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PLANNING COMMISSION
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MINUTES
SEPTEMBER 12, 2013

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

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

Chairman Finaldi noted that they still have a vacancy on the Commission and seated Mr. Ferguson for the items on tonight's agenda.

Chairman Finaldi said they would table the acceptance of the August 21, 2013 minutes as they are not yet completed.

PUBLIC HEARING

A & J Construction – Application for Special Exception/Site Plan Approval to permit “Outdoor Storage of Construction Equipment & Building Materials; and Screening of Earth Materials”, 50–56 Payne Rd. (#M12009) in the IG–80 Zone – SE #731.

Mr. Urice read the legal notice regarding the application. Chairman Finaldi said the Commission members should have received the Staff Report by e-mail from Mrs. Emminger. Attorney Neil Marcus spoke in favor of this saying that Payne Rd. divides Danbury and Bethel. He said there currently is an approved site plan and tonight that are requesting approval of a special exception use. He said this proposal is also before the Environmental Impact Commission due to some wetlands in the rear of the property. Attorney Marcus said he would turn this over to the civil engineer who would describe the improvements they want to make to the site.

Nancy Levesque, PE from Carroccio–Covill, said this is a four acre parcel located on the west side of Payne Rd. She said they are proposing to expand the storage to the west, as the property slopes down toward Old Sherman Tpke. She said they are proposing to do screening using a portable screening plant. They also will add drainage to support the additional area they will be using. She said there are no employees on the site.

At this point, Mrs. Emminger asked if she could speak for a moment. She said she had informed Ms. Levesque earlier today that the site plan approval had expired in 2007, so there is no current approval for this site. And even after the original approval was granted, they never took out the necessary permits for the activities they have been conducting at this site. Since there were never any permits issued,

that means there was no Certificate of Zoning Compliance issued either. She added that it is the Planning Department's position that this is not an expansion of existing uses; they are actually proposing new uses.

Mr. Urice then asked for a reference point in relation to the Scholastic Building located on Old Sherman Tpke. Ray Boa said it is past that, actually right next to the Jehovah Witness property. Mr. Urice then asked for a description of what a portable screening plant actually is. Ms. Levesque said it is a machine that sorts the rocks out and leaves just topsoil. She added that it is a portable unit that can be trailered and moved on and off the property. Mr. Urice asked if this is the same as the permanent unit that Mr. Sayers has on his Miry Brook Rd. property. He continued saying that if it is, it is extremely noisy. Attorney Marcus said this is different than that one; it is a newer version that is designed to travel and is much less noisy. Mr. Urice asked how big a piece of machinery it actually is and Attorney Marcus said it fits onto a trailer. Ms. Levesque said it is approximately ten feet wide. Mr. Urice asked if the material is just dumped into it and it does the sorting, what happens to the rocks. Attorney Marcus said different sized rocks have different uses, some can be considered fill for a driveway. If it is a large rock, it has to be taken to a plant to be broken down; the whole idea of screening is to make all of the materials recyclable. Mr. Boa said they try to reuse as much of the material as possible. Mr. Urice asked where they store this material after it is sorted. Mr. Boa said if it is small enough, they reuse it on the site. He added that it is stored on site until it is determined that it cannot be used there. If that is the case, it is then transported to a different location. Ms. Levesque then went through the site showing the entrance and where the storage area is located. Mr. Urice asked if the storage area is a pervious surface and if they test the material before storing it to be sure it is not contaminated. Mr. Boa said the materials come from old driveways. Attorney Marcus said the materials come from when they remove the old driveways so they can be resurfaced. Mr. Urice said then they are talking about asphalt and soil as well as rocks. Attorney Marcus said obviously roadways are oil based, but the materials are reprocessed so that is removed before being reused. He added that how can anyone tell when dirt is clean, he has seen fill from thirty years ago that is contaminated. Mr. Boa said asphalt is the number one recycled material in the United States. Mrs. Emminger asked Attorney Marcus about the requested uses on their application because nowhere does it mention bituminous products. Attorney Marcus said that is the nature of construction materials. Mr. Urice said this sounds like an asphalt reprocessing plant. Attorney Marcus said they are screening, not reprocessing on this site. Mrs. Emminger said she would like a detailed list of all the activities being proposed for this site. She said she would review the list with the Zoning Enforcement Office as there are policies set in place for these types of businesses.

