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**MINUTES**  
**JANUARY 15, 2014**

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The meeting was called to order by Chairman Arnold Finaldi Jr. at 7:35 PM.

Present were Fil Cerminara, Arnold Finaldi Jr., Helen Hoffstaetter, and Joel Urice. Also present was Associate Planner Jennifer Emminger.

Absent was Alternate Robert Chiocchio.

Chairman Finaldi said since Mr. Chiocchio is their only alternate, he has no one to seat for the vacancy created by Mr. Keller's resignation.

Chairman Finaldi asked for a motion to table acceptance of all of the minutes. Mr. Urice made a motion to table the acceptance of all the minutes listed on the agenda. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

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PUBLIC HEARING

Randolph General Properties - Application for Revised Special Exception/Site Plan to allow additional Medical Office space in Existing Office Building in the IL-40 Zone - 41 Kenosia Ave. (#E17067) - SE #701.

Mr. Urice read the legal notice. Chairman Finaldi said the staff report was sent out to the Commission members Anthony Benivegna said he is part owner of the building at this site. He was here two years ago to get a special exception approval so he could put a medical office into this building. He is here tonight because they are seeking to change a different space in the building to medical. He said there is plenty of parking although the lines could be redrawn if necessary, to accommodate additional spaces. Chairman Finaldi asked if this would be a chiropractic office. Mr. Benivegna said yes it would. He added that this tenant is in the space that was previously approved, but he has outgrown it. So he will move into the new upstairs space and a new tenant will take over what was his space. Chairman Finaldi asked Mrs. Emminger if they are waiting for any response from other City departments. Mrs. Emminger said this was such a simple application that it was not transmitted to any other departments. She added that it is a small building so its ADT is well below the five hundred trips per day.

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

CONTINUATION OF PUBLIC HEARING

RonJohn's Pit Stop/John Lasczak – Application for Special Exception/Site Plan Approval for uses generating over 500 vehicle trips per day (Existing Gas Station/Proposed Convenience Store) in the CN-20 Zone – 58 Padanaram Rd. (#H09076) – SE #733.

Mark Smith, PE from TO design, said they have been before the Commission a few times already so he was going to be brief. He said at the last meeting, almost everything had been satisfied. He said the last item to work out was the floodplain. There was some concern because they had raised the grade opposite Jeanette St., so they lowered the driveway where you come in. They also put in a new catch basin and ran a pipe which seemed to take care of the problem. They had comments from the DOT regarding the intersection, but since there already is a programmed signal; they just have to have the side facing the site turned on and get a formal approval from DOT. He added that they are working with Tom Lamb from DOT. He then said the Engineering Dept. has approved them reducing the size of the retaining wall, but if work needs to be done, it will be the owner's responsibility.

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

Chairman Finaldi then asked Mrs. Emminger if they were waiting for responses from other departments. Mrs. Emminger said revised plans were received on Monday (January 13, 2014) and sent to both Engineering and the City Traffic Engineer. The City Traffic Engineer is satisfied as long as they work with DOT. The floodplain issues have been addressed and Engineering has some minor issues but nothing that will change the plans.

Mr. Cerminara made a motion to close the public hearing. Ms. Hoffstaetter seconded the motion and it was passed unanimously. Mr. Urice made a motion to move this matter to item number three under Old Business. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

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Peregrine Acquisition Partners LLC/CRD, LLC – Application for Revised Special Exception/Revised Site Plan Approval for uses generating over 500 vehicle trips per day (Grocery Store, Package Store, Retail & Office), "Mill Plain Plaza" – 102 Mill Plain Rd. (#C14014) – SE #535.

Attorney Paul Jaber spoke in favor of this application. He said this hearing was opened on December 4<sup>th</sup>, but due to the holidays, this is the first meeting since that date. He briefly described this location as a four acre parcel zoned CA-80 on Mill Plain Rd. The applicants want to build a shopping center containing a food market, a package store and another small retail shop. He said they have an approved and recorded easement going through an adjoining property that lead out to the Aunt Hack intersection which is signalized. He said Ben Doto would speak first to review some changes that were

made to facilitate the truck movements behind the building and Joe Balskus will go over how they will deal with the traffic issues.

Ben Doto, PE, submitted his resume for the record (Exhibit B). He said there only a few changes since the previous approval was granted. He said the question came up at the last meeting about whether a bus can maneuver this site and he said they can completely. He said if they have to put a bus stop in, they will, although at this point they are not sure where they will put it. He said they are only doing a sidewalk on one side because on the other side, it would just lead to parking spaces. He said they eliminated about eight compact spaces near the rear to open it up, but that will be okay because they have more parking than what is required. They also got rid of some curbing which will make deliveries a little smoother. He added that they want to keep the delivery trucks restricted to traveling on the perimeter aisles versus the main aisles. He said these are the only changes that needed to be made to the site plan.

