

SHARON WICKS DORNFELD
ATTORNEY AND COUNSELLOR AT LAW
70 NORTH STREET, SUITE 104
DANBURY, CT 06810
203-748-3363
FAX 203-748-3104

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February 27, 2007

The Hon. Mark Boughton
Members of the Common Council
City of Danbury
155 Deer Hill Ave.
Danbury, CT 06810

Re: Blue Ribbon Developers LLC v. City of Danbury suits (20 Deer Hill Avenue)

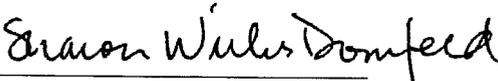
Dear Mayor Boughton and Members of the Common Council:

I am the Assistant Corporation Counsel assigned to these cases. You will recall that I came before an Executive Session of the Council on October 3, 2006 to request approval of the terms of a settlement proposal for the four cases arising out of the denial of a subdivision proposal regarding 20 Deer Hill Avenue and the passage of an "overlay zone" ordinance. The council authorized me to proceed on that date.

The terms of the settlement have been finalized, and the agreement was approved by the Planning Commission on Wednesday, February 21, 2007. The settlement provides for the donation of a conservation easement to the City, and it is necessary for the Council to formally accept the easement.

Therefore, I am requesting that consideration of that matter be put on the agenda for your March 6 meeting.

Very truly yours,



Sharon Wicks Dornfeld

SWD:mtf

cc: Laszlo Pinter, Esq.
Planning Director Dennis Elpern
Assistant Planner Sharon Calitro



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CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

PLANNING & ZONING DEPARTMENT
(203) 797-4525
(203) 797-4586 (FAX)

To: Hon. Mayor Mark Boughton and
City of Danbury Common Council

From: City of Danbury Planning Commission

Date: February 23, 2007

Re: Final Settlement of Litigation: 20 Deer Hill Avenue
Blue Ribbon Developers LLC v. City of Danbury Planning Commission et al
Acceptance of Conservation Easement Area by Common Council

After a public hearing held February 21, 2007, the Planning Commission voted to approve the Settlement Agreement with Blue Ribbon Developers LLC subject to acceptance of the Conservation Easement by the Common Council. Intervening parties to the lawsuit (several Deer Hill Avenue residents) are in support of the Settlement Agreement and expressed such support during the public hearing.

This Agreement will settle several outstanding lawsuits regarding the subdivision applications as well as the creation of the Deer Hill Avenue Overlay Zone. It also provides for the release of all parties from further legal action, including but not limited to the Planning Commission, Zoning Commission, City staff and intervening parties and withdrawal of all pending lawsuits.

Upon approval by the Department of a lot line revision, three existing lots on Deer Hill Avenue (two lots owned by Mr. and Mrs. R. Talarico and one lot owned by Jeffrey and James Davenport and James MacNicoll) will be reconfigured and property transferred between the parties. This action will provide for the construction of one additional dwelling unit but does not create any additional residential lots. The Agreement also provides for 6,402 square feet (0.15 acres) on Lot 2 adjacent to Deer Hill Avenue to be dedicated to the City as a Conservation Easement Area. This Easement will prohibit any construction within said area and therefore maintain the topography and landscape as it currently exists. Additionally, the owners of Lot 2 will remain responsible for maintenance of the area. Further, public use of the area is prohibited.

A copy of the Conservation Easement, approved by the parties and Assistant Corporation Counsel is attached for your convenience.

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As acceptance of the Conservation Easement is an action subject to C.G.S. Section 8-24, the Commission's action on February 21st included issuance of a **positive recommendation** to the Common Council and a request that Common Council accept said Conservation Easement at its March 2007 meeting. Upon notification of Council action, the Planning Commission Chairman has been authorized to execute said Settlement Agreement.

Thank you for your consideration.

