



**CITY OF DANBURY**  
155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

ZONING COMMISSION  
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MINUTES  
SEPTEMBER 25, 2007

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The meeting was called to order by Chairman Jack Knapp Jr. at 7:32 PM.

Present were Theresa Buzaid, Anthony DiCaprio, Ted Farah, Theodore Haddad Jr., Helen Hoffstaetter, Rob Melillo, Jack Knapp and Alternates Victoria Hickey and Patrick Johnston. Also present were Deputy Planning Director Sharon Calitro and Planning Director Dennis Elpern.

Absent were Richard P. Jowdy and Donald Kennedy.

Chairman Knapp asked Ms. Hickey to take Mr. Jowdy's place and Mr. Johnston to take Mr. Kennedy's place for the items on tonight's agenda.

Mr. Farah led the Commission in the Pledge of Allegiance.

Mr. Melillo made a motion to accept the minutes of August 28, 2007. Mr. Johnston seconded the motion and it was passed unanimously.

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PUBLIC HEARING:

7:30 PM – Petition of Sierra Grill Danbury LLC, 7 Eagle Rd. (#L11021) for a Special Permit for Restaurant Wine and Beer.

Chairman Knapp read legal notice. Gregg Erardi said he is the owner of this and two other Sierra Grill restaurants in Norwalk and Stamford. The reason they are only asking for Wine and Beer is because they do mostly lunch and early dinners so they don't want the bar business. They just want to be able to serve wine and beer as an accompaniment to the food. Ms. Hoffstaetter asked if there is a physical bar in the restaurant. Mr. Erardi said there is not, the wine and beer would simply be stored in the refrigerator behind the cooking line. He explained that this is almost a cafeteria style operation; there are no waiters or waitresses. You place your order at the order station, then you can move down the line and watch food being prepared and then you pick it up and bring it to table itself. Mr. Melillo asked if they do a carryout business and Mr. Erardi said 35-40% of their business is take-out, more for dinners than lunches. He added that the wine and beer will only be for on-site consumption. He said the customer specifies when they place the order if it is to go. There were no other questions.

Mr. Elpern reminded the Commission of general criteria in Sec 3.F.2. of the Regulations. He also pointed out the additional criteria for restaurants serving liquor.

Ms. Hoffstaetter made a motion to close the public hearing. Mr. Farah seconded the motion and it was passed unanimously. Mr. Melillo made a motion to move this matter to number one under

the Old Business on tonight's agenda. Mr. Johnston seconded the motion and it was passed unanimously.

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CONTINUATION OF PUBLIC HEARING:

Petition of the City of Danbury by Dennis I. Elpern, Planning Director to Amend Secs. 3.E.3., 6.A., 6.B. & 6.C. of the Zoning Regulations. (Revise Industrial Zones). *Public hearing opened 8/28/07- 35 days will be up on 10/2/07.*

Mr. Haddad excused himself and left the dais as he is abstaining from this matter. Chairman Knapp said he had listened to the tapes of the previous meeting that he had missed. .

Dennis Elpern explained the changes that had been made as detailed in the memo dated Sept 25, 2007. Mr. Melillo asked if the uses that were eliminated in the petition are still eliminated. Health club and day care are considered accessory if they are not for public use. Ms. Hoffstaetter asked if a couple of businesses got together, could they do it. Mr. Elpern said that would not be permitted under our Regulations. Mr. Melillo asked about warehousing and Mr. Elpern said it is permitted as an accessory to the main use or independently, it is a special exception.

Paul Rotello, 13 Linden Pl., said he is in favor of the idea because we should be preserving the industrial zones in Danbury. He said he thought that hotels could be appropriate as an accessory use. He added that he thinks they should have left power plant out as was originally proposed. He then suggested that the Commission needs to decide what kind of power plant they would be comfortable seeing in Danbury and also one that the neighbors could tolerate, then they could add that to the Regulations. He said if they don't specify the type of power plant, then the CT Siting Council will think they can put in any size. He suggested they focus their efforts on whether they want the hotels as a stand alone use and also consider putting size limitations on the power plant. Mr. Johnston said the suggestion of 35 megawatts is an extremely small plant. Mr. Rotello said we need to look at Danbury's needs before we look to provide power to other areas.

Chairman Knapp asked if there was anyone to speak in opposition to this.

