CITY OF DANBURY

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DANBURY, CONNECTICUT 06810

PLANNING COMMISSION
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MINUTES (REVISED)
SEPTEMBER 1, 2010

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There are striped parking spaces in front of the building and additional parking in the rear of the building. Mrs. Emminger asked how many spaces are in the rear and Mr. Virbickas said it is not striped; it is just a general parking area. Mr. Virbickas said the proposed addition is approximately 2,628 sq.ft. on the east side. It will be attached to the existing structure. He said they had gotten a setback variance from Z.B.A. because at the closest point, it will be 3 feet from the property line. There currently are six trailers on the site, which will be removed once the addition is completed. He said are also proposing minor modifications to the site as part of this. They want to make the front entrance code compliant to the ADA regulations. They are proposing a small stormwater detention system in the rear of the building. They will protect the main building with a firewall and the addition will only be used for cold storage. He said the Engineering Dept. still has some things that need to be addressed and although they are not proposing to do any work in the floodzone, they still need to file an application for a floodplain permit. Mr. Urice asked if there will be any caustic materials stored on the site. Mr. Virbickas said it is supposed to be only automotive equipment but he said he would confirm that.

Mrs. Emminger said the parking spaces might have to be removed from the right-of-way. Mr. Keller asked if there will still be enough parking on site. Mr. Virbickas said it is a warehouse with only one or two employees. Mrs. Emminger asked if the six trailers on the site will be removed. Mr. Virbickas said that is why they are doing this, so they can get everything into one building. Mrs. Emminger asked if he would be adding a note to the site plan that they will be removed. If not, then he has to show them on the site plan as structures.

Chairman Finaldi asked if there was anyone to speak in opposition to this and one person came forward.

David Barrett said he is not necessarily in opposition. He just wants to see the application; he added that no one would show it to him. Chairman Finaldi asked Mr. Barrett if he has stopped into City Hall to see the application. Mr. Barrett said he had not, he thought he could look at it now. Chairman Finaldi explained that the purpose of a public hearing is for the applicant to present their case to the Commission. The Commission in turn, can ask questions of the applicant. Residents, who are interested in the application, can stop in at any time to the Planning & Zoning Office and review the file. He added that this hearing is being continued this evening, so if he is still interested, he can stop by the P & Z office and look at it. Then he can come to the next meeting and voice his comments.

Mr. Urice made a motion to continue the public hearing. Mr. Keller seconded the motion and it was passed unanimously.

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Attorney Catherine Cuggino said were prepared to respond to the Fire Marshal's comments this evening. She added that they had just received the Engineering report tonight, so they will submit a combined response to Engineering and Mrs. Emminger's comments.

Ralph Gallagher PE said the Fire Marshal has concerns about the length of the driveway for lot 5 and has asked for note on plan about residential sprinklers. This note is a recommendation not a requirement. He added that they would sprinkler the house on lot 5 and install a monitored alarm system. Mrs. Emminger said the Fire Marshal would rather see the monitored alarm system in all houses. Mr. Gallagher said they will put them in all of the houses although sprinklers really would be better. He then reviewed all of the recommendations from City Traffic Engineer. He said he had revised some of the grading to get away from the property lines, but still has work to do on the drainage to satisfy Engineering. He said one issue was the stormwater management galleys between lots four and five, but they have been revised so there will be no easement required. This is the same plan as was approved in 1996. He said they would stipulate to monitored fire and smoke alarm systems as a condition of approval.

Mrs. Emminger said the results of the meeting with the Fire Marshal were that they agreed on the monitored alarm system and the hammerhead configuration. She added that the Fire Marshal also requested the driveway for lot 5 be widened. Mr. Gallagher said it has been done. Ms. Hoffstaetter asked if the driveways will be paved 20 ft. from the road. Attorney Cuggino said they should assume that all the driveways will be paved. Mrs. Emminger said the stormwater calculation will be affected by each of these differently, so a note should be added to the plan specifying how this will be done.

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

Mrs. Emminger said she had outlined lots 4 and 5 as well as the driveway easement going across lot 3 and 4 on a copy of the map. This is what the waiver is requested for because the Regulations say a driveway must be owned in fee simple. She also pointed out the new lot line to accommodate drainage. Mr. Urice said he is concerned about the pitch of the driveway and the easement will isolate part of one lot making it difficult to maintain. Mr. Gallagher said this area is all ledge. Attorney Cuggino said they would be advising the buyer of all this information before the sale is made so they will know what they are getting. Mr. Urice suggested they change the lot line. Mr. Gallagher said it is like this for a reason. Mr. Urice said he would be more comfortable granting the waiver if this issue was resolved before they vote on this. Attorney Cuggino suggested they change the easement area. Mr. Urice said that will not solve the problem. Attorney Cuggino pointed out that they can impose the maintenance on the property owner. Mr. Urice suggested they move the lot line. Mr. Gallagher said it is not that simple, if they move it from here; they will have to take it from somewhere else. That is why they need the waiver. The lots had to be reconfigured from the 1996 approved layout because the Subdivision Regs. changed. Mrs. Emminger said the prior Regs. did not require fifty foot lot width but now they do. Chairman Finaldi said the explanation is simple; if they start moving the lines around – it gets much more complicated. Attorney Cuggino said they still need to respond to the Engineering & Planning comments as well as Corporation Counsel, so this must be continued. Mrs. Emminger said since the Engineering letter directed the Commission to work with Corporation Counsel to resolve the issues; she expects to get something from Corporation Counsel's office. Chairman Finaldi asked that all of these reports be sent to the Commission members ASAP.

