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MINUTES
MARCH 5, 2014

The regular meeting of the Planning Commission was called to order by Chairman Arnold Finaldi Jr. at 7:31 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 made a motion to accept the December 4, 2013 minutes and to table the January 15, 2014 minutes. Mr. Cerminara seconded the motion and it was passed unanimously.

Chairman Finaldi said since there were no new public hearings this evening, they would move right into the Continuation of Public Hearing.

CONTINUATION OF PUBLIC HEARINGS

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. (#111012) - SE #734.

Attorney Gary Michael Jr. said since the last meeting they had received comments from the City Traffic Engineer. All of the Engineering comments were addressed by Ben Doto, and they have submitted a revised landscaping plan pursuant to staff comments. Attorney Michael said he wanted to make one point, the proposed traffic improvements are coming per the State DOT, but they are proposing to do part of them now to facilitate improved access/egress to this site. He said they are working with the State to be sure everything is coordinated.

Benjamin Doto, PE said some minor changes have been made to the plans. They have closed the North St. driveway, revised the drainage analysis, added more landscaping on the upper portion of Padanaram Ave. and extended the sidewalk. He said their landscape architect had also made some changes to improve the buffer; removing some trees from the corner so they won't have to worry about maintaining the shrub height, the retaining wall has been moved at the request of the City Traffic Engineer, and a site lighting and intensity diagram have been added. He said the proposed lighting meets the City requirements; the bulk of the lights are being put in the middle of the parking lot.

They have taken the input from the neighbors also, the proposed plantings exceed the City requirements, and the sidewalk will serve the neighborhood as well as the site. He said the dumpster was moved closer to the building to keep it further away from the residential neighbors. He said they have tried to be considerate of the fact that this is an unusual neighborhood. The majority of the development is going to be below Padanaram Ave., the proposed driveway location is the best balance since they are closing two of the existing driveways. He then mentioned that that before I-84 was built, Padanaram Ave. did not exit onto North St.; it actually let out on Second Ave.

Joseph Balskus, PE & Traffic Engineer said he would be brief and just summarize: the City Traffic Engineer agrees with the traffic analysis and the proposed improvements. They will be meeting with the City and the DOT in the springtime to coordinate the improvements. He said the same LOS will be maintained at the intersection and the improvements that the applicant is doing will be building half of the DOT signalization. It will help the residents of Padanaram Ave. and make it safer for them now instead of having to wait for the State to start in 2016. Mr. Chiochio asked if the signal they are proposing is exactly where and how the State wants it. Mr. Balskus said what they are doing is in coordination with the DOT signal plan.

Chairman Finaldi asked if there was anyone to speak in opposition and two people came forward. He then asked that they confine their comments to new information only as these meetings are videotaped and recorded, so previous testimony is already a part of the record.

George Woycik, 25 Padanaram Ave., said there has been a lot of talk about traffic safety and he thinks the signal will help; but nothing will stop people from using Padanaram Ave. as a shortcut. He suggested lowering the building to encourage people to come in through the front of the building. He said the proposed dumpster location is closer to the residential neighborhood than the previous location was. He said even though the existing buildings are non-conforming, no one in the neighborhood has ever had any problems with them. He is concerned that they will be subjected to a lot of extra noise and traffic from the proposed new use. He asked if the Commission could stipulate the business be closed by 10 PM. Lastly he said he appreciates that the applicant is trying to make this as palatable as possible by adding additional landscaping.

Diane Knapp, 18 Padanaram Ave., said she has lived there for 24 years and she believes this will be detrimental to neighborhood and quality of life. She said the existing buildings have housed various businesses in the past; some of which came with parking problems. She feels this proposal will bring more traffic and the problems associated with it including noise. She said she walks daily around this property and there are no speed limit signs or sidewalks. She has no objection to small businesses that would close by 7 PM. She said she commutes to New Jersey and back every day leaving very early in the morning, and there is always traffic. Regarding the use of the road as a shortcut, she said the other side that lets out onto North St. is equally steep so people need to be careful. She said the existing building and property are nice and urged the Commission not to approve this. Mr. Urice suggested she contact the Chief of Police to get a speed limit sign for this road. She said people don't care about the residents of this neighborhood; they speed through the road without looking around at

all. In closing she said she does not oppose improvement but when it is in front of your house it becomes a different story.

