



23

**CITY OF DANBURY**  
**OFFICE OF THE CORPORATION COUNSEL**  
155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

(203) 797-4518  
(203) 796-8043 FAX

PLEASE REPLY TO:

July 25, 2006

Hon. Mayor Mark D. Boughton  
Hon. Members of the Common Council  
155 Deer Hill Avenue  
Danbury, CT 06810

Re: Request for Fee Adjustment/Michael A. Kallas/53 South Street, LLC  
July Agenda Item No. 12

Dear Mayor and Council:

This office, at your request, has reviewed the above request from Mr. Michael Kallas regarding a site plan(s) submittal made to the City of Danbury Planning Commission and Department in 2005 and in 2006. We have also discussed this request with Coordinator of the Permit Center, Sean Hearty and there is agreement with respect to the following response:

In his letter to you dated June 26, 2006, Mr. Kallas asserts that he submitted the first site plan for nine (9) units for his 53 South Street Sycamore Court affordable housing project on June 25, 2005. He states that this plan was rejected by the Planning Commission on September 7, 2005 apparently because a special exception could not be obtained for this many units.

Mr. Kallas then submitted a new plan for the same site for six (6) units on May 5, 2006 that did not require a special exception, because there were fewer units proposed in this newer plan.

Mr. Kallas says that he paid the requisite \$1,500.00 Planning fee for the first submittal (the one that was rejected) but because the second submittal was for the same site, (albeit a somewhat different configuration) he should not be required to pay another full fee, but rather only a \$300.00 revision or modification engineering department fee.

The applicable ordinance section that answers this question is Section 11-2. This ordinance sets forth, in summary, that the following fees are payable when an applicant wishes to submit land use and subdivision proposals to the City for review:

1. A general Planning/Zoning processing fee (\$1,500.00 in this case);
2. An Engineering Department (first level) review fee, based on 3% of the estimated cost of construction;
3. General subdivision processing fee (minimal at \$25.00 per lot up to \$50.00 per lot);
4. A \$300.00 fee for the Engineering Dept. to review "revised or modified" plans.

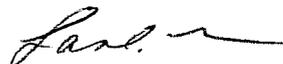
The language of Ordinance Section 11-2(b) is clear regarding what the \$300.00 fee is intended to cover. It is stated therein ((11-2(b)) that "In addition to the foregoing (*the land use processing fee AND the first level engineering fee*), the applicant shall pay a fee of three hundred dollars (\$300.00) for each and every review of revised or modified plans..."

Thus, while Mr. Kallas is entitled to a discounted fee for **engineering** review of revised or modified plans that may have been resubmitted, such reduced fee does not exist for re-application for **land use** review, which is what it appears he had submitted the second time around. Although his second submittal was for the same property and for similar development, it was apparently for a different configuration, and for which there is no certainty that a full land use review would not be required and therefore a full land use fee necessary.

Finally, while Mr. Kallas points to language in the Planning and Zoning Department letter to him of January 20, 2005 regarding such a \$300.00 fee, it is clear that the actual ordinance language provides that such \$300.00 fee is **in addition** to all other previously charged land use and engineering fees. It is understandable that there may have been a little confusion with respect to the language used in the January 20<sup>th</sup> letter he received.

Please do not hesitate to contact us in the event you have any questions or concerns regarding this matter.

Very truly yours,



Laszlo L. Pinter  
Assistant Corporation Counsel

cc: Robert J. Yamin, Corporation Counsel  
Sean Hearty, Coordinator of Permit Center  
Farid Khouri, City Engineer

Llp/kallas2



**CITY OF DANBURY**  
**DEPARTMENT OF PERMIT COORDINATION**

155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

**Sean P. Hearty**  
**DIRECTOR**

(203) 796-1653  
FAX:(203) 797-4586

July 26, 2006

Hon. Mayor Mark Boughton  
Hon. Members of the Common Council

RE: Plan Review fee adjustment for Michael A. Kallas – 53 South Street, LLC

Dear Mayor and Council,

At the request of the Common Council I have reviewed the above referenced request from Mr. Kallas for an adjustment to the Site Plan review fee that is required by City Ordinance. I also have discussed this request with Deputy Corporation Counsel Les Pinter and we are in agreement that Mr. Kallas is responsible for the full \$1,500.00 review fee. I offer the following reasoning:

On January 25, 2005, Mr. Kallas submitted a **Special Exception/Site Plan** application for **9 Units** at 53 South Street. At that time, Mr. Kallas paid a \$1,500.00 fee for the Engineering and Fire Marshal reviews. This Special Exception/Site Plan for the 9 Units was denied by the Planning Commission on September 7, 2005.

On May 5, 2006, Mr. Kallas submitted a new **Site Plan** application on for **6 Units** at 53 South Street.

In my opinion, the May 5<sup>th</sup> application is a new and separate application. This plan for 6 units is less intense than the previous application, but will still require full review from both Engineering and the Fire Marshal. I have reviewed both site plans for similarities and the only real similarity I have found is the location. Any revisions after this initial review will be subject to the lesser fee.

Respectfully,

Sean Hearty  
Director of Permit Coordination/Zoning Enforcement Officer

C: Farid Khouri, City Engineer  
Laszlo Pinter, Deputy Corporation Counsel