



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

PLANNING COMMISSION
www.ci.danbury.ct.us

(203) 797-4525
(203) 797-4586 (FAX)

MINUTES
APRIL 2, 2014

The meeting was called to order by Chairman Arnold Finaldi Jr. at 7:32 PM.

Present were Fil Cerminara, Arnold Finaldi Jr., Helen Hoffstaetter, Joel Urice, and Alternate Bob Chiocchio. Also present was Deputy Planning Director Sharon Calitro.

Chairman Finaldi asked Mr. Chiocchio to take the place of the vacant seat for the items on tonight's agenda.

Chairman Finaldi then said they would table the acceptance of the February 19, 2014 minutes He also announced that this meeting would be the only scheduled meeting of the Commission for this month due to Passover.

Mr. Urice then made a motion to add two items to tonight's agenda: (1) under Other matters; the discussion of the proposed cell tower or existing cell tower expansion by A, T & T at the FCI Danbury site, and (2) under Old Business, the Application for a Revised Floodplain Permit for Perosphere Inc., 20 Backus Ave. The motion to add these items was seconded by Mr. Chiocchio and 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.

Dainius Virbickas, PE from Artel Engineering said since the last meeting they have received an approval from EIC. He said minor modifications were submitted to the staff to be sure they were in compliance with the EIC approval.

Chairman Finaldi asked if there was anyone to speak in opposition and there was no one. He said since the only thing they had been waiting for was the decision from EIC, they could now close the hearing.

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

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.

Attorney Paul Jaber said they had been waiting for reports from the Fire Marshal and Police Chief and they have now been received. He said all of their representatives are present and available to answer questions: Civil Engineer Dainius Virbickas, Traffic Engineer Michael Galante, and the applicant Tony Randhawa. Since the Commission members had no questions, Chairman Finaldi asked if there was anyone to speak in opposition to this application and two people came forward.

Paul Rotello, 13 Linden Pl., said he had spoken at the previous meeting and his main concern was about taking the left hand turn across the traffic. Mr. Urice pointed out that if you don't take it there, then you take it at the light. He said the applicant had pointed out that was a consideration when this was proposed. Mr. Rotello said he is concerned about adding more traffic on Backus Ave. He added that the Commission should seriously consider this and balance the inconvenience it causes. In closing, he questioned what will prevent the Commission from approving another drive thru on Backus Ave.; when is enough, enough.

Benjamin Chianese, 5 Briar Ridge Rd., said he is opposed because of the effect this could have on future applications. He said it could lead to a domino effect with every site on Backus having a drive thru. He said twenty-five years ago, this was a quiet stretch of road, but that is long gone. He questioned how the Commission will be able to say no to the next fast food that wants to locate on this stretch. no other opposition

Mr. Galante spoke in rebuttal saying that the proposed development is replacing gas pumps that will be removed, so this is a net increase in traffic of approximately 29 trips per day. He said they observed the traffic during different times throughout the day and there is no delay being created by this driveway. They felt it was best to keep it open and the City Traffic Engineer agreed with them. Chairman Finaldi asked if they were waiting for anything and Mrs. Emminger said they had received all of the outstanding reports so they can close the hearing.

Mr. Urice made a motion to close the public hearing. Mr. Chiochio seconded the motion and it was passed unanimously. Mr. Urice then made a motion to move this to item number 2 and the floodplain permit to number 3 under the Old Business. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

PUBLIC HEARING

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

Mr. Urice read the legal notice. Chairman Finaldi said the Planning Dept. staff report and the traffic report should have been received by the Commission members.

Attorney Neil Marcus said this is a reapplication of the one they had submitted last fall, it has been reworked and retooled. He said they are requesting to incorporate that application into this one. The proposal is for a contractor's yard but the applicant is seeking some changes to the existing use of the site. They want to add dry screening to it and are proposing a sales area for earthen materials, stone and the like. He said the neighbors were concerned about the noise, the dust and the view, so they decided to buffer the rear activities with the sales area in the front. People in Bethel will see a screening of evergreens in front of the sales area which will create an additional buffer. He said staff has asked for additional buffering but otherwise the issues raised in the staff report are easily addressable.

Nancy Levesque, PE from Carroccio-Covill said the entire site has been used for storage so they added a list of materials to be stored. The site goes from Payne Rd. down to Old Sherman Turnpike. She said no grading changes will be made and they will be adding one catch basin to the entire system. There is a gravel driveway at 12% grade which will lead to a flatter area. They are currently before EIC and waiting for the staff consultant's letter. Chairman Finaldi asked where on the map the slope starts. She said about the center of the property where it is currently staked along the center road of the driveway. He then asked about the series of cars parked along the property line.