Attorney Marcus said this is not the only business in the City that runs this kind of operation. Mr. Urice asked if regarding the business of processing and separating, they had ever received any zoning violations or contamination notices. Mr. Boa said that he has been in business since 1979 and never had any of those problems. Ms. Levesque then said the proposed drainage is adequate. She was out there yesterday with the EIC and this is a very clean site. Mr. Urice asked if they could do a site walk and Attorney Marcus said of course they could. Mr. Cerminara said it appears that the only change is that they are going to add screening to the existing uses. Mrs. Emminger said they still don't have a site plan approval. Attorney Marcus said what Mr. Cerminara said is correct and when they finish here they will be in compliance. He added that they are presently storing earth materials and equipment and this will

allow them to enlarge the area that they will work in and add screening. He said the Zoning Regulations don't prohibit screening; and they are just asking to make this a permanent location for their temporary screening. Mr. Chiochio asked if this screening would be only for their use. Mr. Boa said yes it is only for their use, although they did allow the Town of Bethel to store equipment and material on their property while the roadwork was being done on Payne Rd. He added that was the only time they ever allowed anyone to use their property.

Attorney Marcus said that is their presentation for tonight; they will address the staff report and the site plan issues for the next meeting. He added that the applicant would be happy to schedule a tour of the site, so the Commission members can see the operations in detail and how the various materials are handled.

Chairman Finaldi asked if there was anyone to speak in opposition to this and several people came forward.

Joelle Yammine, 53 Payne Rd., said she is on the Bethel side, across from entrance to this site. She expressed concern that if they are allowed to continue this kind of work, there will be chemicals released from the equipment that will create unsafe conditions. She said the amount of dust is overwhelming, which is a big problem for the residents. She is also worried that the residents will have problems with the foundations of their houses; as the vibrations will make existing cracks worse. She said this starts as early as 5:30 AM; and questioned if there are any restrictions on their hours of operation. She said she is worried that if this is approved the traffic would increase significantly. In closing, she asked if there is a limit to what they could do on this site, or if the neighbors can expect them to continue to expand this operation each year.

James Turner, said he is here representing his brother Skip Turner, who lives at 60 Payne Rd. He said both last summer and this summer they were crushing rocks there. The dust is everywhere and the noise is so bad you cannot hear the phone ringing in his brother's house. He said between the dust, the vibration and the noise, it is unbearable.

Dale Johnson, 60 Payne Rd., said he is also representing his father-in-law, Skip Turner, who is out of town. He said Mr. Turner has been in business for 25 years at his location which is very close to the subject property. He said screening topsoil is the least of the things being done on this site. He said for at least the last two years, they have been using a crusher on this site. They were stopped by the Zoning Officer because they are not supposed to be doing rock crushing there. He said there is a big difference between milling a road and reclaiming a road; they are bringing all kinds of debris onto their site. Although there are other businesses on this road, there are none that are as intrusive as this one. And there are none located within fifty feet of a residential dwelling. They are forcing the neighbors to deal with noise, dust, vibrations at all hours, even at night. All of the truck traffic in and out of the site is very disruptive to the residences located across the street from the site. Some of the other disruptions are the dust is so thick that people cannot even open their windows, the vibrations are so strong that pictures fall off of the walls, the noise from slamming tailgates and back-up beepers, and the smell of the diesel fuel. This part of Payne Rd. is very narrow and was supposed to be widened as part of the 1997 approval, but it was never done. He pointed out that there are wetlands in the back of this site, which could be affected by all of the debris on the site. They say the soil

is not contaminated but that is not true because oil and gasoline are a part of the materials. He suggested the Commission make a site visit so they can see everything for themselves. He questioned whose responsibility it will be if the surrounding residences are damaged. He then submitted a letter from his father-in-law, who owns 60 Payne Rd. He suggested they go to Earthmovers on Sherman Tpke to look and listen to the noise and vibration there. He said he hopes the applicant can find a better spot than this to do this work. In closing, he said he does not want to inherit this house from his father in law because he will never be able to sell it because of this business being on the street. Mrs. Emminger said the folder he submitted from his father in law will be Exhibit A.

