



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

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

MINUTES
OCTOBER 11, 2005

=====
The meeting was called to order by Chairman Jack Knapp Jr. at 7:30 PM.

Present were Theresa Buzaid, Christine Cuhsnick, Theodore Haddad Jr., Patrick Johnston Jr., Donald Kennedy, Jack Knapp Jr., Alternates Ted Farah and Helen Hoffstaetter. Also present was Planning Director Dennis Elpern.

Absent were Richard P. Jowdy, Dr. Joseph Mooney, Lenny Silva Jr. and Alternate Jean Anderson.

Chairman Knapp asked Ms. Hoffstaetter to take Dr. Mooney's place for the items on tonight's agenda.

Chairman Knapp led the Commission in the Pledge of Allegiance. He announced that the regular meeting scheduled for November 8, 2005 has been cancelled because it is Election Day. A special meeting has been scheduled for Tuesday, November 15, 2005.

Mrs. Cuhsnick made a motion to accept the minutes of September 27, 2005. The motion was seconded by Ms. Hoffstaetter and passed unanimously.

=====
PUBLIC HEARINGS:

7:30 PM - Petition of 46 Mill Plain LLC, Rear Portion of 3-5, 7-9, 13 Mill Plain Rd and Amity Lane (#E15038, #E15040 & northerly portion of #E15039) for Change of Zone from RA-40 to CRP Zone.

Mrs. Cuhsnick read the legal notice. Chairman Knapp read the Planning Department Staff Report. Mr. Johnston read the Planning Commission recommendation, which was negative. Chairman Knapp read a letter in favor of this from Danbury Hospital. Mr. Farah arrived at this time (7:46 PM). Chairman Knapp asked him to take Mr. Silva's place for the items on tonight's agenda.

Attorney Paul Jaber came forward and suggested they hear and discuss both of these petitions together since they are related. He said although they would have to vote on them separately, it would be better for everyone if they do it this way. Chairman Knapp said they would do it that

way, but they would have to stop and read the documents for the second petition into the record.

7:45 PM – Petition of 46 Mill Plain LLC, Amity Lane (#E15041) for Change of Zone from RA-40 to CA-80 Zone.

Mrs. Cuhsnick read legal notice. Chairman Knapp read the Planning Department Staff Report. Read the Planning Commission recommendation, which was negative.

Attorney Paul Jaber then spoke in favor of these petitions. He said both are zoned residential, the reason for proposing different zones is because zone line for CA-80 runs along the boundary of the Hall property. The primary reason they are proposing the change for the Hall parcel is because you cannot access commercially zoned property through property that is zoned residential. The proposed change of zone will change Amity Lane to commercial. The only access to the site is through Amity Lane; there is no access through any other areas or roadways. He described the location of the site using landmarks in the vicinity. He submitted a list of members from the focus group that participated in the initial discussions, which lead to the development of the CRP zone (designated Exhibit A). He said the CRP regulations were approved in May 2004 and there are no properties currently zoned CRP. He said a research park is a good thing for these reasons: (1) It complies with the Plan of Conservation & Development (POCD) and the Zoning Regulations, (2) it meets the three criteria specified in the Regulations: the size of parcel, it abuts a college, and all of the property must be under common ownership. He said the downtown campus of WCSU is not likely to be a candidate for this because it would be difficult to get ten acres adjacent to it, since it is surrounded by small parcels of varying uses. He said if this is granted, the next step is to submit a Master Plan to the Planning Commission. Regarding the negative Planning Commission recommendation, there was no opportunity for that Commission to get any of this information; so they had to judge it solely on the petition and the map. He said there are some steep grades on the site, and development of those areas would be based upon the engineering reports and the Planning Commission. He introduced traffic engineer Michael Galante and Dr. Gary Wilson, from the CT United Research Excellence (CURE).

Michael Galante, Frederick Clarke Associates, said this property has great regional access from 84 located within two exits and from Mill Plain Rd. which is a State highway. He spoke briefly about what stage the State is at regarding the road widening. Once the road work is done, the road will double in size, but it will be able to handle the capacity. Of course a development of this type would require STC (State Traffic Commission) approval. Mrs. Buzaid asked if we are sure this roadwork will be done in 2009. Mr. Galante said right now that is the time frame they are giving us. Mr. Johnston asked if Amity Lane could handle the traffic this development would create. Mr. Galante said not in its present condition, it definitely would need upgrading. Attorney Jaber said Montowese owns all of the property that adjoins Amity Lane except for the Hall parcel so they would be able to widen it and improve it.