Ray Boa, A & J Construction, said he gave his neighbor, Skip Turner, permission to park them there. Mr. Urice asked about lot 2 and Ms. Levesque said it is not part of the applicant's property but they share a driveway. Mr. Urice said it looks like a junkyard. Mr. Boa said it does not belong to him, it is totally separate. Attorney Marcus said staff and the City Traffic Engineer are concerned about truck access and egress. All traffic has to go out the north driveway, it is designed wide enough to allow that. He said both staff and EIC suggested that the driveway should be paved, but they felt it was better environmentally to leave it unpaved. Chairman Finaldi asked about the crushing in the front being temporary while rear is prepared to accommodate it. Attorney Marcus said it will be temporary until the rear of the lot is finished. Mr. Chiochio asked if the same piece of equipment will be used in the front as in the back. Attorney Marcus said yes it is expensive but portable. Mr. Cerminara asked how long it will take to get the rear done. Ms. Levesque said about a year or a year and half. Attorney Marcus said it will be sequenced but it will be at least a year. He added that staff has asked for a plan which they will provide. Mr. Urice asked why no water or sewer for this site. Ms. Levesque said there are no permanent structures on the site; the only reason they would need water is for dust control and Mr. Boa has two dust control water trucks which will come to the site on a regular basis to control it.

Mr. Urice asked how the dust caused by the screening activity will be controlled. Mr. Boa said that is why they are proposing to move it back to about 500 ft. from Payne Rd. He added that back there, it is heavily wooded and about 30 ft. below grade from Payne Rd. He said there is nothing that can be done to create less dust. Mr. Urice asked if there would be any dust control while the screening is located in the front. Mr. Boa said there will be some dust, but it is not excessive because the machines are much more efficient than they used to be. Attorney Marcus added that the greatest

amount is caused by truck traffic and that is controlled by the water trucks they will provide. Mr. Urice said he has a lot of questions about how this will affect the neighbors. Attorney Marcus said they will try to get the video from the manufacturer so the Commission can watch it. Mr. Urice asked exactly what activities will be going on at the site. Mr. Boa said they are proposing to dress up the front using decorative stones and create a buffer zone to protect the front area from the back where all screening will be confined to. Ms. Hoffstaetter asked what construction and leveling will be done in this rear area. Ms. Levesque said the existing elevation at Payne Rd. is about 400 ft., the rear area currently is about 14 ft. lower but when they are done it will be about 40 ft. lower. Mr. Chiocchio asked why they need to build it up. Ms. Levesque said it must be built up in order for them to get vehicles in and out and to be able to construct a driveway at a 12% grade. Mr. Chiocchio asked what materials will be used to fill this in. Ms. Levesque said it will be clean fill. Attorney Marcus said it will be essentially gravel; they will need about 14,000 yards of fill to raise it to the necessary height. Mr. Chiocchio asked if they had said it would take a year to acquire that much fill. Mr. Boa said it could take one to two years to amass that amount of fill. Attorney Marcus said that is all they have for tonight.

Chairman Finaldi said before he called for the opposition, he wanted to request that all comments be confined to the application that is before the Commission tonight. He then asked if there was anyone to speak in opposition and several people came forward.

Joseph Tresca, 21 Partridge Dr., Bethel, said his first question is what materials is Mr. Boa going to wholesale? He then said a screener and a crusher are two different machines. And this site does not have a permit to crush although he did it last summer. He said dust and noise are definitely issues every time you crush rocks. He said retail sales will bring additional traffic at all hours because sand and gravel are usually delivered to job sites in the middle of the night. He said Payne Rd. is normally very heavily traveled but even more so since the bridge is closed in Bethel. He said they say they are widening the driveway but he can't see two trucks getting through there at the same time. Nejame's site already causes enough problems with all their trucks; it is just not feasible to put this type of business in this neighborhood. Mr. Urice asked if there was no crushing there, just screening would he have the same concerns. Mr. Tresca said yes because that makes just as much noise. He then asked if the water trucks would come everyday or just periodically? He repeated that they were crushing rocks at this site all last summer.