Since there was no one else to speak in opposition, Chairman Finaldi asked the applicant for rebuttal comments.

Joe Balskus spoke in rebuttal to the opposition's comments saying that the cut-thru traffic on Padanaram Ave. is a legitimate concern but all of the traffic on Padanaram Ave. is not coming from Padanaram Rd. It is also coming from the other direction, and anyone who cuts thru to avoid the North St. light will end up being delayed further, especially during peak hours. And since it is very difficult to make a left out of Padanaram Ave., it really is not an efficient move to try to use this as a shortcut. Once the traffic signal is installed, it will make it easier to exit Padanaram Ave.

Ben Doto then said he has lived in Danbury his entire life and had never been on Padanaram Ave. until he drove it as part of preparing this application. He added that it is not a convenient or easy shortcut. He then said they intentionally faced the building to North St. to keep the focus there. They located the drive-thru lane between the retaining wall and the building to keep the noise level down. The open patio location was also designed to minimize noise and since this is a restaurant not a bar, people won't be endlessly partying outside. He explained that the call box that is used today is technologically much better than the old ones that you could hear for miles and it was located 15-18 ft. below Padanaram Ave. to keep the noise down. He also mentioned that the business can arrange for the garbage pick up to be at a time that will not disturb the neighbors. The property does not offer the flexibility to turn the new building; it has limitations and they want to keep the building on the lower elevations. Lastly he said that the traffic that uses Padanaram Ave. as a shortcut will continue to do that whether this development is done or not.

Attorney Michael said there is little he can say that will change the opposition's comments about the site. He said after conferring with his partners; he wanted to make the offer to install speed bumps on Padanaram Ave. if the residents want them. He said he is aware the development of this lot is a difficult balance due to the location. It is zoned CG-20 and there are other commercial properties in the immediate vicinity. He continued saying the proposal complies with the purpose and intent of the zone and satisfies the requirements in Sec. 10.C.4. of the Zoning Regulations. He added that there may be a difference of opinion between them and the neighbors, but they feel this is an improvement to this site. It is a show of positive growth for the City.

Chairman Finaldi asked Mrs. Emminger if they were waiting for any other responses. Mrs. Emminger said the only one not received is the Chief of Police and that can still be received after the public hearing is closed.

Mr. Urice made a motion to close the public hearing. Ms. Hoffstaetter seconded the motion and it was passed unanimously. Mr. Urice then made a motion to move this matter to Other Matters so they can give Mrs. Emminger guidance so she can prepare a resolution.

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.

Attorney Neil Marcus said they are going to answer the questions that were left over from the previous meeting. Land Surveyor Paul Fagan explained that they need the 450 foot extension for the cul-de-sac and to be able to construct the road to be in conformance with City standards and grade requirements. He said at 1,000 feet, they would have to cut and fill and would have very long odd-shaped driveways in order to get the frontage. Attorney Marcus reiterated that based on the topography, the extension makes a lot of sense. There will be less land disturbance if they don't have really long driveways. Mr. Fagan added that using accessways for the three lots will allow a better layout, without them the lots would be very oddly shaped.

Tony Lucera, the developer of this project, said they added sidewalks at the request of the City Traffic Engineer despite the fact that they don't believe they are necessary because this is a very rural area. He said they also want to eliminate some of the street trees so they don't have to disturb the surface of the road especially on the left side of the road. He said nothing is being disturbed in this area at all and they intend to put trees in the area where there are none on right side of driveway. He added that they do not want to disturb where it is heavily wooded. Ms. Hoffstaetter asked if the area that is shown as cleared exists like that now. Mr. Lucera said it is, and then pointed out where they intend to plant trees since there are none now. Mrs. Emminger said regarding the street trees, the Director of Public Works can decide to waive the requirement; this Commission does not have the right to make that decision. She added that she had spoken to the City Traffic Engineer regarding the sidewalks and it is not required but he does see the benefit to providing them on one side of the road. In this case, it is a request and it is his call as to whether they get put in. She added that both she and Mr. Mohammed decided it was necessary at least on the one side of the road.