Dr. Gary Wilson distributed a booklet describing what bio-technology is and does. Chairman Knapp designated it Exhibit B. Dr. Wilson was involved in the development of the Science Park at Yale University and also two other sites in CT. He explained that in the pharmaceutical area,

the development time of a drug before it reaches the market is 11.5 years and 800 million plus dollars. Ideas for drugs are really developed through academia, drug companies do the testing and actual development but the ideas have to come from somewhere. Almost all new cures coming out today are developed through bio-science, it also provides high paying jobs. Also attracts other high tech industries to the area. He said it is much easier to attract other scientists once there are some here. There are no BioScience companies in Western CT, and for every job in BioScience there are 3.5 jobs formed elsewhere in the market, so it increases the available job market. He said there are seven things required for a successful Campus Research Park: Developed Lab Facilities, Adjacent to a University campus, A BioScience friendly Environment, A Trained technical workforce, a campus-like environment and Available capital sources. Danbury's proximity to Boston and NYC is also an important component. Also important are the proximity to a major international pharmaceutical company, Danbury Hospital, the new science building and also the Career Development Center, both at WCSU. He said this site meets all of the criteria. In closing he said that a Campus Research Park will only benefit the City of Danbury. It will be: the only research park in Western CT, a visible contribution to high-tech industry, a source of employment and training, provide an increased economic impact, and enhance the ability to attract biotechnology. There were no questions from Commission members.

Attorney Jaber then spoke again saying there are always derogatory comments about developments that have taken place. But this is different; it will foster industrial development, which Danbury needs. He said no matter where this was being proposed, there would be opposition. In closing, he said this site is ideally suited, and the surrounding neighbors will be protected by buffers and wetlands. The access will be limited to one road, so the impact on the area is insignificant. He said this is an excellent spot for this type of development.

Steven Bull, President of the Greater Danbury Chamber of Commerce, which represents over 1,300 businesses in Danbury. This has been in the works for several years, and there has been tremendous support for this project from the business and technical groups. This is the type of business they have tried to attract to this area and this could help make Danbury one of the "BioScience Meccas".

Bill Asmar said he grew up here, but has noticed that our children go away to college and don't come back here. Maybe something like this would make it easier for them to stay here and get good jobs. He suggested they look at Mr. Salame's track record; when everyone was clambering for a food store on the west side of the City, Mr. Salame gave them the Super Stop & Shop.

Mr. Johnston made a motion to take a ten-minute recess at 8:55 PM. Mrs. Cuhnick seconded the motion. Chairman Knapp called to meeting back to order at 9:10 PM. He then asked if there was anyone to speak in opposition to these petitions and several people came forward.

Angie Pippenger, 1 Amity La., submitted a letter from Bettie Hall (designated Exhibit C) who owns the property that is the subject of the second rezoning petition. She said in 2003, Mrs. Hall sent a certified letter to Mr. Salame saying that they no longer were willing to sell their property. Since that time her husband has passed away, and she definitely is not interested in

selling her property. Mr. Haddad stated that for the record anyone can ask to rezone property. Mr. Elpern verified that is correct. Mrs. Pippenger asked why Amity Lane is shown on the zone change map as being part of Mrs. Hall's parcel. She said she is not too thrilled about this proposal, because it is all about a special classification created for one person for one specific parcel of land.

Mrs. Cuhsnick asked Mr. Elpern to find out if Amity Lane is a City road or who owns it.

Gina Cassetta questioned why there isn't a 100 ft setback in the rear of the parcel? Chairman Knapp said this Commission has to determine if the zone is suitable for this property.

Attorney Ward Mazzucco, representing Robert & Patricia Paquette who own property on Watson Dr, and are direct abutters on the opposite side. He said the applicant made a compelling case for having a business park, but they failed to make the case for having it here. The college is to the rear but separated by some rigorous grades, then there are well established residential neighborhoods to two sides. Since Mrs. Hall is no longer willing to sell her property, that eliminates the access through Amity Lane. He distributed Sec. 8-2 of CGS, which is the enabling legislation for zoning (designated Exhibit D). He then distributed Sec 4.A. of the City of Danbury Zoning Regulations (designated Exhibit E), saying that is what is there now, the proposal is to change this. Because the CRP zone has not been anywhere in the City, we need to visualize what it will entail. What exactly is a research park? The coverage is 30% in this zone, this would allow for a huge footprint. He also spoke about what can be built on the site: garden apartments and row houses, to the maximum of 289 units. He added that these types of structures are the only thing restricted to a 30 ft height; everything else can be up to 65 ft. in height. The density is cumulative, in most multi-family zoning you just take the total number of acres and divide by permitted amount and that's the number of units permitted on the site. He said the extraordinary thing about this zone is the diverse mixture of uses that are allowed. Twenty years ago, this Commission decided that condos did not belong in the General Commercial zone, but now they are allowed in this commercial zone. This flies in the face of that decision. The 100 ft setback does not apply to parking areas or parking garages, and with this high density development, there will be a demand for parking. Additionally, all the screening in the world will not cover six story buildings from the adjacent residential areas. That might be why Planning Commission gave this a negative recommendation. He then mentioned spot zoning saying that is sometimes hard to define, the Supreme Court defines it as a change of zone affecting a small area of land, and a change that is out of harmony with the good of the community as a whole. He said the POCD has this area as residential and that is the zoning scheme that has been set up for the City. This property is very much oriented to the adjacent residential properties, and separate from the commercial property on Mill Plain Rd. The connection to WCSU certainly is not a physical one, judging by the topography of the surrounding area. There certainly is not any property adjacent to the downtown campus and the uses that are on the West side campus are not scientific, the new science building is on the downtown campus. Several neighbors contacted WCSU to see if they were involved in this project at all and the obtained a letter dated 10/4/05 from WCSU saying they are indifferent. He submitted a copy which was designated Exhibit G. He said for that reason, proximity to the college is not a reason to grant this zone change. Then using battered pieced-together copy of the Assessor's map, he said there is only one parcel in the City that is eligible for this and that is