Ruby Soto, 55 Payne Rd., said she lives across the street from the site and her major concern is the dust. She said she had spoken at the previous hearing about their mailbox being knocked down. She is concerned about the children being kept safe and the noise level this business creates. Mr. Urice asked if they are still getting dust today. She said yes everyday; she has to clean everyday because of the dust.

Ruben Soto, 55 Payne Rd., said they talk about noise, dust and view. He said he does not care about view, but he does care about the dust and noise. He said if you use a hammer to crush one rock, their crusher is many times that. He said maybe the company they buy the equipment from tells them there will be no noise or dust but that is not true. His property suffers because of the heavy traffic, his driveway has been damaged. He said Payne Rd. is about 21 ft. wide; the trucks that use Mr. Boa's

site are about 12 ft. wide, so people driving cars have to pull over to let the trucks pass. He said no one can predict what is going to happen on this road from day to day because of the volume of traffic.

Bob Miller, 19 Fairchild Dr., Bethel, said he is an operating engineer and often runs heavy equipment in his job. He said all of it is noisy and dirty. He said Mr. Boa's business looks like a reclaiming operation, which sometimes requires round the clock operations, so it is no different than the Tilcon yard located at the bottom of the hill.

Bonnie LaCava, 60 Payne Rd., said she is staying at Skip Turners house and had thought that this road was serene and quiet. It was beautiful for the first couple of days then the noise started on this site. She is outside with her dogs often during both the day and night and was surprised to see this business operating at night. She said it is hard to keep the dogs quiet when the business is operating because they react to the noise. She noticed excessive dust in the house but didn't know where it was coming from until Skip told her it comes from the applicant's site. She said the deer are afraid to come out, the house and her car are dirty and the other neighbor's must also be affected by this dust. She said she has only been there six weeks and already she thinks the traffic getting out of the driveway is terrible.

Dale Johnson, 60 Payne Rd., said he had spoken extensively at the last meeting but still had more to say. First crushers and screeners are not the same thing. And when one is reclaiming and milling, the conveyor belt shoots out the small grindings of the broken pieces of road. He said it takes an average of seven minutes to off load a full dump truck, so that means there will be a truck dumping its load every seven minutes. This will go on all day and all night and there will be dust. He said he will eventually move the crusher to the back of the property but what about now. He said after a week of 90 degree weather, the dust is so thick even the water truck does not help. He said the cloud of dust floats upward toward Castle Hill Dr. So allowing him to use the crusher on the front part of the property, even on a temporary basis, will inflict all this dust and noise on the neighbors. He said the visibility on this road is terrible, cars are always speeding on it and it is not the same width all the way through. He asked about the drainage on Mr. Boa's property wondering where the water will go. He said there are wetlands on both sides and in the back where they want to fill in. He said all of this going on there and now he wants to do retail too. He submitted photos, designated Exhibit A. He started to read from the Regulations, definitions of storage or sale of scrap metal, screening of earth materials, and crushing. Chairman Finaldi pointed out that it really is not necessary for him to read the Regulations to the Commission members. Chairman Finaldi also questioned the date on one of the photographs Mr. Johnson submitted because it was 2004. Mr. Johnson said this has been going there for years. The photos show the various pieces of equipment that are used on Mr. Boa's property as well as piles of stone and crushed materials all around on the property. He said Mr. Boa claims he does not store his trucks on this property, but the photos show many different vehicles on this site. Mr. Johnson then pointed out that if Mr. Boa is allowed to do retail also, it will only intensify the already existing problems. He started repeating his earlier comments about the traffic, the width of the roadway, the number of trips in and out of Mr. Boa's property saying that all of this will only make it more dangerous for the people who live on this road. He said that Mr. Boa owns other businesses and those trucks are also going in and out of this site. He said he looked at the A & J website and they are already advertising that they

do sales on this site. He said even watering down the site will not help slow the dust. He then started again speaking about the vibrations that the equipment causes, saying the people who live on this road feel them in their houses.

Chairman Finaldi called for a five-minute recess at 9:05 PM. The meeting was reconvened at 9:12 PM and Chairman Finaldi noted that all of the Commission members were still present. He then asked if there were more people to speak in opposition to this.

