



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

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

MINUTES
MARCH 24, 2009

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The meeting was called to order by Chairman Ted Farah at 7:35 PM.

Present were Anthony DiCaprio, Ted Farah, Theodore Haddad Jr., Patrick Johnston, Richard P. Jowdy, David Manacek, Robert Melillo, Larry Stramiello, Andrew Wetmore, and Alternates Victoria Hickey, Jacqueline Perez-Ares and Thomas Spegnolo. Also present was Planning Director Dennis Elpern.

Mr. Stramiello led the Commission in the Pledge of Allegiance

Mr. Johnston made a motion to accept the minutes of February 24, 2009 and March 10, 2009. Mr. Melillo seconded the motion and it was passed unanimously.

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PUBLIC HEARING

Petition of A & S Properties Inc., 6 Division St. (#H15263) for Change of Zone from CN-5 to RMF-4.

Mr. Wetmore read the legal notice. Mr. Melillo read the Planning Dept Staff Report dated December 2, 2008. Chairman Farah read the Planning Commission recommendation which was negative. He also read a letter in opposition from Francis Ryan, who lives on Park Ave.

Andrew Buzzi spoke in favor of this petition. He introduced his partner Monika Gronlund and said they inherited this from their fathers who originally were partners. He said this is a simple request, this parcel has always been used residentially and he wants to move the CN-5 line over so this will be the last residential parcel on Division St. It will make this parcel the line of demarcation so the commercial uses start with #4 Division and continue as you round the corner onto West Wooster St. He said originally A & S owned only 14 and 14B Division St. and when he was a teenager; his father had him do the maintenance on these parcels. He said it was during that time that he grew to appreciate the character of the neighborhood and realized that it should remain that way. So when he and Monika had the opportunity to buy the subject property and #4 Division St. (a mixed use building -deli on ground floor, residential above), they purchased them. He said they don't own any other properties that are immediately adjacent to this one, but after looking at many options, they decided that the best use for this parcel would be to keep it residential. For that reason, they are here tonight asking to move the zone line to make this parcel the last residential one on Division St. He said he has good tenants and would like to fix up the outside of the building and put a new roof on it as well as clean up the back of the property which is very wooded. He said one of the problems is that since this property is presently nonconforming, the banks are hesitant to lend money to fix it up.

Mr. Haddad asked if the liquor store is #2 Division St and Mr. Buzzi said it is. He asked who owns the right-of-way behind the subject parcel. Mr. Buzzi said it is owned by a private entity. Mr. Haddad asked if this is approved, how many units could be put on the subject site. Mr. Buzzi said he might be able to add one more unit but he is not sure about that due to the lot width requirements. He said he does not want to expand the use of the building; he just wants to get it zoned residential. He added that the area behind the house and the right-of-way that Mr. Haddad mentioned consist of some very steep slopes. Mr. Johnston asked why they need to change it just to do some repairs to the structure. Mr. Buzzi said having the use conforming will make it easier to borrow the funds necessary to fix it up and it will help to retain the character of the neighborhood. He said it will still be non-conforming due to the lot width but presently the CN-5 zone does not allow any residential use.

Mr. Melillo asked to clarify that Mr. Buzzi and his partner do not own any other properties adjacent to the subject parcel besides 4 Division St. Mr. Buzzi said that is correct, they do not own any other properties that are contiguous to this site. The only other properties that they own are 14 and 14B Division St, but those properties are not contiguous to this site.

Mr. Elpern said it would be possible to connect this parcel to the others but it would require them to acquire additional land and to obtain site plan approval. Mr. Melillo asked if he was referring to the possibility of connecting this parcel to the other two properties on Division St. Mr. Elpern said that was what he meant.

Mr. Haddad made a motion to close the public hearing. Mr. DiCaprio seconded the motion. Mr. Johnston reiterated his point about the phone call he received requesting that the hearing being continued. Chairman Farah called a roll call vote on the motion and it was denied with three AYES (from Mr. DiCaprio, Mr. Haddad and Mr. Jowdy) and six NAYS (from Mr. Johnston, Mr. Manacek, Melillo, Mr. Stramiello, Mr. Wetmore and Chairman Farah).

Chairman Farah called a roll call vote and the motion to continue the public hearing was passed unanimously. Mr. Haddad asked for a point of clarification on if they were continuing the hearing for a specific purpose or for anyone who wanted to speak. Chairman Farah said it is continued for anyone who wants to speak.