Ruby Soto, 55 Payne Rd., said she lives right across from the site and the trucks leaving the site have knocked their mailbox down twice. She said the noise level is so loud you think someone crashed into the site. And the vibrations are so bad it is like an earthquake, her pictures fall off the walls. She said it starts at 5:30 AM and goes all day. She added that the dust is so bad that she can't get her windows clean anymore.

Tina Turner Johnson said she is Skip Turner's daughter and her mother has COPD and emphysema, so this is very bad for her. She said her husband went into all of the problems caused by the noise, the dust and the dirt, so she won't repeat what he said. She said mainly her concern is for the health and safety of neighborhood.

Ramon Soto, 55 Payne Rd. (on the Bethel side) said this is a big concern for him. He said his driveway is across the street from this site and the smoke coming off all of the trucks is polluting the air with CO2. He said he has suffered because a truck that was leaving the site pulled into his driveway, which caused his basement to crack. He said he is sure about this because the work being done is only 25 ft. from his basement. He said he also has replaced his mailbox without complaining because the trucks leaving the site have knocked it down. In closing, he said he is trying to be fair but this is putting the residents at risk and affecting their quality of life.

Chairman Finaldi read two letters in opposition into the record. The first one was from Susan Tresca, 21 Partridge Dr. in Bethel, and the second one from Jennifer & Michael Patten, on 23 Partridge Dr. in Bethel.

Mr. Urice said he had previously asked Mr. Boa if there were any violations on the site and Mr. Boa said there were none, yet the opposition said there was rock crushing being done until they complained to the Zoning Officer. Mr. Boa said the Zoning Officer received a complaint from a neighbor and stopped them because that is not a permitted use.

Attorney Marcus said in response to the two letters in opposition that were read; the character of the neighborhood has not really changed within the last ten years, so those people did not really see things in this neighborhood as they really are. He then said they would reserve their rebuttal until next meeting.

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

At 9:00 PM, Chairman Finaldi announced they would take a five-minute recess to clear the room. At 9:05 PM, the meeting was called back to order. Chairman Finaldi confirmed that all of the members were still present as no one left the dais during the recess.

CONTINUATION OF PUBLIC HEARING

CT Institute for Communities Inc. – Application for Revised Special Exception/Revised Site Plan (“120 Main St.”) to permit (1) Apartment House/Medical & Business Offices/Retail, (2) a combination of uses which will generate over 500 vehicle trips per day, and (3) shared parking in the C-CBD Zone – Main St. & Boughton St. (#114135 & #114437). Shared parking on lots #114379, #114380, #114381, #114382, #114383, #114384, #114385, #114133 & #114134 with access over #114378 – SE #713.

Attorney Chris Leonard said they are here to report on some of the issues that were brought up at the previous meeting. He added that they have submitted an extension letter to continue the hearing until the October 2nd meeting. He said the sewer capacity issue is not yet completely resolved. The housing breakdown is that all will be restricted to people aged fifty-five and older and twenty-four of the units will be affordable housing. Mr. Urice asked if these affordable units will need a different age restriction. Jim Maloney, President/CEO of CIFC, said Federal law only allows them to restrict them to fifty-five and older. Attorney Leonard said those units will be deed restricted, so the City will be able to count them toward their required affordable housing percentage. They will be funded by HUD and will have a thirty-year deed restriction which will be the owner’s responsibility, not the tenants. Mr. Maloney said the housing component and the healthcare component will be financed separately so at this time they do not yet know which will be built first. Attorney Leonard said that the City Traffic Engineer has been working with both their landscape architect (Keith Beaver) and their traffic engineer (Michael Galante) to decide what to do with the parking spaces on Boughton St. They have all reached the conclusion that using those spaces will cause more complications than they would solve; so they probably will be reserved for users of the ATM at the bank. He said there also was concern expressed about the elderly residents of the housing having to cross the street to get their cars. He said right now they have sixty-seven spaces available for seventy-five units, which is a .85 ratio. He added that Ron Quicquaro from Q Architecture and Mr. Beaver are looking at other elderly housing developments to see how they handle this aspect, although so far they have found that most have significantly less than what they are proposing here. Next there was a question if the Fire department would be able to fit under the arch over the entrance to the parking area. He said the latest revision shows it is twenty feet above the grade at the lowest point, the DOT standard is thirteen-point-five feet, so twenty feet is high enough to accommodate the ladder trucks. Mr. Beaver said he checked the turning radii and they are fine. Mr. Ferguson read a letter from the Architectural Advisory Committee that reviews plans for the downtown and it was not totally favorable. Attorney Leonard said he believes the Committee jumped the gun and reviewed the plans on their own without any input from the applicants. Mr. Maloney said they would have been delighted to meet with them when they reviewed the plans, but they were not invited. He said that he will personally follow up with them to clear up some errors they made in their interpretation of the plans.