Attachment

- C: Les Pinter, Assistant Corporation Counsel
- Sharon Dornfeld, Special Assistant Corporation Counsel
- Dan Casagrande, Counsel for Intervenors

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CONSERVATION EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that JAMES MACNICHOLL a/k/a JAMES MCNICHOL and JEFFREY DAVENPORT both of Bethel, Connecticut, and JAMES DAVENPORT of Washington, Connecticut who collectively do business as BLUE RIBBON DEVELOPMENT, LLC (hereinafter collectively referred to as "Declarants"), desire to preserve the streetscape of the hereinafter described property for posterity, and do hereby make, publish and declare a conservation easement on, over, under and across land shown and designated as "CONSERVATION EASEMENT AREA" on a certain map entitled "PROPERTY SURVEY SHOWING LOT LINE REVISIONS PREPARED FOR BLUE RIBBON DEVELOPMENT, LLC 20 DEER HILL AVENUE, DANBURY, CONNECTICUT" dated 10/19/06 and revised 2/12/07, prepared by CCA, LLC and which map is to be filed in the office of the Danbury Town Clerk simultaneously herewith.

THE PURPOSES of this easement are to be accomplished by the Declarants for themselves, their heirs and assigns, agreeing to do or refrain from doing on or within the conservation easement hereinabove described the acts hereinafter set forth:

1. No driveways, roads or structures of any kind, excluding standard decorative landscaping features will be placed or erected upon the aforesaid conservation easement.
2. All landscaping and plantings shall be in harmony with the character of the existing neighborhood.
3. The general topography of the landscape shall be maintained in its present condition by the owner of Lot #2 shown on the aforesaid map in the same manner as

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the balance of the lot not subject to this Conservation Easement shall be maintained and no topographic changes shall be made without the prior written approval of the Planning Commission of the City of Danbury.

4. The Declaration of this easement shall in no way grant to the public the right to enter the conservation easement for any purpose, it being the intention of the Declarants that the maintenance and preservation of the easement area shall inure to the owner of the property on which it is located.

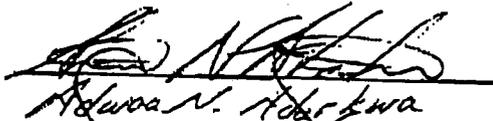
5. The obligations imposed on the Declarants hereunder shall bind the Declarants, their heirs and assigns who shall own the conservation easement from time to time, and shall run with the land in perpetuity.

IN WITNESS WHEREOF, the Declarants have hereunto set their hand and seal this _____ day of February, 2007.

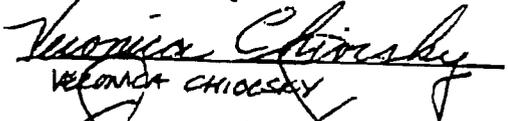
Signed, Sealed and Delivered
In the presence of:

JAMES MACNICHOLL a/k/a
JAMES MCNICHOL

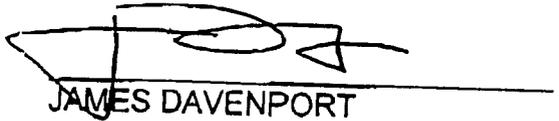

JEFFREY DAVENPORT


Ndawa N. Idorhwa


PAMELA DUFFEE


VERONICA CHIOSSKY


PAMELA DUFFEE


JAMES DAVENPORT

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STATE OF CONNECTICUT)
) ss: Danbury
COUNTY OF FAIRFIELD)

Personally appeared JAMES MACNICHOLL a/k/a JAMES MCNICHOL, signer and sealer of the foregoing instrument who acknowledged the same to be his free act and deed.

Neil R. Marcus, Esq.
Commissioner Superior Court

STATE OF CONNECTICUT)
) ss: Danbury
COUNTY OF FAIRFIELD)

Personally appeared JEFFREY DAVENPORT, signer and sealer of the foregoing instrument who acknowledged the same to be his free act and deed.

Neil R. Marcus, Esq.
Commissioner Superior Court

STATE OF CONNECTICUT)
) ss: Danbury
COUNTY OF FAIRFIELD)

Personally appeared JAMES DAVENPORT, signer and sealer of the foregoing instrument who acknowledged the same to be his free act and deed.

Neil R. Marcus, Esq.
Commissioner Superior Court