Joe Balskus, PE, Director of Traffic & Parking at Tighe & Bond, also submitted his resume (Exhibit C), said he met with DOT today, He said he also has received preliminary comments from the City Traffic Engineer. The previously approved plan was also approved by the DOT and had several important road improvements. He said they included road widening and creating wider shoulders. He said due to the change of use from straight retail to retail supermarket, they are proposing adding a left turn into driveway. He added that the City Traffic Engineer wants no left turn out of the driveway. He said during his meeting with DOT (now OSTA - Office of State Traffic Administration, they agreed to signalization of the driveway intersection. They compared it to no signal and found that with the signal, the level of service (LOS) to an A. He added that Mr. Mohammed has submitted a memo saying he supports the signalization of the intersection. Chairman Finaldi asked if this is roughly between Westwood Dr. and Aunt Hack Rd. and if there are any rules about how many intersections there can be. Mr. Balskus said the rule of thumb is they can be no closer than every 1,000 feet and many major arterial roads in CT have them that close together. He added that the applicant is more than willing to install this signal and the three lights will be coordinated. Chairman Finaldi asked if they are still waiting for the Prindle La. Improvements to be completed. Mrs. Emminger said they are complete. Mr. Balskus said this will greatly improve the LOS from the previous site plan approval. He then submitted a memo dated January 16, 2014 which was designated Exhibit D.

Attorney Jaber came forward at this point and said they have nothing else tonight.

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

Attorney Greg Cava said he represents SBBJB, LLC and the owners of GoodHouse package store d/b/a Mill Plain Package Store, LLC. He said has not seen what the applicant's traffic engineer submitted tonight, but it may have truncated a good bit of his presentation. He said he came here tonight prepared to talk about the traffic; he was going to tell the Commission that they could not approve this because it would make the traffic worse. He said before tonight, there were several intersections where the LOS would deteriorate if this project was built. He asked he had understood the applicant's traffic engineer to say that he has improved the LOS by installing the

traffic signal. He then said he did not hear the engineer address the supplemental traffic report that shows what happens when additional traffic is diverted onto Mill Plain Rd. from I-84. The first report basically said this would make a horrific situation worse yet he did not address this issue in his presentation this evening. He then submitted an excerpt from the traffic report (designated Exhibit E); saying he had picked out the four or five pages that would actually have an impact on the decision. He said this may be rendered moot by the new traffic report, but he wanted the Commission to have it. He said if the traffic engineer cannot say that the LOS will be an A for all situations including when traffic is diverted off of I-84, then he cannot say this project will not be a detriment to the area. He clarified saying that if after this is built, the LOS is still an E or an F, there will be a negative impact on the traffic. And if that is the case the Commission will not be able to approve this because they will not be able to make the finding that the traffic will not be made worse. He said if they do approve this, they should be sure to make the traffic signal a requirement.

He said there is one other problem under Sec. 10.C.4., which is that it says this cannot be approved unless it complies with the Zoning Regulations and there still is a critical question that has to do with the separation distance between his client's store and this proposal. He said they had Paul Hiro go out and measure the distance between his client's package store and the proposed package store. He then spoke at length about how the applicant measured the distance versus how he believes it should be done. He described the old way of measuring the distance which was revised in 2011. He said the applicant's surveyor determined the distance by using a compilation of other A-2 surveys, but Mr. Hiro actually went out into the field and took his measurements. After this lengthy description, he said the applicant's interpretation of the regulations is pure nonsense. He said they included measurements that are not stated in the regulation; which say it is measured along the road, not from door to door. He said you cannot put words into the regulation; you can only use what is there. He said you have to travel along the roadway; there is nothing about walking from one store to another. He said the regulation is clear, it says you measure along the road. He said he reviewed the tapes and minutes from when the regulation was changed, and it only says the amendment was for clarification. There was nothing said about decreasing the separation distance. He said if he used the applicant's method of measuring, he could put two package stores across the street from each other by setting them back 950 feet from the roadway. He said the applicant's interpretation is not in accordance with the language of the regulation. He said the regulation does not say you measure door to door; it says along the roadway. Then he referred to some additional maps prepared by Paul Hiro that used the old method of measuring the distance (by radius) as well as his interpretation (along the roadway). He said under the old regulation, there is nowhere on the applicant's property that is more than 2,000 feet from his client's store, so they do not have the right to this package store. He said when this regulation was amended in 2011; no one told the Zoning Commission or the public that it was being changed to allow package stores to be closer together. He insisted that his way of measuring is the correct way and because the applicant cannot meet the 2,000 foot separation distance; their application is not in compliance with the Zoning Regulations so this Commission cannot approve it. Mr. Urice and Ms. Hoffstaetter asked a few questions regarding how one determines where the main entrance is located. Attorney Cava reiterated much of what he had already said about how the measurement should be taken versus how the applicant did it. He added that

if you interpret the regulation as the applicant does; you end up reducing the distance between package stores by about 20%. He then said he had some additional items to submit for the record.