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

George Shroeder, 109A West King St., said his property is adjacent to this and shares a common driveway with three other houses. He said he is concerned about whether they are going to do any blasting and who will be responsible for any damage from it. He said he also was not notified of this hearing, so he is concerned he will not be notified of any blasting. Mr. Lucera said they will need to do some but it will be in a four foot cut in the road at the curve, 800 to 1000 feet away from Mr. Schroeder's house. He added that before a blasting permit is issued by the Fire Marshal's office, the neighbors are notified and inspections are done if homeowner allows it.

Attorney Marcus then said they are mostly finished with the Departmental reviews but they are still waiting for the EIC decision. Chairman Finaldi said Mr. Virbickas and David Null from the City Engineering Dept. are so going back and forth over the bond amount. Mrs. Emminger then said she does not suggest closing this because EIC still has not done their site walk so there may be changes. She then asked that the

Commission give her guidance so she can draft a resolution and be ready when the EIC decision is received.

Mr. Urice made a motion to continue the public hearing. Mr. Cerminara seconded the motion. Mr. Urice said the requirement for sidewalks needs to be kept and he is surprised that the Fire Marshal had no comments regarding the access/egress and turning areas. Mrs. Emminger said she had spoken to Deputy Fire Marshal Gillette who was more concerned about the grade than the length of the driveway. DFM Gillette had noted it was flatter at the bottom and steeper at the top but she was sure they could get the trucks up there. Chairman Finaldi said he agrees with most of what has been said but not about the sidewalks. He said he lives on a cul-de-sac and sidewalks are just not necessary since there is no reason for anybody to be on that road unless they live there. Ms. Hoffstaetter said she could go either way on the sidewalks but she agrees with Mrs. Emminger that it is a nice enhancement for the children in the neighborhood. Mrs. Emminger then asked if anyone had any issues with the waiver request and no one said anything. Mr. Chiochio then said he is okay with this as presented and agrees with Chairman Finaldi about the sidewalks not being necessary on a cul-de-sac. Mr. Cerminara said he feels the same way; if the developer looked at the sidewalks as an enhancement, he would be putting them in rather than trying to get exempted from them. He continued saying the sidewalks are not a deal breaker and regarding the blasting notification, he is sure the blasting company will do their due diligence to make sure everyone is properly notified. Chairman Finaldi then called for a vote on the motion to continue the public hearing and the motion was passed unanimously.

OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION

Peregrine Acquisition Partners LLC/CRD, LLC – Application for Revised Special Exception/Revised Site Plan Approval for uses generating over 500 vehicle trips per day (Grocery Store, Package Store, Retail & Office), “Mill Plain Plaza” in the CA-80 Zone – 102 Mill Plain Rd. (#C14014) – SE #535.

Chairman Finaldi said they should have received a draft resolution by e-mail. Mrs. Emminger asked if there were any specific questions. Chairman Finaldi suggested she point out the major issues. Mrs. Emminger said the resolution really summarizes the project and includes much of the history of this site. She said there was a lot of discussion regarding the separation distances between package stores, despite the fact that this is a Zoning Commission issue since they actually issue the special permit to allow the package store. She said all of the road improvements are included, the ones from the previous application as well as this one. She reviewed the conditions and explained the one regarding the traffic signal being fully functional when the shopping center opens. She explained that the State requires a new signal to blink for thirty days (Whole Foods and White St. are examples), but they don't want that to happen on this site. She said the list of exhibits at the end of the resolution includes the ones from the previous approval as well as the ones submitted with this application. Mr. Urice made a motion to approve this per the resolution. Mr. Cerminara seconded the motion and it was passed unanimously.

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

Mr. Cerminara made a motion to table this item. Mr. Urice seconded the motion and it was passed unanimously.