this parcel. If this is such a good thing, why would we only want only one, and why not locate it somewhere else, near Danbury Hospital or Boehringer? Why does it have to be located next to WCSU?. It does not make sense. He questioned if it is in harmony with the Comprehensive Plan. This island in the middle of all this other stuff really represents spot zoning in one of its rare appearances. The zone change for the small parcel will increase the non-conformity of that lot. He then asked the people in opposition sitting in the audience to raise their hands. There were over forty hands.

Helen Wichers, 3 Crestdale Dr., said she wanted to bring one thing to their attention. The research park in North Carolina is having problems because the work is being sent overseas, where labor is cheaper. Also, she wanted the Commission to know that Tom Curran from WCSU told her that the University cannot work with any private developers because they are a State agency.

Carl Anderson, 7 Woodland Hill Rd., said his family has owned property on this road since the early 1940's. He is opposed because the neighbors have not seen any plan, so they have absolutely no idea of what is being proposed.

Mr. Haddad said everything presented tonight is conceptual, review of the actual plan comes before another commission.

John Doubek, 4 College Park Dr., said the heart of matter is that their homes are their most primary asset. Anything that is put on the subject parcel that is different than RA-40 uses will affect their property values. It has been made abundantly clear to these neighbors that the University does not make them any kind of priority. He started to tell the story of one neighbor and his problems with the University but Chairman Knapp asked him to not present hearsay testimony since this neighbor is not present to tell them himself. Mr. Doubek said this proposal would have a significant impact on all of their properties. He asked the Commission to protect their investment and their property.

Jamie Kennedy, 24 Crestdale Dr., thanked them for listening. She said many of the neighbors are elderly and not well enough to come out at night. She said her big concern is that the natural elevation will be destroyed and no developer has right to de-value a residential neighborhood (an example being the CVS where they blasted away the hillside). She said approximately six years ago there was a conservation easement proposed to protect the wetlands. She asked if that agreement would be honored. She added that many uses are permitted under the CRP zone and the applicant can propose the change to this property and not build what he says he will.

Roberto Charris, 2 Watson Dr., said there is no data on traffic for Amity La. They can talk about what exists now but it will be completely different if this proposal is approved. He asked that they vote before the election as he does not want a new Commission to have to consider this. Chairman Knapp explained that this Commission is in place until December 1, when the new members are sworn in. He added that they would hold a special meeting if they had to, in order to vote on this, but they still have three meetings scheduled before the new Commission takes over.

Joan Bybee, 15 Crestdale Rd., asked if there is other property that WCSU owns that would be a viable alternative to the subject property. Chairman Knapp said it is not up to the Commission to tell them where to put this, it is up to the applicant to select the site.

Annie Castegnetta, 18 Crestdale Rd., asked why when they build something off of Mill Plain Rd., do they insist on proposing the access through residential property. She said they did that with the CVS, but why? She added that Mr. Salame owns a house on Crestdale that is rundown and the neighbors all want to know what his plan is for that property. Chairman Knapp said that is not up to this Commission. She said their concern is that the residential properties stay that way.

Mr. Haddad pointed out that the Zoning Regulations prohibit crossing residentially zoned property to access commercially zoned property.

