



CITY OF DANBURY
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PLANNING COMMISSION
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MINUTES
JUNE 4, 2014

The meeting was called to order by Chairman Arnold Finaldi Jr. at 7:30 PM.

Present were Fil Cerminara, Arnold Finaldi Jr., Helen Hoffstaetter, Joel Urice and Alternate Robert Chiochio. Also present were Deputy Planning Director Sharon Calitro and Associate Planner Jennifer Emminger.

Ms. Hoffstaetter made a motion to table the acceptance of the March 19, 2014 and April 2, 2014 minutes. Mr. Urice seconded the motion and it was passed unanimously.

Chairman Finaldi announced that the Cotswald/Heatherwood Acres application would be tabled this evening and continued until the June 18, 2014 meeting. There would be no discussion or action on it this evening.

PUBLIC HEARING

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.

Mr. Urice read the legal notice. Attorney Neil Marcus spoke in favor of this application saying that it was pretty well described in the Planning Dept. staff report. He said this is currently before EIC waiting for decision. He said they thought they had addressed all of the issues regarding the West Lake reservoir, but staff does not agree. He said they also disagree on some of some of the lot designations. Also the open space parcel does contain a significant amount of wetlands, but doing it this way will set them aside to be preserved. He said he also disagrees with the Planning Dept. staff on whether or not the lots are located in an environmentally sensitive area. He said the rest of the subdivision is simple; the lots will be served by septic and wells. There is no sophisticated drainage required. He said the Engineering Dept. letter dated May 19th requests a pre-development and post-development drainage detail, even though the Subdivision Regulations don't require this. He said he also questions if they need to submit a design narrative. Nancy Levesque, PE from Carroccio-Covill, said because this is such a small development, they don't feel all of this is required. Ms. Hoffstaetter asked why they disagree with Corporation Counsel's opinion that if any portion of one lot is in an environmentally sensitive area, any new lots must have an area of 80,000 sq.ft. Attorney Marcus said they are getting this secondhand; he will need to speak to Corporation Counsel about this. He added that if this is correct, they

will change this to a three lot subdivision. Ms. Hoffstaetter asked Ms. Levesque to explain how the lots drain. Ms. Levesque explained that lots 3-6 drain into the wetland in the middle; half of lots 1-2 also drain to the middle. The other half of lots 1-2 drains towards the wetlands. She added that EIC has walked the site and they too were concerned about the drainage until it was explained to them. Ms. Hoffstaetter asked if there will be an appreciable increase in drainage from this construction work when it reaches Varian Dr. Ms. Levesque said there is enough land so this is considered low impact. Attorney Marcus said they are not creating roads, they are just building driveways. He added that he will review the opinion from Corporation Counsel before the next meeting so they can discuss that further.

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

Erik Lounsbury, 25 Middle River Rd., said his property is located across from the Magnet School. He submitted a photo showing flooding in his basement and said C,L & P needs to improve their culvert in the road. (Exhibit A) He said this has been going on since 2007 and there also has been a significant increase in his flood insurance. So the water from this development added to the water flowing downhill from the lake will all flow toward his property. The additional water will make his situation worse. He said C,L & P has not been much help, so he is here tonight. Attorney Marcus said he must be confused because where he is talking about is a long way from where the proposed development is located.

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

Chairman Finaldi repeated that there would be no discussion or action on the Cotswald/Heatherwood Acres matter this evening.

CONTINUATION OF PUBLIC HEARINGS

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.

Chairman Finaldi asked people to confine their comments to the application as submitted and to not to repeat what has already been said as it was recorded on the videotape. He also asked that there be no discussion about the buying or selling of real estate.

Attorney Neil Marcus said they had submitted an alternate driveway plan which addresses the City Traffic Engineer's first report. He said there has been a lot of discussion about the telephone pole and the proposed widening of the road in front of this property. He said the report they received this afternoon contains additional requests that were not discussed by the applicant and the City Traffic Engineer when they met. He said the new design they submitted was intended to open up the

driveway to the in and out truck movements. He said Mr. Mohammed's report expresses concern that the vehicle used for the design was not large enough to reflect the vehicles that would be going in and out of the site. It also said that the lack of road width in the vicinity of the site would limit vehicle movements and could affect the sight lines. Attorney Marcus said the sight lines are not a problem, the real question is can they improve the driveway. He said Mr. Mohammed and Mr. Boa had agreed on the idea to move the driveway to the south; that is what is shown in the revised plan they submitted. He continued saying that the report they received this afternoon states that the driveway should be moved even further south across from Castle Hill Rd. He said there are very few truck movements in and out of the site and there are very few intended. He said this is more of a subsidiary storage site than a construction yard. He then said they will have to meet again with Mr. Mohammed to find out why he wants their driveway to align with Castle Hill. They need to come up with a driveway plan that meets the approval of Mr. Mohammed because apparently he does not think the current plan will work. He said there has been a lot of talk about widening the road but he does not understand why they would have to do it. He added that if they don't have to widen, then all the problems go away. Mr. Mohammed had suggested they consider accessing their site from Old Sherman Tpke. He said they met with Ed Kilian, who owns the property behind this site. Mr. Kilian told them that most of Old Sherman Tpke. does not really exist, what they can see is his driveway, not the road.

