



CITY OF DANBURY
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ZONING COMMISSION
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MINUTES
APRIL 28, 2009

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The meeting was called to order by Vice-Chairman Rob Melillo at 7:35 PM.

Present were Anthony DiCaprio, Ted Farah (arrived at 7:50 PM), Theodore Haddad Jr., Patrick Johnston, Richard P. Jowdy, David Manacek, Robert Melillo, and Andrew Wetmore. Also present was Planning Director Dennis Elpern.

Absent were Larry Stramiello and Alternates Victoria Hickey, Jacqueline Perez-Ares and Thomas Spegnolo.

Mr. Wetmore led the Commission in the Pledge of Allegiance. Chairman Farah arrived at this time and took over as Chairman (He explained that he had been late this evening due to being stuck in traffic on Rt. 7).

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

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PUBLIC HEARINGS:

7:30 PM – Petition of Jose A. Perez d/b/a Perez Wine & Spirits, 61 Newtown Rd./Plumtrees Plaza (#112018) for a Special Permit for Package Store.

Mr. Wetmore read the legal notice. Evelin Tavares spoke in favor of this petition. She explained that she and her uncle will be running this business together. She introduced her uncle and said she will do all of the talking because sometimes he gets nervous when speaking English before a large group. She added that he does understand English very well, but still gets nervous and sometimes forgets the words. She said she will be the permittee for the State license. She explained that her uncle has had many years of retail grocery experience and had a permit to sell beer although it was in New York State. She added that both she and her uncle understand the responsibility involved in the selling of beer. She said the first step in this process was to get a site plan approval from the Planning Dept. for this use. She said a copy of it should be in the file. She then said the landlord, David Hawley, had been very helpful in getting all of the paperwork in order. She then said they plan to be open Monday through Saturday from about 11:30 AM to 8:00 PM. They are not looking for any specific market and plan to try to sell a decent variety of products. Mr. Melillo asked if they will be selling beer by the bottle and she said they had not thought about it, but if people wanted to buy it that way, they probably would. She said they will have no problem refusing to sell to someone because they have already had enough or because they have inadequate identification. She said her work experience has

been at Danbury Hospital, but she likes people and is looking forward to helping them. In closing she said they both realize this is a great opportunity and are willing to work hard to make it a success. There were no other questions.

Chairman Farah asked if there was anyone to speak in opposition to this and there was no one.

Mr. DiCaprio made a motion to close the public hearing. Mr. Manacek seconded the motion and it was passed unanimously. Mr. DiCaprio then made a motion to move this to number one under Old Business. Mr. Manacek seconded the motion and it was passed unanimously.

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7:45 PM – Petition of Cioffoletti Construction Co., 18 Plumtrees Rd. (#L13121 & #L13122) for Change of Zone from IG-80 to RMF-10.

Mr. Wetmore read the legal notice. Mr. Melillo read the staff report dated March 17, 2009. Chairman Farah read the Planning Commission recommendation which was negative.

Attorney Neil Marcus said they have heard all the negatives in the staff report and the Planning Commission recommendation. He said Mr. Elpern said in his staff report that this is a unique site and it truly is. It is located within a rather industrial neighborhood, but it abuts residential development. He said their team will present evidence that this site can be developed in a very compatible manner to the adjacent residential. He then introduced architect Herman Cortes-Barrios, who presented renderings of two development schemes they feel would work on this site. Since Mr. Cortes-Barrios was very difficult to understand due to his speaking with a very thick accent, Attorney Marcus explained that both the assisted living layout and the 37 conventional housing units were designed in a manner that is compatible with the slopes. He added that the purpose of his showing these is to demonstrate that this site can accommodate either kind of development. They also presented some photos of how the site currently looks. Attorney Marcus said what is there today conforms with the Plan of Conservation & Development; the other two renderings require the Commission to see the property as unique. He submitted a traffic report prepared by traffic engineer Michael Galante of Frederick Clarke Associates and said Mr. Galante would discuss his analysis of the impacts of going from IG-80 to RMF-10.

Traffic Engineer Mike Galante said he is quite familiar with this area as he was the traffic engineer for the Woodland Hills development and also for Mr. Putnam's transfer station application. Two very different applications but he feels he knows the traffic in this area very well. He said his report provides them with a comparison of the different uses for this property. He said the trip rates are based on data from the ITE book. He explained that they look at the different types of land use based on what is allowed and how it would fit on the property and then calculate the trip generation for the uses. Mr. Haddad asked if he is suggesting that this could be an age restricted development. Mr. Galante said no, he just used that as an example. Mr. Haddad asked Mr. Galante if the number of beds listed for an assisted living facility was real or based on size of site. Mr. Galante said it was based on the size of site.