Attorney Neil Marcus said he again is representing Ed Kilian and does want to speak in support of some of the changes proposed by the staff. He commended them for listening to what the people want. He had said at the previous meeting that eliminating transfer stations could cause a problem, because then we could only have the one on White St. Now proposing to keep them means they are looking at the big picture and thinking about the future. He said if we don't specify where we want power plants, then the Siting Council can put it wherever they deem suitable. He said for that reason he supports putting it back in as a special exception. He said when the Siting Council looks at these applications, they look at every minute detail. He mentioned the zephyr on Rt. 22 heading toward Massachusetts, saying it was built for Jiminy peak to generate power. It is a wind powered electrical generating plant. The future of power plants is for all kinds, gas burning, fuel cell, etc. strongly in favor of the change to add it back in. He said now he is mostly in favor of the changes, but still questions the elimination of health clubs. It would be a good re-use for an industrial building and nothing about a health club is detrimental to industrial zoning. He suggested they consider making it a special exception use in

the zone. Additionally he mentioned that he has a problem with making everything a special exception. He said the process is somewhat problematic for the businessmen in Danbury because of the time factor. He said he would like to see less special exception uses and more professional staff work. He thanked the staff for giving consideration to the concerns raised by all who spoke at the last meeting. He said they should adopt these changes and possibly add health clubs in as a special exception.

Lynn Taborsak, 110 Hayestown Rd., said she is thrilled with the memorandum dated today. Her concern is with the IG-80 zone because there is so little of it left and they can't make any more. Heavy industrial uses are permitted in that zone and where else could we have a junkyard? She said the other thing that disappeared was the landfill transfer station, there is the one on White St. but what if we need another, we need to have a place to put it. She said the industrial zones are carrying some of the tax burden for the residents of Danbury and any proposal for a power plant will help our tax base.

Jim Kelley, 19 Country Ridge Rd., said he owns a business on Beaver Brook Rd. and he looked at the original proposal from a contractor's perspective. He said it seems arbitrary how uses are selected for addition or deletion and asked for explanation as to how this process is done.

Mike Lamparski asked if they are taking health clubs out, as he is the proposed tenant for the former Risdon building. He said it is a tough business to locate because commercial landlords don't want them in strip malls or shopping centers, so they have to look to the industrial areas. He said their busiest time is after 5 PM and suggested that they give that consideration when determining how they would fit in the industrial zones.

Helena Abrantes, 12 Fanton Rd., said she is glad they put back energy power facility back in because if it is important that we specify where we want them. She said that is a use which would bring in revenue to the City. Her concern with these changes is because businesses are leaving Danbury. The more boards they have to go before makes them not want to open in Danbury. We need to save what businesses we have at this point.

Mr. Elpern spoke in rebuttal to the opposition's comments. He said if adopted as proposed all forms of contractors offices would be allowed in both zones. He said he does not believe that Health Clubs belong in these zones because they are not industrial uses. He said we do want to preserve what little industrial land we have left. He then explained the process of special exception review and reviewed the criteria necessary for approval. He said the Planning commission has more latitude than staff with regard to conditions that can be imposed referring to the Section of the Regulations that discusses reasonable conditions. He said that people should want us to have public hearings for some of these uses; democracy means that all citizens should have the right to come forward and state their opinion. He added that it is ironic that people who speak against public hearings do it at a public hearing. Mr. Farah asked why Attorney Marcus would be opposed to making these uses special exceptions. Mr. Elpern said they said the time is a big factor. Ms. Hoffstaetter asked Mr. Elpern if he used the criteria to compile the list of special exception uses. He said he did, especially ones that were geared toward traffic There were no other questions.

Mr. Melillo made a motion to close the public hearing. Ms. Hoffstaetter seconded the motion and it was passed unanimously. At 8:54 PM, Mr. Melillo then made a motion to take a five-minute recess. Ms. Hoffstaetter seconded the motion. At 9:01 PM, Chairman Knapp called the meeting back to order. He then announced that they are not going to vote on this tonight. Mr. DiCaprio will listen to the tapes before the next meeting so he will be eligible to vote. Mr. Haddad returned to the meeting at this time.

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

Petition of Sierra Grill Danbury LLC, 7 Eagle Rd. (#L11021) for a Special Permit for Restaurant Wine and Beer.

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

- 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.

Ms. Hoffstaetter seconded and passed unanimously by voice vote.

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NEW BUSINESS:

Petition of the City of Danbury by Dennis I. Elpern, 67, 69, 71, 75-79 Newtown Rd., 1 Plumtrees Rd. & Un-numbered Road Widening Parcel on Newtown Rd.(#L11035, #L12032, #L12036, #L11037, #L11036, #L11033, #L12033 & #L11040) for a Change of Zone from CL-10 to CG-20 & IG-80. *Public hearing scheduled for October 9, 2007.*

Mr. Melillo made a motion to refer this to the Planning Commission for their recommendation. Mr. Farah seconded the motion and it was passed unanimously by voice vote.

