



CITY OF DANBURY
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ZONING COMMISSION
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MINUTES
SEPTEMBER 26, 2006

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

Present were Theresa Buzaid, Anthony DiCaprio, Ted Farah, Theodore Haddad Jr., Helen Hoffstaetter, Richard P. Jowdy (arrived at 8:20 PM), Donald Kennedy, Jack H. Knapp, Robert Melillo, and Alternates Victoria Hickey and Joseph Notaro Jr. Also present was Planning Director Dennis Elpern.

Mr. Melillo led the Commission in the Pledge of Allegiance

Mr. DiCaprio made a motion to table the minutes of September 12, 2006 as they are not finished yet. Mr. Mr. Melillo seconded the motion and it was passed unanimously.

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PUBLIC HEARINGS:

7:30 PM – Petition of 3B Properties LLC, 46 Mill Plain Rd. (#D15005) for a Special Permit for Restaurant Liquor License.

Chairman Knapp read the legal notice. He said this site has received site plan approval which means both the site and the parking requirements have been approved for this specific use. He said the floor plan is being submitted tonight. He noted that Mr. Notaro had arrived since he had taken the attendance.

Ron Foley, spokesperson for this request said the owner and managers are present. He said this is a first restaurant for the owner. Mr. Melillo asked what type of restaurant this will be and Mr. Foley said family Continental cuisine. The restaurant will be open until 10 or 11 PM during the week and until 2 AM on the weekends. Ms. Hoffstaetter asked if there will be entertainment and Mr. Foley said no, there will not. Mr. Foley said there is a wall separating the dining room from the bar area, which is a requirement for a Restaurant license. Mr. Farah asked for a clarification of an entrance as shown on the floor plan. Faruk Asipi identified himself and came forward and pointed out the exits to the restaurant. There were no other questions. Mr. Elpern reviewed the criteria in Sec. 3.F.2. of the Zoning Regulations. He mentioned that in addition to the wall separating the bar from the dining, they also have to have no less than 60% of the seating devoted to dining in order to make the 60-40 split of receipts. He checked the floor plan and said there are 74 seats including the bar, so approximately 43 seats have to be devoted to food separate from the bar.

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

Mr. Melillo made a motion to close the public hearing. Mr. Farah seconded the motion and it was passed unanimously. Mr. Melillo then made a motion to move this matter to number two under the Old Business on tonight's agenda. Mr. DiCaprio seconded this motion and it was passed unanimously.

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7:45 PM – Petition of the City of Danbury by Dennis I. Elpern, Planning Director to Amend Secs. 5.G.3., 5.G.4., 5.G.6., 5.G.7. & 5.G.8. of the Zoning Regulations. (Amend CRP Zone).

Chairman Knapp read the legal notice and the Planning Dept. Staff Report. Ms. Hoffstaetter read the letter from Airport Administrator Paul Estefan. Chairman Knapp read two other letters from Attorney Paul Jaber. Mr. Farah read the Planning Commission recommendation which was positive.

Dennis Elpern then spoke in favor of this petition. He pointed out that these changes are consistent with the Plan of Conservation & Development (POCD). He said he would discuss each change individually starting with the deletion of hotels and motels. He said that is self explanatory, since it is just too broad a category which makes any restrictions on it unable to be enforced. He said the reason for the change to business or professional offices is because of the concern that there would be stand alone offices which have no relationship to the park. He said it was never intended that there would be no offices in the park. He referred to the letter from Attorney Jaber regarding the request to modify the petition. He said they do not want offices moving into spaces that were intended for CRP. He added that they can make revisions on the floor but with the determination that these are not substantial changes but for clarity. Mr. Melillo asked if what we would allow is similar to an office for a professor at a university. Mr. Elpern said we want no separate office buildings, only offices that are in conjunction with the park use. He said the elimination of restaurants is the same as the hotel because they cannot control that they only patrons would be people involved in park related business. He continued saying for the same reasons we need to eliminate the special permit for liquor service. He said the 45 ft. maximum height is what is permitted in the CA-80, CG-20 zones, as well as the IL-40 zone. Changing this gives an extra level of protection and if these regulations are ever used in another part of town where it is not within the Airport Approach zone. He said we also are adding an additional amendment that will require that a fifty foot buffer remain in its natural state unless minimal grading and clearing is required for utilities, as approved by the Planning Commission. Mr. Melillo asked if they eliminate restaurants, would they still allow cafeteria style food service in the building. He explained that we would not want to encourage additional traffic traveling in and out of the neighborhood just to get something to eat. Mr. Elpern read the definition of a campus center, suggesting they think of a student union. Mr. Melillo asked if a cell or communication tower would be allowed. Mr. Elpern said cellular towers are regulated by the State Siting Council and cellular antennas are a special exception use to be reviewed by the Planning Commission. Mrs. Buzaid asked if the residential dwellings would be restricted to the people employed in the park and Mr. Elpern said yes. At 8:14 PM, Mr. Jowdy arrived. Mr. Farah asked about the height limitation saying that Mr. Estefan's letter restricts the height requirement only on that site. Mr. Elpern said the Airport Approach zones only account for about 5% of the total land area in Danbury.