Attorney Marcus said the traffic report is not for a specific use. It was meant to be a guideline for the types of uses that could be put on the site if it was rezoned. He said that this site does not lend itself to any corporate-type uses. The applicants originally looked at

26 clustered units until they found there was a demand for congregate units especially in this economy. He said they are asking the Commission to consider what is in the best interest for this particular section of Danbury. He added that he was at the Planning Commission meeting when they made the referral on the recent Bruno petition for property located down the road from this site. The Planning Commission was concerned about where to draw the line. He continued saying that in textbook zoning you draw the line in the streets, unless there is a good reason to draw it anywhere else; which would mean Dell's Auto Wrecking should be in the RMF zone. If they rezone this property, then one side of street would be residential and the other side would be industrial. He said in the previous petition for this parcel, they came in with a half and half plan but they were told it was not a good plan because the zone line would cut the parcel in half. They feel that with this petition, they have overcome a lot of the issues. This proposal would bring the ten acres into conformity if it is rezoned. The existing site is an eyesore and the residential neighbors are not happy with it. He asked that the Commission keep an open mind and take a good look at the site.

Mr. Haddad asked if the appeal of the previous denial is still in court and Attorney Marcus said it is. Mr. Haddad said he is absolutely shocked that they are being asked to look at this petition tonight, since the appeal has not been settled. Attorney Marcus said the record was returned and they have filed their brief, but the City has waited for them to file this petition before they file their brief. He added that they had tried to address all of the issues before coming in with this new petition. He said the City is still waiting for the outcome of this petition. Mr. Haddad asked that Corporation Counsel give them an update on the litigation before they go any further with this petition.

Attorney Marcus said thirty years ago, none of this area was developed and the Plan of Conservation & Development basically ignores everything that has been done in this area. Mr. Johnston said the zone lines have been drawn but the attorneys keep coming in and asking to move them. Attorney Marcus said if he were asking to be rezoned to IG80, the Commission would not want to do it. Mr. Wetmore asked about the triangular piece of land on the corner of Shelter Rock and Plumtrees that abuts the subject property. Mr. Elpern said it is part of the right-of-way owned by the City and would remain zoned IG-80. Mr. Melillo asked what the zoning is on Plumtrees Rd. and Attorney Marcus said it is IG-80. Mr. Melillo then asked if it didn't make more sense to make Shelter Rock Rd. the cutoff for residential zoning. Attorney Marcus said the other side of Plumtrees is all zoned IG-80, but their side of Plumtrees is more compatible with the surrounding residential neighborhood. He then suggested that a better place to draw the line is in front of the subject property rather than behind it. Mr. Johnston then said if this is the proper way, maybe they should include the entire road. And if Arlington Woods does not like the IG-80 zone, then where do they put the line, maybe they should just put condos in where the landfill was.

Mr. Melillo asked what has changed since the previous petition other than this being a larger proposal. Attorney Marcus said there is a significant change because they are proposing to get rid of the current operation on the property. He added that they also did not have the traffic study with the previous petition. He pointed out that the Plan of Conservation & Development has not changed at all but they are proposing to go to the least dense zone. He also said that since the neighbors came out opposed to the transfer station, they have indicated that they want to see residential not industrial development in this area. Mr. Haddad pointed out that since only two sides of this property touch residential zones maybe they should ask the industrial property owners what they think.

Mr. Melillo asked what the maximum residential development would be. Attorney Marcus said as a residential development it could be approximately 36-40 units. Mr. Elpern asked theoretically if this is granted, could they subdivide the property and break off the excavation site leaving it as a non-conforming use and then just use the upper portion for residential development. Attorney Marcus said they might be able to try to do that, but the Planning Commission would never approve it that way.

Chairman Farah asked if there was any one to speak in opposition and there was no one.

Mr. Melillo made a motion to close the public hearing pending receipt of information from Corporation Counsel as requested by Mr. Haddad. Mr. Jowdy seconded the motion and it was passed unanimously by voice vote.

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Chairman Farah announced they would take a five-minute recess. He called the meeting back to order at 9:06 PM and took a roll call to be sure everyone had returned from the break.