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OTHER MATTERS:

Taranjit (Tony) S. Randhawa d/b/a Express Fuels & Food Mart, 25 Mill Plain Rd. (#E15025) – Application for a Certificate of Location Approval to Permit the Sale of Gasoline. *THIS IS NOT A PUBLIC HEARING.*

Mrs. Calitro explained the process as mandated by state statute. She said it was changed over the past few years and now they are the board that gives the local approval. She said previously and in our Regulations, it is the Zoning Board of Appeals that signs off on these. She said the Commission acts as a liaison to the Dept. of Motor Vehicles by stating this business will be located in a zone that allows it. This step must be done before they can apply for the State license. She reviewed her report and said any criteria that was previously listed has been removed from the Statutes and the current language is ambiguous. She explained that the

applicant has site plan approval in place and the building permit is being reviewed at this time. She explained that normally this would have been done earlier in the permit process, but with the Statutory changes as to which commission is responsible, it didn't get done. The applicant thought that it was just something that the Zoning Officer could sign off on. He did not realize that it was a formal matter that needed to come before a commission. She said the Special Permit which was granted for the Package Store on this site becomes null and void now because of Sec. 10.C.4. of the Zoning Regulations. She added that there is no requirement for public hearing for this process. Mr. Haddad asked why they can't require a public hearing and if this a permitted use. Mrs. Calitro said it was a permitted use when the site plan was approved but it is now a special exception use. Mr. Haddad asked why this wasn't done before the site plan was approved. Mrs. Calitro re-iterated her previous remarks about why we didn't catch this sooner.

Mr. DiCaprio said he recalled the applicant coming in for the package store permit and asked why the package store permit is now null and void? Mrs. Calitro read from Sec. 10.C.3. of the Regulations which says any proposed change in use other than what the Special Permit was approved for will make it null and void. Once the site plan approval was granted for the gas station, the Special Permit for the package store was void. She then said the Statutory requirement for a hearing on this kind of request was repealed in October 2003, so we may not legally be able to hold a hearing. Mr. Melillo said he wants more information before making a decision. He then made a motion to refer this to public hearing. Mr. Haddad seconded the motion. Mr. DiCaprio said this applicant seems to have done everything properly and we don't know if it is his fault that it took a period of time to get here. He added that both of these requests should have been before them earlier this year but they were not but we are not here to point fingers. Mr. Johnston said they should vote on the motion to hold a hearing. Mr. DiCaprio said he agrees with Mr. Haddad and Mr. Melillo but thinks these should be acted on tonight. Mrs. Buzaid asked if the steps that the applicant made were in the correct order. Mrs. Calitro said we probably could have handled this better, but the Statutes changed and we didn't change our Regulations, so we had to determine which commission should look at this. Mrs. Buzaid then asked if there were any wetlands on the site. Mrs. Calitro said all of that was reviewed as part of the administrative site plan review. Mr. Johnston made a motion to call the question on referring this to a public hearing. Mr. Melillo seconded that motion and it was passed unanimously. Mr. Melillo then made the motion to hold a public hearing on this matter. Mr. Johnston seconded the motion. Chairman Knapp called a roll call vote and the motion to hold the public hearing was approved with seven AYES (from Mrs. Buzaid, Mr. Farah, Mr. Haddad, Ms. Hoffstaetter, Mr. Melillo, Ms. Hickey, Mr. Johnston) and two NAYS (from Mr. DiCaprio and Chairman Knapp). Mr. Melillo requested that we have Corporation Counsel present at this public hearing. Mrs. Calitro said she would arrange it.

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Saturn of CT Inc. d/b/a Saturn of Danbury, 84 Federal Rd. (#K11111) – Application for a Certificate of Location Approval for a New Car Dealer's License. THIS IS NOT A PUBLIC HEARING.

Mrs. Calitro reviewed the report for this request. Mr. Melillo said this is different than the previous one because it has already been before them for a public hearing. He made a motion to approve this location. Mr. Haddad seconded the motion. Mr. DiCaprio said he does not

understand why go to hearing on one but not on the other. He said there is no precedent for doing it both ways. Mr. Johnston asked for a clarification of a prior public hearing. Chairman Knapp said this commission heard this matter as a zone change, knowing the intent was for this Saturn dealership to relocate here. Mrs. Calitro pointed out that this one also went to public hearing for the special exception use. Mr. Haddad said the difference is that the previous application has not had any public hearings, so the public is probably not aware of the proposed use as a gas station. Mr. Farah made a motion to call the question. Mr. Johnston seconded the motion and it was passed unanimously. Chairman Knapp called a roll call vote on the motion to approve this location and it was passed with eight AYES (from Mrs. Buzaid, Mr. Farah, Mr. Haddad, Ms. Hoffstaetter, Mr. Melillo, Ms. Hickey, Mr. Johnston and Chairman Knapp) and one NAY (from Mr. DiCaprio)

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There was nothing under Correspondence and the For Reference Only listed a public hearing scheduled for October 9, 2007.

At 9:45 PM, Mr. Melillo made a motion to adjourn. Ms. Hoffstaetter seconded the motion and it was passed unanimously.