. Mrs. Emminger asked if he also wanted a condition regarding the meets and bounds being added to the plan. Ms. Hoffstaetter asked if they should be worried about the 45 ft. wide strip. Mr. Cerminara said Attorney Jaber explained that and it is not a concern.

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REFERRALS:

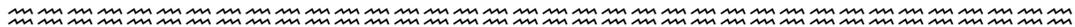
8-3a Referral – REVISED Petition of Scott Benincasa & David Benincasa to Amend Secs. 2.B. & 5.B.2. of the Zoning Regulations. (Add “Indoor Shooting Range” to CA-80 Zone) Zoning Commission public hearing opened July 12, 2011.

Mrs. Emminger said this petition was withdrawn today. The applicant’s attorney and the Planning Director have been re-tooling the language of it. It will be resubmitted shortly.



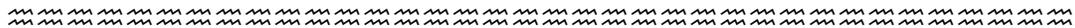
8-24 Referral/July 2011 City Council Agenda Item #8 - Renewal of Sewer Line Extension - 60 Shelter Rock Road

Mrs. Calitro's report said that this is a request to extend the timeframe for the approval issued for a sewer extension. The design was complicated and required cooperation with a neighboring property, who recently received a special exception approval for the indoor sports arena. The final sewer design has been approved by the Engineering Dept. Mr. Urice made a motion to give this extension of the time frame a positive recommendation. Ms. Hoffstaetter seconded the motion and it was passed unanimously.



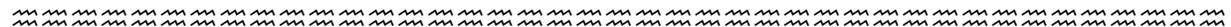
8-24 Referral/July 2011 City Council Agenda Item #10 - Request for Roof Overhang Easement - 70 Main Street

The report said this is a request for .5 ft. easement to allow for a building overhang to encroach onto City property. The building is used by the Hospital as a medical clinic. The overhang was an oversight during construction and covers a small portion of the sidewalk. Mr. Urice made a motion to give a positive recommendation subject to submission and approval of all plans and documents by the City Engineering Dept. and Corporation Counsel's Office as to form and content prior to recording. Mr. Cerminara seconded the motion and it was passed unanimously.



8-24 Referral/July 2011 City Council Agenda Item #11 - Renewal of Danbury Aviation Lease

The report said that the lessee is exercising its existing option, as noted in Paragraph 14 of the recorded lease, to extend said lease for 15 years. Chairman Finaldi reminded the Commission that all they are looking at is whether or not the business should be able to extend their lease. Mr. Urice made a motion to give this a positive recommendation subject to further examination of the lease language by Corporation Counsel's Office. Ms. Hoffstaetter seconded the motion and it was passed unanimously.



There was nothing under Other Matters and two applications for Floodplain Permits under For Reference Only. Mrs. Emminger said an application for Boehringer was received and the hearing has been set for the August 17, 2011 meeting. The majority of the building will be in Ridgefield.

At 10:28 PM, Ms. Hoffstaetter made a motion to adjourn. Mr. Cerminara seconded the motion and it was passed unanimously.