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

Petition of E.W. Batista Family LP, 155 South St. (#J15048) for Change of Zone from RMF-4 to C-CBD. *Hearing closed 1/13/09 - 65 days to make decision will be up 3/18/09.*

Chairman Farah said Ms. Perez-Ares is also eligible to vote on this matter because she has listened to the tapes of the meeting that she missed. He then said everyone but Ms. Hickey is eligible but since all of the regular members are present tonight, they will not need to seat any alternate members. He asked if anyone was ready to make a motion.

Mr. Melillo made a motion to approve this petition for the following reasons:

It complies with the Plan of Conservation & Development because it would satisfy the goal of increasing the economic vitality of the downtown and the Main St. center and also could help to revitalize south Main St. It also would encourage additional development in the downtown

district. And finally it complies with the urban core strategy of encouraging commercial property owners to undertake needed façade renovations.

Mr. Wetmore seconded the motion. Chairman Farah asked for discussion on the motion.

Mr. DiCaprio said he spent a lot of time reviewing this and fails to see a compelling reason to grant this petition since it will benefit only the applicant and no one else and it is in opposition to the Plan of Conservation & Development.

Mr. Stramiello said he agrees with Mr. DiCaprio. He said despite the applicant bringing Andrea Gartner and the Mayor into their presentation, this is still an intrusion into a residential area. He said he did not like that they presented a rendering of what could be built as if they have an approval and can do this no matter what.

Mr. Johnston said he too went through both sides: he liked the idea as a whole but is concerned about moving into the residential area. One of the issues is that they are breaching the line that delineates the residential area from the commercial uses. He said historically every time this Commission breaches the line, another attorney comes along and uses it to move the line even further into the residential area. He said there are a lot of good points on both sides, so this is not a decision to be made lightly.

Mr. Wetmore said Mr. Stramiello and Mr. Johnston both brought up as many good points. He said he did not care for the renderings that they were shown especially because they were not site specific for the subject property. Additionally he said he did not care for the applicant's claims as to who was in favor or not in favor of this petition. He said this Commission is an independent body who makes an educated decision based on all of the information.

Mr. Melillo said he too gave this decision a lot of thought; although this does encroach onto residential property, the encroachment is minimal. As a stand-alone parcel, there is very little development that could be done if this is rezoned to C-CBD. The other aspect that he gave a lot of thought was the traffic issue. It is true that if this was used in conjunction with the other parcels to build a Dunkin Donuts, the traffic would increase; but whether this is approved or not there will be a Dunkin Donuts on this corner. So he suggested they look at the ways it would potentially help the downtown and South Main St. He added that the Plan of Conservation & Development encourages the commercial properties in the downtown to do façade renovations. Although it is not 100% consistent with the Plan, it is compatible. Mr. Jowdy asked if they stated the South St. Dunkin Donuts would be closed. Mr. Melillo said he did not remember that coming up during the discussions.

Mr. Elpern said as a point of clarification, they did discuss the South St. Dunkin Donuts because one of the issues with the court stipulation the applicant received on the Planning Commission denial was the drive-thru because they are now prohibited in the downtown. He said it was discussed because if they close their South St. shop, the fast food with a drive thru window use stays with that property, so we can expect to see another fast food with drive thru there. The use stays with the site, so even if that Dunkin Donuts is eliminated, another fast food restaurant can just come in and take over the site while getting the benefit of the now prohibited drive thru. He added that when asked, Andrea Gartner said she was not representing the CityCenter board while speaking in favor of this proposal it was her personal feelings. Additionally, the Mayor never said he was in favor of this proposal and when he was asked he said he had no position on this petition.

Chairman Farah reiterated that this petition needs a six-three majority vote for approval. He did a roll call vote and the motion to approve was denied with five AYES (from Mr. Haddad, Mr. Jowdy, Mr. Manacek, Mr. Melillo and Mr. Wetmore) and four NAYS (from Mr. DiCaprio, Mr. Johnston, Mr. Stramiello and Chairman Farah). Chairman Farah said since the motion was denied with a five-four vote, the petition is denied.

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Chairman Farah said there was nothing under New Business or Correspondence. He asked if anyone had anything to discuss under Other Matters and there was nothing. He noted that under For Reference Only there were two public hearings scheduled for the next meeting. Mr. Johnston said that he will not be at the next meeting as he will be out of town. Mr. Manacek said he too will be unavailable for that meeting. Ms. Perez-Ares said she cannot make that meeting either. Chairman Farah asked the secretary to poll all of the members to be sure they will have a quorum for that meeting.

At 8:15 PM, Mr. DiCaprio made a motion to adjourn. Mr. Johnston seconded the motion and it was passed unanimously.