Skip Turner, 60 Payne rd., said he has lived at this location for 42 years and seen all kinds of things. He said Mr. Boa has been stopped from doing crushing at least four or five times, but he always goes back to it. He said the biggest issue with the crushing is the noise and the vibration. It gets so bad that stuff falls off the walls in his house. He said this road is very dangerous because the sight distance is terrible. Payne Rd. serves as a connector between Bethel and Danbury. He added the right now the traffic is slower because the Walnut Hill Bridge is closed, but once it reopens, the traffic will once again be really bad. He said Mr. Boa has to comply with the noise ordinance, he mentioned that he hears Earthmovers because they are down in the back of his property. He said he knows he lives in an IG-80 zone. He bought it as a residence but then discovered he could have his business there, so now it is one third business, two-thirds residence. He submitted a video of water moving onto the site. Chairman Finaldi said maybe they can view it at the next meeting. He then submitted a letter from Mr. Boa saying he does not have to widen the road. (Exhibit B) He said much of what he planned to say was already said by the previous speakers. One last thing he wanted to bring up is the increased usage of Payne Rd. because more people are finding out they can use it as a cut-thru. He said Mr. Boa offered to buy him out but they cannot agree on a price. He added that he will not consent to the taking of his front yard and he does not want to be in the middle of this.

Tina Turner-Johnson, 60 Payne Rd. said she wanted to remind them of Sec. 6.C. of the Zoning Regulations which talks about smoke and air contamination. She said the kids in this area are inhaling all of the pollutants. She added that for the people who work on this site have no choice, but the neighbors should not have to inhale all this bad stuff.

Margaret Mitchell, 4 Park Pl., said she went to school from this neighborhood sixty years ago so she is familiar with it. She asked if he will be burying blacktop on this site, although he said he would be chipping it and selling it. She added that she realizes it is an EIC issue, but she is concerned about the ground being contaminated. She noted that Sec. 10.C.4. of the Regulations says the noise must be contained on your own land and suggested they should drive around the site to see how far the noise from the chipper travels. She said she realizes we need these businesses but wonders where should they be put.

Attorney Marcus spoke in rebuttal to the opposition's comments. He said the first speaker talked about crushing, but they are not doing that on this site. They are asking to put in a screening operation which is a lot different from crushing. He said there were a lot of comments about the traffic so he will get accident numbers from the Bethel Police. He said he is not aware of his client's site being the cause of accidents. He said there was a misconception by a lot of the speakers about the dust; this proposal will reduce the dust on the site. They are planning to go further into the

site farther away from the residential properties. He said this is not a new operation so the truck traffic already exists. He added that his client does have an operation in Brookfield, but that is not a part of this application. He also spoke about a milling operation, saying that if it must be done at night, it goes to another site. He said noise and vibration information will be provided. He then said that Mr. Turner summed it up when he said this is an IG-80 zone and has been for a very long time. He continued saying that all of these uses are allowed in the IG-80 zone and asked that the Commission focus on the site plan improvements they are proposing. He suggested they set up a site walk so they can see what it really looks like. He said many of the photos submitted by Mr. Johnson are years old. He said the complaints about the driveway will be addressed because the driveway will be improved as part of the proposal. He asked that they take a hard look at what exists on the site and said as far as he knows; his client has not been cited for violations of smoke or noise. In closing he said his client does not operate late at night but he will check the adjacent site to see if what the neighbors are hearing is that business.

Chairman Finaldi said two letters were received in opposition. Mr. Urice read a letter from Jennifer & Michael Patton, 23 Partridge Dr., Bethel. Chairman Finaldi and Ms. Hoffstaetter read the letter from Steve Palmer, the Town Planner for the Town of Bethel.

Mr. Urice made a motion to continue the public hearing until the next regular meeting which is May 7, 2014. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION

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.

Chairman Finaldi said they should have received a draft resolution dated March 26, 2014 by email. Mrs. Emminger said the only correction is the date the public hearing was closed. She said it included the standard comments but there are no Engineering conditions because the final letter was a clean one. There are conditions regarding some small land conveyances to the City as well as drainage easements that both must be done before the lots can be sold. Mr. Chiochio asked the purpose of the covenant. Mrs. Emminger said it restricts the sale of the lots until after the road is completed. Chairman Finaldi asked if they could approve both things in one motion. Mrs. Emminger said they can as long as they specify that in the motion. Mr. Urice made a motion to approve both the waiver to the Subdivision Regulations and the proposed subdivision per the draft resolution as amended this evening. Mr. Chiochio seconded the motion and it was passed unanimously.

