



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

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

MINUTES
JULY 25, 2006

=====
The meeting was called to order by Chairman Jack Knapp Jr. at 7:35 PM.

Present were Theresa Buzaid, Ted Farah, Theodore Haddad Jr., Helen Hoffstaetter, Richard P. Jowdy, Donald Kennedy, Jack H. Knapp, Jr. Robert Melillo, and Alternates Jean Anderson and Victoria Hickey. Also present was Planning Director Dennis Elpern.

Absent were Anthony DiCaprio and Alternate Joseph Notaro, Jr.

Chairman Knapp asked Mrs. Anderson to take Mr. DiCaprio's place for the items on tonight's agenda. He then led the Commission in the Pledge of Allegiance.

=====
Mr. Haddad said there were some errors in the June 27th minutes, he and Mrs. Buzaid had voted against the approval of the Special Permit for Keeler St. and Mr. Jowdy was not present at all. Chairman Knapp asked if anyone else had any corrections. The secretary said the error had been made because she did not have her laptop at that meeting and she took notes by longhand.

Mr. Melillo made a motion to accept the corrected minutes of June 27, 2006. Ms. Hoffstaetter seconded the motion and it was passed unanimously. Mr. Melillo then made a motion to accept the minutes of July 11, 2006. Mr. Kennedy seconded the motion and it was passed unanimously.

=====
PUBLIC HEARINGS:

7:30 PM – Petition of 31 South Street Entertainment, Inc. d/b/a BLUU Restaurant, 2 Nabby Rd. (#L08019) for a Special Permit for Cafe Liquor License.

Chairman Knapp read the legal notice. He reminded the Commission that they had approved this same business for a Restaurant Liquor license at the June 27, 2006 meeting. The approval was conditioned that they had to come back to the Planning Dept. with a revised floor plan showing the separation wall between the bar and the dining room. Since they did not want to put up the wall, they decided to go for the café permit which does not require a separation wall.

Attorney Fran Collins said they have two bar areas so the separation wall became a problem but the café permit does not require the wall. He said this is still proposed as an upscale eating facility which will be open for both lunch and dinner. They have received site plan approval for the 2,000 sq.ft. they are leasing. There is parking in both the front and rear of building. He

briefly described the businesses in the immediate vicinity. They have access directly onto Nabby Rd. and out to Federal Rd. where a traffic light exists. Chairman Knapp asked if there was anyone to speak in opposition to this petition and there was no one.

Chairman Knapp asked Mr. Elpern for comments and he reiterated the criteria from Sec. 3.F.2. of the Zoning Regulations.

Mr. Melillo made a motion to close the public hearing. Ms. Hoffstaetter seconded the motion and it was passed unanimously. Mr. Melillo then made a motion to move this matter to Old Business. Mr. Farah seconded the motion and it was passed unanimously.

=====
7:45 PM – Petition of Bates Place LLC, 15-17 Bates Pl. (portion of #I13275) for a Change of Zone from CG-20 to RH-3.

Ms. Hoffstaetter read legal notice. Chairman Knapp read the Planning Department Staff Report dated June 26, 2006. Mr. Farah read the Planning Commission recommendation, which was positive.

Attorney Paul Jaber spoke in favor of this petition. He distributed a copy of the map that was attached to the Staff Report. He said the entire parcel is currently used by the Reliable Excavating Company. Its prior owner was the Luke Sweeney Company who used it for the same kind of business. They store trucks and equipment on site and also have an office there also. He said trucks shouldn't be traveling down Bates Place, which is all multi-family dwellings except for the Ziegler Carpet building, which is mixed use. Bates Place was rezoned to residential several years ago and it will stay that way since most of the properties are used as multi family dwellings. This change would eliminate commercial traffic passing through the residential zone which is prohibited by the Regulations. Residential traffic will not generate any more volume than what is currently on the street. The applicant plans to relocate his business by this time next year and once that is done, this property will be used as residential, possibly as townhouses. Across the street and to the west, the properties are all zoned RH-3; the remaining properties that are zoned CG-20 have frontage on White St. Mrs. Buzaid expressed concern about the traffic at the intersection of Bates Place and Fifth Ave. Attorney Jaber said that intersection is slated for work under the new streetscape program. Mr. Elpern said they are just starting the streetscape project which will run from Main St. to Fifth Ave. He added that the need for a traffic light at this intersection has been recognized and it is slated to be a part of the streetscape project. He added that although this proposal does not comply with the text of the Plan of Conservation & Development, it does comply with the proposed land use map.