Mr. Urice then asked for clarification regarding the parking. He said since there is not enough onsite parking to accommodate all of the residents, does that mean that patients using the healthcare facility will have to park off site. Attorney Leonard said they hope to show that the ratio of spaces needed compared to the number of units will be less than what they are providing. Mr. Maloney said they will assign one space per unit to those residents who have a car. He added that all staff will use off site parking. Chairman Finaldi then said regarding the issue of people having to cross the street, he asked if they could look into doing something like WestConn did on White St. to illuminate the crosswalk. Mr. Maloney said he would look into this but since Main St. is a State road, it would ultimately be their decision. Mr. Urice suggested he speak to the DOT and Mr. Maloney said he would let the Commission know after he spoke to them. Mr. Chiochio asked if the parking spaces will be restricted to occupants and if there is leftover, those spaces could be used for the health center. He also asked if the parking assignments will be reviewed regularly so that when someone moves out, their space can be re-assigned. Mr. Maloney said they will designate spaces for the residents based on their request and those spaces will be identified by signs. He said that will help the management to tell if a space is being used by the correct person. Mr. Urice asked if there will be a person in the office at all times. Mr. Maloney said the seniors generally want someone on the site all the time, so they intend to have a person there. Mr. Urice asked if that is the person who would have the authority to tow cars. Mr. Maloney said yes, that would be one of their duties. There were no other questions at this time. Mr. Urice made a motion to continue the public hearing. Mr. Cerminara seconded the motion and it was passed unanimously.

OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION

Danbury Hospital – Application for Revised Grant of Special Exception to incorporate all uses approved under SE #707 and SE #607 and associated site plan improvements for development of the Hospital Campus under one Grant of Special Exception – 24 Hospital Avenue (# I12001) – SE #707.

Mr. Cerminara said although he was not present at the public hearing, he did watch the video of the meeting. Ms. Hoffstaetter then excused herself as she was not present for the public hearing. Chairman Finaldi asked Mr. Chiochio to take Ms. Hoffstaetter's place.

Chairman Finaldi said they should have received a draft resolution by email. Mrs. Emminger distributed a revised copy and said the resolution contains language that the dozens of approvals over the past twenty years be incorporated into one special exception file #707. There are no conditions except that this grant must be filed on the land records. Mr. Urice asked for clarification. Mrs. Emminger said there have been many approvals, by this Commission and administratively that are under various file numbers. Mr. Urice asked if this extends anything that would have required an extension of time to be granted. Mrs. Emminger said they get a new five year extension from the date of this approval, but that is not an issue because the major work that is ongoing was approved in 2011, so they still have plenty of time left on that. Mr. Cerminara made a motion to approve the resolution as revised. Mr. Urice seconded the motion and it was passed unanimously.

REFERRAL

8-24 Referral/September 2013 City Council Agenda Item #5: Request for extension of time for sewer extension approval for 21 Hospital Ave. (#112148).

Chairman Finaldi said they should have received a copy of Mrs. Calitro's report on this referral. Mrs. Emminger said this is a request for an extension of time for the previous approval of the sewer extension granted in 2011. This parcel is located at the corner of Hospital and Ellsworth Aves. It has an approval to construct a row house development containing five units. Mr. Urice made a motion to give this a positive recommendation subject to 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. Ferguson seconded the motion and it was passed unanimously.

There was nothing under New Business or Other Matters. And listed under For Reference Only was one Floodplain Permit application.

At 9:45 PM, Ms. Hoffstaetter made a motion to adjourn. The motion was seconded by Mr. Chiochio and passed unanimously.