Attorney Jaber spoke in rebuttal to the opposition's comments. He said this is not a WCSU project, it is a private sector project. They do hope the college will have some affiliation with this by interacting with the companies. Regarding Mrs. Hall, her attorney never mentioned that they rescinded that letter. It is okay because they can withdraw the zone change and go around her piece to access the parcel. Regarding Mrs. Pippenger's question, they did not say they own the road. This is not a City owned road, they have spent many hours on research. It is a private road with rights of access, they do have right to widen or improve using their property. Mr. Elpern asked who owns Amity Lane. Attorney Jaber said it is impossible to figure out who owns it. Mrs. Cassetta is right, they made a mistake in coloring the map, and there should be a 100 ft buffer there also. Mr. Doubeck raised an excellent point, but the building he was speaking about has nothing to do with this property. In response to Mrs. Kennedy's question' about the conservation easement, EIC will require them to create a conservation easement. This is a filed restriction that prohibiting them from ever improving a certain area, meaning it must be kept in its natural state for perpetuity. EIC always does this and they are only becoming more restrictive. He added that there is no master plan tonight because the regulations don't require it at this time. This Commission has specifically asked that applicants do not bring in site plans for zone changes. Also the size of this property would make it cost prohibitive to produce the site plan at this phase of the process. Regarding Attorney Mazzucco's comments, they would not be building an exorbitant amount of residential because it is limited in size proportionally to the "R & D" facilities. The Planning Commission can put conditions on how the development progresses. This could never be considered spot zoning for several reasons: the size of parcel (17 acres), the uses being proposed, and its proximity to the commercial zone which allows the same kind of development. He said although they had met with Dr. Roach, the school is not going to come out and support something. It is their policy to stay neutral. He continued saying that the effect of this proposal on Attorney Mazzucco's client's property is negligible, especially because it contains wetlands which make any further development of it questionable. Mrs. Cuhsnick asked Attorney Jaber if they will be withdrawing the second petition. Attorney Jaber said if Mrs. Hall's attorney sends him a letter asking him to, he will withdraw it. Mrs. Cuhsnick asked if there was any other way to access the property besides Amity Lane. Attorney Jaber said Amity Lane is the only way that makes any sense; the frontage on Mill Plain Rd. is very wet and could be difficult to cross. Mr. Farah asked what the outcome of the focus group? Attorney

Jaber said everyone was invited to discuss how they could participate in the BioScience. Chairman Knapp said this was a discussion of a concept. Attorney Jaber said this was it was not site focused it was concept focused. It takes a great deal of money to do this type of thing, although there are non-profit portions that are supported by the profitable portions. Mr. Farah asked if there was any possibility that this could be sold to the State or to the University. Attorney Jaber said the State is not interested and then he pointed out that Dr. Roach had a different philosophy than Dr. Schmotter, who is focused on developing the West side.

Albert Salame, 35 Tanglewood Dr., then spoke regarding the focus group and said he had documentation that WCSU is in favor of this concept. Chairman Knapp informed Mr. Salame that he could not introduce any new information at this time since they were in the rebuttal step of the hearing process. Mr. Salame thanked the Commission and sat down.

Mr. Haddad asked if they were waiting for any information. Mr. Elpern said the Commission had asked for information on the ownership of Amity Lane, which he would get for the next meeting. Ms. Hoffstaetter asked about the conservation easement that one of the neighbors had mentioned. Mr. Elpern said that would fall under EIC's purview when they review this. Mrs. Buzaid asked what they would do about the second petition, since Mrs. Hall said she has retracted her approval. Mr. Elpern said he would follow up on this and they would know for the next meeting.

Mrs. Cuhsnick made a motion to close the public hearing on the first matter subject to information being provided to them regarding the ownership of Amity Lane. Mr. Kennedy seconded the motion and it was passed unanimously. Mrs. Cuhsnick then made a motion to close the public hearing on the second matter. Mr. Johnston seconded the motion and it was passed unanimously.

=====
OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

- 1) Petition of the City of Danbury by Dennis I. Elpern to Amend Secs. 2.B., 3.I.2., 4.B., 4.C., 4.D., 4.G., 10.B. & 10.D. of the Zoning Regulations. (MORATORIUM AMENDMENTS – Revise Definitions, Accessory Uses, RMF, R-3, & RH-3 Zones, Zoning Permit and Site Plan Regulations.) *Public hearing closed 9/27/05 – 65 days will be up 12/1/05.*

Mr. Johnston made a motion to table this matter. Mrs. Cuhsnick seconded the motion.

=====

- 2) Petition of the City of Danbury by Dennis I. Elpern to Amend Secs. 3.E., 3.G., 4.A. & 4.E. of the Zoning Regulations. (Revise RA & RR-10 Zones and Accessory Apts.). *Public hearing closed 9/27/05 – 65 days will be up 12/1/05.*

Mr. Johnston made a motion to table this matter. Ms. Hoffstaetter seconded the motion.

=====

The Communications consisted of four Cease & Desist Orders and the For Reference Only, listed public hearings scheduled for October 25, 2005 and November 15, 2005.

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