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

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

=====

8:00 PM – Petition of Masi Brothers LLC, 26-28 South St. (#K16145) for Change of Zone from IL-40 to RMF-4.

Ms. Hoffstaetter read legal notice. Chairman Knapp read the Planning Department Staff Report dated July 17, 2006. Chairman Knapp then read the Planning Commission recommendation, which was negative.

Attorney Fran Collins spoke in favor of this petition. He said the map attached to the Staff Report is not correct and referring to an enlarged photocopy of the Zoning Map he pointed out exactly where this parcel is. He described the surrounding parcels and said everyone is familiar with what is going on around this site, mentioning the various condominium complexes: Camelot Court, South Street Square, South Ridge, Southwoods, Summittview. He said additionally, heading into Bethel, is the Timber Oaks project located on the former Dolan sandbank property. He submitted a letter in favor of this change from Edward Dachenhausen, who owns the adjacent property on the east side. Then referring to an enlarged copy of the land use map from the Plan of Conservation & Development, he said this property was recommended for multi-family use. He said that seems appropriate since it is not suitable for industrial use.

Chairman Knapp asked Mr. Elpern if he had any comment. Mr. Elpern responded that this does comply with the Plan of Conservation & Development. Chairman Knapp then asked if there was anyone to speak in opposition to this petition and there was no one.

Mr. Melillo made a motion to close the public hearing. Mr. Jowdy seconded the motion and it was passed unanimously.

=====
Mr. Melillo made a motion to deviate from the order of the agenda and discuss the Old Business next. Mr. Farah seconded the motion and it was passed unanimously.

OLD BUSINESS:

Petition of 31 South Street Entertainment, Inc. d/b/a BLUU Restaurant, 2 Nabby Rd. (#L08019) for a Special Permit for Cafe Liquor License.

Chairman Knapp said they had closed this public hearing earlier in tonight's meeting. He asked for discussion or a motion from the Commission members. Mr. Melillo asked Mr. Elpern if the mandatory food to beverage sales ratio in the Zoning Regulations would be applicable for this location. Mr. Elpern explained that it would not as that requirement is only for restaurant permits and since this is a café, it is a different definition. Mr. Farah made a motion to approve this for the following reasons:

- The proximity of such premises will not have a detrimental effect on any church, school, convent 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. Kennedy seconded the motion. Chairman Knapp called a roll call vote and the motion to approve this petition was passed unanimously.

=====
CONTINUATION OF PUBLIC HEARING:

Petition 46 Mill Plain Rd. LLC, Rear portion of 3-5, 7-9 & 13 Mill Plain Rd. (#E15038, northerly #E15040 & portion of #E15039 for a Change of Zone from RA-40 to CRP Zone. *Public hearing opened July 11, 2006.*

Chairman Knapp said Mr. Jowdy had listened to tapes, so everyone except Mrs. Anderson is eligible to vote and she is willing to listen to the tapes.