Mr. Urice made a motion to continue the public hearing. Mr. Keller seconded the motion and it was passed unanimously.

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<u>Shelter Rock Business Center LLC – Application for Special Exception for Warehouse/Truck Terminal/Storage Establishment & Wholesale Distributor ("Shelter Rock Business Center") in the IL-</u>

40 Zone – Shelter Rock Lane-Parcel "AR"(#L15006) – SE #700. *Public hearing opened 8/25/10. First 35 days will be up 9/28/10.*

Mr. Keller made a motion to continue the public hearing. Mr. Cerminara seconded the motion and it was passed unanimously.

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Natram Associates − Application for Special Exception to Permit Installation of Telecommunication Antennas on Existing Freestanding Sign ("Quality Inn") in the CG-20 Zone − 106 Federal Rd. (#L09025) − SE #703. *Public hearing opened 8/25/10. First 35 days will be up 9/28/10.*

Attorney Katie Hinson from Brown-Rudnick, said this was continued so they could submit the license lease agreement and the legal description. Mrs. Emminger said everything has now been received so they can close the hearing. She added that she has a resolution prepared for them if they want to move this to Old Business.

Ms. Hoffstaetter made a motion to close the public hearing. Mr. Keller seconded the motion and it was passed unanimously. Mr. Keller then made a motion to move this matter to the Old Business on tonight's agenda. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

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NEW BUSINESS:

8-3a Referral – Petition of the City of Danbury by Dennis I. Elpern, Planning Director to Amend Secs. 2.B., 4.B.2., 4.D.2. & 4.G.7. of the Zoning Regulations. (Add "Housing Redevelopment Option" to RMF-4 & RH-3 Zones) *Zoning Commission public hearing scheduled for September 28, 2010*

Chairman Finaldi said this would be on file in the Planning Office at City Hall.

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

28 Division St. LLC −Application for Special Exception for Housing Incentive Option/Affordable Housing Application ("White House Commons") in the RMF-4 Zone − 28 Division St. (#H15277) − SE 696. *Public hearing closed 7/27/10. 65 days to make decision will be up 9/29/10.*

Mr. Keller said he had listened to the tapes for the meetings that he missed. Chairman Finaldi said that means everyone except Ms. Hoffstaetter is eligible to vote. He added that a revised resolution had been sent to all the Commission members. Mrs. Emminger explained there was still one correction to be made to the resolution. Mr. Urice made a motion to approve this application per the revised and amended resolution. Mr. Cerminara seconded the motion.

Mr. Keller then said it still bothers him that this applicant clear-cut the lot before the application was even filed. He said it is not right that he did not ask for permission to do this, but then he came into the meeting and asked for forgiveness for doing it. He added that it puts the Commission in a bad position and if this application is denied, it could be even worse. Mr. Urice reiterated Mr. Keller's comments. He said clear-cutting this property changed the character of the neighborhood, but the applicant has complied with the Regs. and has been working with the neighbors, so he has made an effort to fix what he did. Chairman Finaldi said this may allow fourteen units, but it also gives the Commission some control over the manner in which this will be developed versus the ten he could

build as of right. He added that Mrs. Emminger did a great job putting all conditions in as discussed. He then did a roll call on the motion to approve this per the resolution and the motion was passed with three AYES (from Mr. Urice, Mr. Cerminara and Chairman Finaldi) and one NAY (from Mr. Keller).

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Public hearing for Draft Stipulated Agreement for Special Exception & Site Plan Approval of Eureka Lake Water Tank for the Town of Bethel, 37 Long Ridge Rd. (#J20026) – SE # 681. *Public hearing closed 8/4/10. 65 days to make decision will be up 10/7/10.*

Chairman Finaldi said all of the members present this evening are eligible to vote on this matter. He asked that someone make a motion in favor of the draft stipulation to open the discussion on this matter. Mr. Urice made a motion to approve this per the draft stipulation. Mr. Keller seconded the motion.

Mrs. Emminger said before they discuss the stipulation, at the previous public hearing, Mr. Urice had requested some language revisions regarding the tint and color of the tank be made. This has been done and everyone should have the revised copy.