REFERRALS

8-3a Referral -- Petition of Thomas W. Beecher, Esq. as Agent, 1 & portion of 3 Clapboard Ridge Rd. (#H12011 & #H12012) for Change of Zone from RA-20 to CL-10. Zoning Commission public hearing scheduled for March 11, 2014.

Mrs. Emminger referred to the Staff Report prepared by the Planning Director. She said this structure on 3 Clapboard Ridge Rd. has been used for over forty years as non-conforming retail uses despite being zoned residentially. The same family has owned both of these properties since they were built. They have had many long term tenants, and were able to change the use by going to the ZBA for a use variance. The structure on 1 Clapboard Ridge Rd. has been used as two-family dwelling for the same amount of time, making it also non-conforming in the RA zone. If the zone change is granted, they will take a free split on 3 Clapboard Ridge to cut out the area around the structure and that is what will be rezoned. The area to the rear and to the left side will remain RA-20. The Plan of Conservation & Development recommends that 1 Clapboard Ridge be used for commercial and 3 Clapboard Ridge be used for single family development. Mrs. Emminger said the staff report points out that there are restrictions on further development of 3 Clapboard Ridge. It also mentions that fast food and drive thru uses are prohibited in the proposed zone. Since Clapboard Ridge Rd. is a heavily traveled arterial street and this property already is used for commercial purposes, any increase in traffic would not be substantial. She added that if the commercial use is changed there would be an administrative site plan review required. Ms. Hoffstaetter made a motion to give this a positive recommendation. Mr. Chiochio seconded the motion. The following reasons were given for this recommendation: *This property has been the site of non-conforming uses (permitted by variances) for over forty years, but the Regulations now prohibit the granting of variances in this zone. Although this change will make the dwelling on 1 Clapboard Ridge non-conforming, the Plan of Conservation & Development recommends that parcel be used for commercial purposes and it is necessary to include it so as to not create a spot zone since it abuts the CL-10 zone on the south.* Chairman Finaldi called for a vote on the motion to give a positive recommendation and it was passed unanimously.

OTHER MATTERS FOR DISCUSSION & POSSIBLE ACTION

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. (#111012) - SE #734.

Chairman Finaldi said they need to give Mrs. Emminger guidance as to what they want to do with this application. Mr. Urice said he understands the neighbor's concerns this

is a legitimate development proposal for land that is commercially zoned. It seems like they have done a lot to buffer the neighbors from the commercial use. He said he would suggest the new traffic light that was discussed be fully functional before the new business is permitted to open. Mrs. Emminger said that would be similar to the condition they put on the Canalize special exception. Ms. Hoffstaetter said she is concerned about the outdoor dining area; how big will it be and will it generate noise. Mrs. Emminger said based on the amount of parking being provided, they will be limited to a maximum of eighty (80) seats for the entire restaurant. So any outdoor dining seats will have to be included in that number, they cannot exceed the eighty seats. She added that it appears to be the approximate size of the Pan era bread patio, which contains less than twelve (12) seats. Mr. Cerminara asked if the retaining wall in the back of the property will have a fence on top of it. Mrs. Emminger said there will be a five (5) foot high fence and additional landscaping will be put in this area. Chairman Finaldi said he agreed with Mr. Cerminara; vacant buildings are not a sign of a healthy environment. He then mentioned the Dunkin Donuts on Springtide Ave. pointing out that the neighborhood opposition was much more for that project. Yet after it was built, one of the opposing neighbors wrote a letter to the editor saying how great the site is kept since the Dunkin Donuts was built there. Mr. Cerminara then said he never thought to use this road as a cut-thru but obviously it does happen. Mrs. Emminger said as a point of information, the Commission originally denied the Dunkin Donuts that the Chairman spoke about; when it was retooled and resubmitted it ended up being reviewed administratively. As part of that review, we required a triple row of arbor vitas, so that is why the additional landscaping was added to this application.

Chairman Finaldi said listed under For Reference Only were a Revised Floodplain Permit application and the public hearings scheduled for the March 19, 2014 and April 2, 2014 meetings.

At 9:16 PM, Mr. Urice made a motion to adjourn. Mr. Cerminara seconded the motion and it was passed unanimously.