Attorney Paul Jaber spoke in favor of this petition. He said they do not need to rehash the definition of a research park. The question before them is if this property is suitable for this zone. They can provide an access easement with grade of 5.5% through the CA-80 zone from Mill Plain Rd. He added that this will be a private road or driveway not a City road. It would be located near the WCSU campus, although that is no longer a requirement, it is beneficial because of the proximity to a campus environment and the library availability. He referred to the other ones in CT located at Yale and Uconn, both within walking distance to the Universities. He said this site is bounded on the north by WCSU and on the east by the residences on Crestdale Rd. & Dr. and College Park Dr. He mentioned the required perimeter zone and said there is also a great deal of wetlands in this area which may increase this buffer. It is bounded on the south by the CA-80 commercial zone and on the west by a residential zone, also with the 100 ft. required setbacks and wetlands which create a natural buffer. He said the impact on the property to west will be minimal and the uses are compatible (research park and residential) with the surrounding properties. He said there will be substantial restraints on development given the Regulations themselves, the wetlands and the topography. Regarding the size and scope of the project, the neighbors are assuming this will be a large project but it may not achieve that since the Regulations specifically control amount that can be built there. The building area is limited given the slopes on the property, with the largest part on northern part of property. There will be some benefits to the surrounding neighborhood and the zone change eliminates the possibility of any access through Crestdale to this parcel. If it remains residential they would probably access it through Crestdale rather than crossing commercial. But if the zone is changed they cannot do that. This is a long-long term project; even if it was t start immediately, it will take a substantial time to develop. The Regulations also allow the Planning Commission to place restrictions on the approval of the special exception.

Jim Bellano, Development Mgr. for this project, submitted a packet of info (**exhibit A**) saying that the last two pages are a supplement prepared by Dr. Wilson about why this is ideal location. He spoke about the benefits of this project saying the empirical data shows that R & D property provides a better tax revenue than residential property. He quoted the Mayors report about a limited amount of land available for this type of use. He referred to a letter to the Editor in the News-Times that questioned what uses will be built on this property. He said this is for R & D and low density housing. In reference to the letter from Tom Curran saying that the

University could not take a position, they do not expect any City or State agency to take a stand. He also had some quotes from Dr. Schmotter regarding this concept. He said the comments from Attorney Jaber should allay the fears of this being a huge project.

Chairman Knapp asked if there was anyone to speak in opposition to this petition and several people came forward.

Jamie Kennedy, 24 Crestdale Dr. submitted a petition in opposition with 12 signatures (**exhibit B**) and a June '06 newsletter from Mayors Office (**exhibit C**). She then submitted a larger petition (**exhibit D**) in opposition to this proposal saying they believed it meets the requirements in Sec. 8-3 of the CT General Statutes, therefore requiring a super majority vote for approval of this petition. Chairman Knapp said the Planning Department would have to verify this and would confirm it at the next meeting. Mrs. Kennedy then said everyone in the audience was in opposition. The secretary took a head count of the audience and there were approximately 45 people present excluding the applicant and his representatives.

Anne Castegnetta, 18 Crestdale Rd., described a research park in Palo Alto, CA. She does not think the subject parcel is what you would think of as a research park. She said ideally the driveway should be wooded, but due to slopes and wetlands that will not be possible on this parcel. She said this concept could be a good thing but not in a residential area. She said Dr Wilson gave many reasons why this is a good idea but no reasons why it should be located here. She added that the people who spoke in favor of this at the previous meeting all own businesses on Mill Plain Rd.

John Haybert, 11 Crestdale Dr., showed the Commission a "topo" map (**exhibit E**) and said the 30% grade is equal to a seven story building or 150 stairs. He submitted additional photos (**exhibits F & G**) showing the view of the dormitory at WCSU. He questioned the feasibility of the suggested 5.5% grade for the driveway into the park. He said the Regulations were changed 20 years ago to prevent condominiums in commercial zones but now this will allow them again.

Angie Pippenger, 1 Amity La., submitted a map showing overlay of allowable building coverage in CRP (**exhibit L**). She also submitted a rendering of the proposed building heights (**exhibit M**). She said in response to the question asked at last meeting if buildings would be visible from Mill Plain Rd. Her son put together a slide presentation of what it could look like. Daniel Pippenger presented his slides saying he approximated the maximums of 65 ft. tall, 300 ft. long and 100 ft. wide office buildings. He said the renderings do not show trees because most of the trees are on the subject property. He said these are accurate as he used "topo" maps from the Engineering Department (**exhibits N & O**).