Mr. Urice said he was reasonably amenable to the original application and made several on-site visits. He said he had been concerned about how they could make this fit into the residential neighborhood and in the end; the Commission denied it because they did not feel it fit in there. He said he really appreciates all of the time that the Planning Dept. Staff, our legal counsel and the City Water Dept. have put in to try to come to a resolution. But in the final analysis, simply adding some trees and berming does not change the fact that this is not compatible with the residential neighborhood or the pristine forest area. He said he just cannot in good conscience support the stipulated agreement. He feels he has to do what is right for the people of Danbury, so he will be voting against the agreement.

Ms Hoffstaetter said she agreed with everything Mr. Urice had said. She does not believe this belongs there and it will only have a negative impact on the neighboring residents in terms of property values and aesthetics. In closing, she said she feels there were other alternatives which could have been explored but not enough due diligence was done by the Town of Bethel.

Mr. Keller said he also concurs with Mr. Urice and Ms. Hoffstaetter. He said he had three points to make as to why this location is not the best for this use. The first is that it is not in character with the neighborhood. The second is that it should be located in an industrial zone and third, the proposed landscape buffer will not replicate what was originally there.

Mr. Cerminara said he is very familiar with this neighborhood as he spent a lot of time there when he was growing up. He added that there had to be another option available because this is just not acceptable.

Chairman Finaldi said he agrees with what has been said and what it boils down to is that there is no easy way to hide a 750,000 gallon water tank on a residential road. He added that the applicant had made a diligent effort to hide it, but it just cannot be done. Even with all they proposed, it will still be visible and have an impact on that neighborhood. In closing, he said that just because the applicant says this is the best location does not make it true for the residents of Danbury.

Mr. Urice made a motion to move the question to a vote. Mr. Keller seconded the motion. Chairman Finaldi took a roll call vote and the motion did not carry by a unanimous vote of 5-0.

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First Congregational Church − Application for Special Exception to allow Wireless Telecommunications Facility in the RH-3 Zone − 162 Deer Hill Ave. (#I14104) − SE #704. *Public hearing closed 8/25/10. 65 days to make decision will be up 10/28/10.*

Chairman Finaldi said this was a pretty simple application and Mrs. Emminger had sent everyone a draft resolution. He asked if there were any comments. Mr. Urice made a motion to approve this per the resolution. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

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White Street Duchess Property LLC − Application for Special Exception to allow Gas Station & Convenience Store ("One Stop") in addition to existing Drive-Thru Restaurant in the CG-20 Zone − 276-280 White St. (#K13031) − SE #556. *Public hearing closed 8/25/10. 65 days to make decision will be up 10/28/10.*

Mr. Keller made a motion to table this matter. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

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Plumpar LLC − Application for Special Exception for Warehouse/Storage of Construction Equipment in addition to previously approved uses in the IG-80 Zone − 25 Plumtrees Rd. (#M12014) − SE #698. *Public hearing closed 8/25/10. 65 days to make decision will be up 10/28/10.*

Chairman Finaldi said they also had received a draft resolution from Mrs. Emminger on this matter, but it is more involved than the previous application. Mrs. Emminger said there were still some outstanding comments about fire flow and storm drainage but they can be addressed by the project engineer. She added that she put conditions in the resolution that the easement for the fire hydrant and rights to drain to be granted to the City had to be resolved before permits would be issued. Mr. Keller made a motion to approve this per the resolution. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

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Natram Associates − Application for Special Exception to Permit Installation of Telecommunication Antennas on Existing Freestanding Sign ("Quality Inn") in the CG-20 Zone − 106 Federal Rd. (#L09025) − SE #703.

Chairman Finaldi said this was closed earlier in tonight's meeting. They had only continued it pending receipt of some documents which have been received. Mrs. Emminger had prepared a draft resolution for this also. He asked for comments from the Commission. Mr. Urice said the resolution speaks for itself and then made a motion to approve this per the resolution. Mr. Keller seconded the motion and it was passed unanimously.

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OTHER MATTERS FOR REVIEW AND POSSIBLE ACTION:

Letter from Artel Engineering regarding extension of approval for Subdivision #05-04, Spruce Mountain Estates. *(Original approval date: September 21, 2005.)*

Mrs. Emminger explained that the road is done and they expect to finish paving before the asphalt plants close for the season, but Engineering still has to approve the road. The bond is only good until March 16, 2011. She suggested they make grant an extension to that date so that if they don't finish by then, they can come back with a new bond amount. Mr. Urice suggested they grant it for two weeks before that date just in case they have to call the bond. Mr. Keller and Mr. Cerminara agreed that was probably a good thing to do. Chairman Finaldi asked for a motion. Ms. Hoffstaetter made a motion to grant an extension to March 2, 2011 for the approval of Subdivision #05-04. Mr. Keller seconded the motion and it was passed unanimously.

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