Jim Bellano, a representative of Albert Salame, then spoke in favor of these amendments. He said they are in favor of all of the changes except the removal of business and professional offices. He said it was never their intent to build 65 ft. high buildings. Again they are in favor of most of these amendments and will address their opposition to the proposed change to offices later in the meeting. He submitted a report titled "Examples of Typical Uses at Research Parks Affiliated with Universities". Chairman Knapp designated this as Exhibit A. Albert Salame then said they do not want a project that is not neighborhood friendly. He reiterated that they never intended to build 65 ft. buildings. He said they hope to build something that everyone will be happy with.

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

Jim Bellano then said he would now speak in opposition. He said Mr. Elpern had mentioned that we wouldn't want a law firm to go into the office space, but what if it was a patent law firm? He said one of most important components of the research park is the interaction with WCSU and removal of these uses may discourage Federal grants or funding. Prospective tenants could be start-up research companies. The "administration and support service" language is ambiguous and could be misinterpreted as not meaning Information Technology (IT), grant writing and marketing. He said they would have to come before the Planning Commission to get approval for a business or professional office. Eileen Walker then spoke saying there is a 60/40 split in research parks and removal of offices could be fatal to a privately funded project like this. She referred to a book passed out about research parks around the country; saying in the six examples of research parks, the inclusion of business and professional offices is an extremely important element. She said they think that adding the word office to Sec. 5 as Attorney Jaber's letter proposes will make this much clearer. Mr. Haddad asked if the addition of the word is adequate or do they also want to keep the existing language. Mr. Bellano said they want both. Mr. DiCaprio asked what prevents a law office from going into the park. Mr. Bellano said that is a special exception use and the Planning Commission has jurisdiction over it. He added that they would have to trust the enforcement of the regulations to prevent it. Albert Salame then said the special exception uses include the safeguards which will protect and make sure that what is going into the park is in compliance with the regulations. And since this use would have to go before the Planning Commission before it could go into the park, the Planning Commission would have the opportunity to either deny it or impose conditions on the approval.

Dr. Gary Wilson specifically addressed only the removal of business and professional offices as described in the Planning Director's staff report. He said he cannot support Mr. Elpern's conclusions because removal of this use will have an impact on the CRP district. He said he had previously addressed this Commission but did not speak about this issue, but now he wants to go on record as stating that these uses are an important component of this concept. He submitted a revised report to the Commission which was designated Exhibit B.

Lynn Waller, 83 Highland Ave., said this is the first time she has spoken on this issue. She reminded them that this is not just about this parcel; it will affect all sites that could potentially be zoned this way. She questioned how many of the other sites mentioned by them are surrounded by residential zoning. She expressed concern that all of these other uses will squeeze out the residential development. In closing she said the CRP is a tremendous and

wonderful concept, but she is concerned about how much they are being asked to put into this zone.

Mr. Elpern spoke in rebuttal and said that office incubators are allowed, but changing from one office use to another office use would not require a review by the Planning Staff or Commission. He thanked Dr. Wilson for his list of all conceivable uses that would go into a Campus Research Park and said most of these are included in the Regulations already. He then said they have three options here: (1) leave the reference to business and professional offices as it currently exists in the Regulations, (2) remove it entirely from the Regulations, or (3) take it out of the Regulations and include the changes as proposed by Attorney Jaber in his letter dated September 1, 2006. Chairman Knapp mentioned that this is a City wide issue, not a site specific one. Mr. DiCaprio asked what is to stop any office from going in there, since that was part of the reason for this petition. He asked if we really have any control over what type of business or professional office is there, once this is built. Mr. Elpern said the change of use from one office to another is one that we review or control. Mr. DiCaprio said it would probably come down to whether the intent was to comply with the original approval. Ms. Hoffstaetter suggested we could amend Sec. 5.G. by adding the word "professional" in front of administrative and business support services. Mr. Elpern then said he did not expect that this would be such an issue. He added that the word "including" is defined in our Regulations. Ms. Hoffstaetter said there is a conflict here because administrative and business support does not really include something like a patent attorney. Mr. Melillo asked Mr. Elpern if the list that Dr. Wilson submitted includes uses that he feels should be in the CRP zone. Mr. Elpern said he agrees with most of them and some of them are already included in our Regulations. There was no further discussion.