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 distributed a draft resolution and said there is one revision: the date the public hearing was closed. Mr. Urice said he wanted to comment on two things; first the left turn issue. It is his personal experience that there is enough room to get by the people that are waiting to turn left. The second is that they are not setting any precedents by approving this drive-thru. If this is approved, it is on its own; whatever happens in another application stands on its own also. Chairman Finaldi said he agreed because they cannot predict the future. Mr. Cerminara said he feels that regarding the left turn, the traffic caused by people heading home will be at a different time of day than the people heading in to buy fast food at this site. Chairman Finaldi said he agrees with these comments because he travels in this area quite often. Ms. Hoffstaetter said the drive thru had been an issue for her, but since they all agree to treat each application the same by looking at the same issues, she is okay with it. Mr. Urice made a motion to approve per the amended resolution. Mr. Chiochio seconded the motion and it was passed unanimously.

Randhawas Corp. Inc. -- Application for Revised Floodplain Permit -- 40 Backus Ave. (#F17007) -- SE #425.

Chairman Finaldi said they received a draft resolution for this from Mrs. Emminger this evening. Mrs. Emminger said the original special exception and floodplain permit for the construction of the gas station was approved in 1992. The entire site is located in the unnumbered A zone of the Kissen brook which has a base flood elevation of 454.58 as set by the Army Corp of Engineers. She said the addition will be set at the same elevation as the existing building, which is about three feet above the base flood elevation. She added that there is no cutting or filling proposed and all of the building exits lead to ground above the base flood elevation. She said the resolution includes a the standard conditions: the applicant must provide an elevation certificate and a certification from their engineer that it was built according to plans. Mr. Cerminara made a motion to approve this per the resolution. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

Perosphere Inc. – Application for Revised Floodplain Permit – 20 Kenosia Ave. (#E16030) – SP #13-11.

Mrs. Emminger distributed a draft resolution and explained that they had approved a floodplain permit in November 2013. This proposal is to allow a chiller to be constructed to the rear of the existing building. She said most of this property is located in an unnumbered A zone with an established base flood elevation of 454.58 ft. Due to the topography, the rear of the property is below the base flood elevation and the Zoning Regulations require that electrical equipment be located high enough to prevent water from getting into it during flooding conditions. The applicant is proposing to construct the chiller on top of a steel pier system at an elevation which is slightly above the base flood elevation. She said the resolution contains the standard conditions although she is not requiring an elevation certificate, just a certification from their engineer that it was

built according to plans. Ms. Hoffstaetter made a motion to approve this per the resolution. Mr. Chiochio seconded the motion and it was passed unanimously.

REFERRALS

~~8-24 Referral/March 2014 City Council Agenda Item #8: Expansion of City Sewer Service Area — Great Plain & Great Meadow Rds. THIS ITEM HAS BEEN WITHDRAWN.~~

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.

Mrs. Emminger said the first item has been withdrawn. Mr. Urice made a motion to table items 2 and 3. The motion was seconded by Mr. Cerminara.

NEW BUSINESS

8-3a Referral -- Petition of Paul J. Valeri, 10-12 Downs St. (#H12166 & #H12155) for Change of Zone from R-3 to CG-20. Zoning Commission public hearing scheduled for May 27, 2014

Robert N. Talarico, Trustee -- Application for six (6) Lot Subdivision ("Middle River Hills") of 14.53 acres in the RA-40 Zone - 147-153 Middle River Rd. (#C10052) -- SUB #14-03. Public hearing date to be announced.

Chairman Finaldi noted that these applications had been received and would be on file in the Planning Office.

OTHER MATTERS FOR DISCUSSION & POSSIBLE ACTION

Discussion of Proposed Cell Tower or Existing Cell Tower Expansion by A, T & T at the FCI Danbury Site

Mrs. Calitro said the City has been notified of a proposed cell tower or the expansion of an existing cell tower by A, T & T to be located at the Federal Correctional Institution (FCI) site. They will be holding off from making any decisions for ninety days and are looking for feedback from this Commission. Mrs. Calitro added that in 1999-2000, there was a cell tower proposed on a different site on this property, but at that time the Bureau of Prisons was concerned about allowing strangers access to their property and maintaining their security. Since that time, Congress has passed legislation to make it easier for them to grant access for this type of facility. She said

she would get more information for them before the Commission has to make a recommendation.

Chairman Finaldi noted that listed under For Reference Only was a public hearing scheduled for May 21, 2014.

At 10:15 PM, Mr. Chiochio made a motion to adjourn. Mr. Cerminara seconded the motion and it was passed unanimously.