Attorney Marcus said to finish this road would require a tremendous amount of work in the wetlands and he doubts the EIC would go for it. He said access from Old Sherman Tpke. is just not feasible. He then asked that they continue this hearing for another two weeks so they can meet with Mr. Mohammed to resolve the remaining issues. He said he does not know if the City has deeded rights to Old Sherman Tpke. It would have to be surveyed to determine who owns what portion of the roadway. Mr. Urice asked a question about the screening that is done on this site. Attorney Marcus said it appears there is no approved screening in the City of Danbury, and that includes the City's Public Works Department. He said we don't want to announce this because it will discourage new construction projects. The City has to allow someone to do this and that is what they are asking for in this application. He said that was all for tonight and offered to answer questions.

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

Ruben Soto, 55 Payne Rd., said if no one else in town is allowed to screen and he gets permission, then the traffic in and out of this site will increase. The repairs to the big vehicles will cause fluids to flow down to the Earthmovers' site and damage the wetlands behind it. He suggested they are asking for the big entrance because the trucks with big axles will be entering and exiting the site. That will mean the road will need to be widened. He then said regarding the opposition, they should not think they are dealing with people who don't know this business, because most of them do know a lot about this kind of business.

Attorney Marcus said will get more information from the City Traffic Engineer for next meeting. Mr. Urice asked about the equipment since a crucial aspect of the special exception is the screening. He said he had called Bridgeport and was referred to a

business in New Milford (Garellick Farms 60 Boardman Rd.). So he went and looked at the machinery they were using. He offered to show the Commission some videos he took there. He said he also took sound readings with db meter from about 25 feet away. The first machine was screening mulch and it read 95 dbs. There was also a second screener on the other end of the site, this one registered well over 100 dbs at 150 ft. away. He said there was quite a difference in the sound and they were both only screening mulch. Attorney Marcus asked if he had felt the vibration on the ground. Mr. Urice said not so much for the first screener, as he was standing on a pile of mulch. But for the second screener, he was standing on a concrete pad and he felt the vibration much more.

Mr. Urice made a motion to continue the public hearing. Mr. Cerminara seconded the motion. Attorney Marcus said the applicant grants an extension until July 9, 2014, which is the maximum amount of time. Chairman Finaldi called for a vote on the motion and it was passed unanimously.

Cotswald of Danbury -- Application for Special Exception/Site Plan Approval to allow cluster development ("Heatherwood Acres") in the RA-20 Zone -- Padanaram Rd. (#F07052) -- SE #735.

Chairman Finaldi repeated that there would be no discussion or action on this matter this evening.

OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION

Lwis H. & Jing H. Fong -- Application for Special Exception to allow Accessory Apartment in the CN-20 Zone - 17 Padanaram Rd. (#H10154) -- SE #736.

Chairman Finaldi said they should have received a resolution to approve this. Mrs. Calitro said the site is now consistent with the maps that were filed with the application. She said it also satisfies the criteria in the Regulations for an accessory apartment. Ms. Hoffstaetter made a motion to approve this per the resolution. Mr. Cerminara seconded the motion and it was passed unanimously.

REFERRALS

8-3a Referral -- Petition of Gera Danbury LLC d/b/a The Matrix Corporate Center to Amend Secs. 6.A.2.a.(11) & 6.B.2.a.(9) of the Zoning Regulations. (Add "Natural Gas Power Generation Facility" to existing Fuel Cell Power Generation Facility language.) Zoning Commission public hearing scheduled for June 24, 2014.

Mrs. Calitro asked that they table this for this evening as the applicant is working on a second petition to clarify this use. We do expect it to have it by the Commission's next meeting. Mr. Urice made a motion to table this matter. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

NEW BUSINESS

TAG I, LLC -- Application for Special Exception/Site Plan Approval to permit a Medical Office" (Dr. Gregory McKenna, DDS) in the RH-3 Zone - 138 Deer Hill Ave. (#115118) -- SE #737. Public hearing scheduled for July 2, 2014.

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

ZBA Referral - Application #14-22: Shakir Gureshi, 3 Clapboard Ridge Rd. (#H12012- NEW lot), Use Variance to allow ice cream/frozen yogurt store. (CL-10 Zone) ZBA public hearing scheduled for June 12, 2014.

Mrs. Calitro said they should discuss this tonight because the ZBA hearing is scheduled for next week. She said if this sounds familiar it is because this property was just re-zoned from residential to CL-10. She said this use is allowed in other commercial zones, but not this one. Before it was re-zoned, this site was the subject of previous use variances in order to allow commercial uses on the site. After the Regulations were changed and use variances were no longer permitted in the residential zone, they applied to rezone it. It is the Planning Department's position that in this situation, the correct way to handle this would be to amend the Regulations rather than going to the ZBA. Mr. Urice made a motion to give this a negative recommendation with the suggestion that the proper way to do this is to amend the Regulations. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

Chairman Finaldi said there was nothing under Other Matters and one referral listed under For Reference Only.

At 8:45 PM with no further business to discuss, Ms. Hoffstaetter made a motion to adjourn. Mr. Chiochio seconded the motion and it was passed unanimously.