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CONTINUATION OF PUBLIC HEARING:

Petition of A & S Properties Inc., 6 Division St. (#H15263) for Change of Zone from CN-5 to RMF-4. Public hearing opened 3/24/09 and continued to this evening.

Monika Gronlund of A & S Properties Inc. reiterated some of the background of their business and said both she and Mr. Buzzi have strong historical roots in Danbury. She said she grew up on Chambers Rd. and attended both Immanuel Lutheran and Immaculate High Schools. She said they both feel this village is a charming area and want to keep the residential feel for the neighborhood. After determining that this is what they wanted to do, they decided the best way would be to make sure that this property remains as residential and that way it will be the last residential property before the actual village services begin.

Andy Buzzi, also of A & S, then came forward and presented some photos of the site and the surrounding properties. He thanked them for continuing the hearing and said after looked at this property and realized that the way this house looks is really important to the character of the neighborhood. He took these photos because he realized that once the Commission saw these photos they would realize that this parcel should remain residential.

Mr. Jowdy asked why it is so important that he rezone this property. Mr. Buzzi said he wants to preserve the way the house looks, but also wants to borrow money to do some upgrades, like re-roofing and cleaning up and landscaping the back yard. He said the banks are so hesitant to invest in any property these days especially one that is non-conforming. He said no matter what the outcome of this petition, he really wants to maintain the appearance of this house because he likes the way it is looks and the way it fits into the neighborhood.

Mr. Johnston said he had insisted they continue this hearing because a resident of the neighborhood had contacted him and asked that he do so, but since they did not show this evening, he really felt there was no reason to continue this any further.

Mr. Melillo said prior to the public hearing, he was not aware of the right-of-way located behind these parcels. He asked if it would be possible, without buying any more property, to connect these parcels to the others that they own. Mr. Buzzi said no, because they do not own the right-of-way. He added that they along with Mr. DeLucia have the right to pass and repass over the right-of-way, but the way it looks on the map is much cleaner than it really is. He added that the area of the right-of-way that is directly behind their other lot is at a much higher grade than the parking lot in the back of the subject lot.

Chairman Farah asked if there was anyone to speak in opposition to this petition and there was no one.

Mr. DiCaprio made a motion to close the public hearing. Mr. Johnston seconded the motion and it was passed unanimously. Mr. DiCaprio made a motion to move this to item two under the Old Business. Mr. Johnston seconded the motion and it was passed unanimously.

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

Petition of Jose A. Perez d/b/a Perez Wine & Spirits, 61 Newtown Rd./Plumtrees Plaza (#112018) for a Special Permit for Package Store.

Mr. DiCaprio motion to approve for the following reasons:

- The proximity of such premises will not have a detrimental effect on any church, school, or charitable institution. Nor will it have a detrimental effect on the immediate neighborhood concerned, due consideration having been given to the character of the surrounding neighborhood.

Mr. Jowdy seconded the motion. There was no further discussion so Chairman Farah took a roll call vote and the motion was passed unanimously with eight AYES

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Petition of A & S Properties Inc., 6 Division St. (#H15263) for Change of Zone from CN-5 to RMF-4. Public hearing opened 3/24/09 and continued to this evening.

Mr. DiCaprio motion to approve this for the following reasons:

- This complies with the zone change criteria listed in Sec. 10.I.3. of the Zoning Regulations and this site has historically been used as a non-conforming multi-family dwelling. Also it will make this property the line of demarcation between the residential Division St. and the neighborhood commercial uses on West Wooster St.

Mr. Johnston seconded the motion and Chairman Farah did a roll call vote. The motion to approve this was passed unanimously with eight AYES. Mr. Haddad thanked Mr. Buzzi and Ms. Gronlund for their desire to preserve the character of this area.

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NEW BUSINESS:

Petition of Sympaug Properties LLC to Amend Secs. 2.B., 6.A.2., 6.A.5. & 8.C.4. of the Zoning Regulations. (Add "Indoor Field Sports Arena" as a Special Exception use to the IL-40 zone.)  
Public hearing scheduled for June 9, 2009.

Mr. Melillo made a motion to refer this matter to the Planning Commission. Mr. Johnston seconded the motion and it was passed unanimously.

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There was nothing under Correspondence or For Reference Only. Chairman Farah asked if anyone had anything to discuss under Other Matters.

At 9:30 PM, Mr. DiCaprio made a motion to adjourn. Mr. Jowdy seconded the motion and it was passed unanimously.