John Doubek, 4 College Park Dr., compared the RA-40 uses versus the CRP uses, saying the key differences are the special exception uses. He added that if this change is approved, they only need to have two of the special exception uses to qualify this for use as research park. He spoke about building heights and the financial implications of this proposal. He asked why the Regulations on the City website, still have the location requirement listed when it was deleted from the Regulations. He suggested that the intent of this proposal is to put up apartments and

dwellings. Whether it is used for a research park would be relative to the business climate at the time.

Nicholas Johnston, 16 Crestdale Dr. submitted a letter in opposition from Linda Giannecchini, 11 Crestdale Dr. **(exhibit P)**

Mr. Farah made a motion to take a five minute recess. Mr. Melillo seconded the motion. Chairman Knapp called the meeting back to order at 9:55 PM.

Alexa Fitchett, 14 Crestdale Dr., said she has lived there for 28 years. She spoke about an accident between a truck and a car which took place at the intersection of Crestdale and Mill Plain Rd./Lake Ave. Ext.. She added that she mentioned it because when the CVS was built, the property owners on Crestdale were assured that trucks were specifically prohibited from using Crestdale Rd. She added that recently the subject property has had trees cut down which has affected the visibility.

Bob Paquette, 6 Watson Dr., also a resident of 28 years, said his property borders the western portion of the subject property. He read a prepared statement into the record. It said he supports Research & Development, but there is a correct time and place for everything. He also spoke about fairness and due process. He said this is spot zoning as the development of this property as proposed would make it out of harmony with adjoining properties and would have negative impact on area. He said this whole thing smacks of municipal favoritism as this regulation was created for the subject property.

Attorney Jaber then spoke in rebuttal to the opposition's comments. He said the Zoning Regulations require a 12% driveway grade, from Mill Plain Rd. it is 5.5% and they would have to maintain the 12% grade for the remaining driveway. He said the buildings that were presented by the opposition were over one million sq.ft. with parking in the setback area and there is nothing existing in Danbury like that. It is a tremendous exaggeration, even Union Carbide not that big. He said the 30% required open space cannot include driveways or parking areas. He said no one would approve a plan that does not comply with the purpose and intent in the Regulations. He also suggested that the housing proportion would be way out of whack with the neighbor's renderings. He said the Regulations say it must be for students or employees; and the amount of residential development is limited to 50% of the total ground floor area of all of the buildings in the research park. He said the Planning Commission meeting not a public hearing. At times they ask for info from an applicant but it is not a public hearing. He said there has been no cutting of trees on this property, on adjacent properties, yes but there are approvals for that. In closing, he said this is not spot zoning; there are two issues that define spot zoning in case law: the parcel being a small area and the proposed rezoning not being compatible with the current land uses. This is not small area and it is compatible with adjacent parcels. He said the case cited by Mr. Paquette was about a change from residential to industrial which is different than this case. He read from the State Statute the benchmark for a zone change.

Chairman Knapp clarified difference between referrals and public hearings. He said when a petition is referred to the Planning Commission, it is not a public forum. The purpose is

specifically to get an opinion from that Commission. When the Zoning Commission holds a public hearing, that the time when everyone is allowed to speak. He said the Planning Commission does have the option of asking for clarification from the applicant, but that does not make it a public hearing.

Mr. Melillo made a motion to close the public hearing. Anderson seconded the motion and it was passed unanimously.

=====
NEW BUSINESS:

ZBA Referral #06-95 – N & M Properties LLC, 104 West St. (#H14183) to change pre-existing non-conforming use (ten-unit Boarding House) to a less intense non-conforming use (six-family dwelling). (CL-10 Zone) Z.B.A. Public hearing scheduled for August 10, 2006.

Mr. Melillo made a motion to table this matter until next meeting. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

=====
There was nothing under Correspondence and the For Reference Only listed the public hearings scheduled for August 22, 2006 and September 12, 2006.

At 9:45 PM, Mr. Jowdy made a motion to adjourn. Mrs. Buzaid seconded the motion and it was passed unanimously.