Mr. DiCaprio made a motion to close the public hearing. Ms. Hoffstaetter seconded the motion and it was passed unanimously. Mr. Melillo made a motion to move this matter to number three under the Old Business on tonight's agenda. Mr. Jowdy asked if he would be eligible to vote since he came in after the testimony had already started. Chairman Knapp said Mr. Jowdy would have to listen to the tapes. Mr. Jowdy then made a motion to table this matter. Mr. Melillo seconded the motion. Chairman Knapp called a roll call vote on this motion and it was denied with six NAYS and two AYES (from Mr. DiCaprio and Mr. Jowdy). Mr. Melillo then made a motion to move this matter to number three under the Old Business on tonight's agenda. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

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Mr. Melillo made a motion to take a recess. Mr. Farah seconded the motion. Chairman Knapp called the meeting back to order at 9:50 PM.

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OLD BUSINESS:

Petition of WCI Communities Inc. to Revise the Master Plan for the Reserve which was originally approved November 26, 2002 and revised September 28, 2004. (Amend Sec. 14d - Stormwater Management and Public Utilities) *Public hearing closed August 22, 2006 – decision must be made by October 25, 2006.*

Mr. Haddad excused himself as he is abstaining from this matter. Chairman Knapp announced that Ms. Hickey had listened to the tape so she is now eligible to vote on this. He then asked Ms. Hickey to take Mr. Haddad's place for this matter. He said everyone is eligible to vote except for Mr. Haddad. He asked for discussion and/or comments from the Commission members. Mr. Jowdy made a motion to approve this for the following reasons:

- This is a minor revision along a private road and having overhead utilities creates no disturbance to the area.

Mr. Melillo seconded the motion. Chairman Knapp asked for discussion or comments. Mr. Elpern suggested they amend the motion to add the following language: "provided that the change in the Master Plan shall not be construed as affecting the development standards of the roads themselves". Mr. Jowdy and Mr. Melillo accepted the suggestion and amended the motion and the second to include it. Ms. Hoffstaetter asked if they had resolved the question of who really owns this WCI versus Woodland Group. Chairman Knapp said that WCI had bought the Woodland Group's interest in this project. Mr. DiCaprio then said he has a problem with this petition because when they created The Reserve; it was to be state of the art. This is matter of economics for the developer and he is against this because they should not have to create above-ground poles for this developer. Chairman Knapp called a roll call vote and the motion was passed with eight AYES and one NAY (from Mr. DiCaprio)

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Petition of 3B Properties LLC, 46 Mill Plain Rd. (#D15005) for a Special Permit for Restaurant Liquor License.

Chairman Knapp said they had discussed changes that needed to be made to the floor plan. Mr. Elpern explained that they would not issue the actual Special Permit nor would the ZEO sign the State forms until the revised floor plan is submitted. Ms. Hoffstaetter then made a motion to approve this pending a revised floor plan being submitted reflecting the changes proposed this evening. The following reasons were given for this motion:

- 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. Melillo seconded the motion. Chairman Knapp asked Mr. Notaro to take Mr. Jowdy's place since Mr. Jowdy did not arrive until after the hearing was over. Chairman Knapp then called a roll call vote and the motion to approve was passed with eight AYES and one NAY (from Mr. Notaro).

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Petition of the City of Danbury by Dennis I. Elpern, Planning Director to Amend Secs. 5.G.3., 5.G.4., 5.G.6., 5.G.7. & 5.G.8. of the Zoning Regulations. (Amend CRP Zone).

Mr. Melillo made a motion to approve this leaving the business or professional office as a special exception use and renumbering the uses as listed in the amendment package. He gave the following reasons for his motion:

- This is consistent with Plan of Conservation & Development, it brings the height requirement into conformity with the other residential zones and it will protect the adjacent residential area.

Mr. DiCaprio seconded the motion. Chairman Knapp appointed Ms. Hickey to take Mr. Jowdy's place as he is not eligible. Mr. Haddad said this is option one as Mr. Elpern described it. Chairman Knapp called a roll call vote and the motion was passed unanimously

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Chairman Knapp noted that there were two Cease & Desist Orders listed under Correspondence. There was no New Business, and nothing under Other Matters or For Reference Only. Chairman Knapp said since there was no business scheduled for the next meeting on October 10, 200, the meeting would be cancelled.

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