Attorney Jaber spoke in rebuttal to Attorney Cava's comments. He said at last night's Zoning Commission meeting, the Commission asked Mr. Elpern for his interpretation of how to measure the distance. Mr. Elpern clearly and unequivocally said it is measured from door to door. He then said Mr. Cava told the Zoning Commission that they cannot rule on either the package store or the grocery beer permit until the Planning Commission acts on the Special Exception application. Now tonight he told this Commission that they cannot act on the Special Exception application until the Zoning Commission acts on the Special Permit applications. He said this leaves the applicant lost; what they had previously agreed to was that the Zoning Commission would not act until the Planning Commission made their decision. He then said he had previously reminded this Commission that they cannot approve package stores, their only purview on that issue is to determine if there is enough parking. He said only the Zoning Commission can approve a package store by the issuance of Special Permit. He said for that reason, there is no need for them to get into a discussion about the distance between package stores because that is not their purview. He said regarding the traffic, no matter what business is on this property, if the traffic from I-84 overflows onto Mill Plain Rd., it will get backed up. That is not a situation that anyone can fix, the congestion will be there until it gets cleared up.

Attorney Cava responded by saying he meant they couldn't approve this if it does not comply with the Regulations. He said there was some question as to which door is the main entrance to his client's store so he submitted a photo of his client's store (Exhibit F) showing the entrances to it. He then submitted three maps showing different versions of measurements calculated by Paul Hiro (labeled Exhibits G, H & I)

Chairman Finaldi asked Mrs. Emminger if they need to keep this hearing open since there are some open issues that they need to get clarification on. Mrs. Emminger said yes, because they are waiting for capacity analysis figures from Mr. Balskus and they need to have them before closing the hearing. Mr. Balskus came forward and explained that after his meeting with the State, he did the memo but forgot to attach the capacity analysis. Chairman Finaldi asked for a motion to continue this hearing. Mr. Urice made a motion to continue this hearing. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

At 8:55 PM, Chairman Finaldi said they would take a five minute recess to clear the room. The meeting was called back to order at 8:59 PM.

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#### OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION

CT Institute for Communities Inc. – Application for Revised Special Exception/Revised Site Plan (“120 Main St.”) to permit (1) Apartment House/Medical & Business Offices/Retail, (2) a combination of uses which will generate over 500 vehicle trips per day, and (3) shared parking in the C-CBD Zone – Main St. & Boughton St. (#114135 &

#114437). Shared parking on lots #114379, #114380, #114381, #114382, #114383, #114384, #114385, #114133 & #114134 with access over #114378 – SE #713.

Chairman Finaldi said they should have received a draft resolution from Mrs. Emminger. Mrs. Emminger then distributed a revised resolution. She went through it pointing out specific conditions that were included. The solid metal fence was added per the agreement with the adjoining property owner. The sewer limitations and the parking situation are both addressed. There is language saying the lot line revision map must be approved and filed before the grant of special exception will be released to the applicant. There is language about the annual certification regarding the affordable unit as well as stating that any changes to any part of the plans require them to come back to the Commission. Prior to the issuance of any construction permits, the phasing plan and deed restriction must be submitted to the Planning Dept. for review by Corporation Counsel's office. Once they are approved, they must be filed on the land records. Also they have to submit design plans to replace the crosswalk striping on Main St. with a flashing pedestrian safety light system. These plans will be transmitted to the City Traffic Engineer before they are sent to DOT. And lastly prior to the Zoning compliance being issued, the reciprocal easement must be recorded on the land records. She said this is a lengthy resolution but this is complicated project. Mr. Urice made a motion to approve this per the draft resolution as amended tonight. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

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Randolph General Properties - Application for Revised Special Exception/Site Plan to allow additional Medical Office space in Existing Office Building in the IL-40 Zone - 41 Kenosia Ave. (#E17067) - SE #701.

Mrs. Emminger said this is a simple resolution, similar to the one from the 2010 grant which was also to allow medical offices. She added that there are no special concerns or conditions in this draft. Mr. Cerminara made a motion to approve this per the draft resolution. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

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RonJohn's Pit Stop/John Lasczak – Application for Special Exception/Site Plan Approval for uses generating over 500 vehicle trips per day (Existing Gas Station/Proposed Convenience Store) in the CN-20 Zone – 58 Padanaram Rd. (#H09076) – SE #733.

Chairman Finaldi a draft resolution was emailed to the Commission members. Mrs. Emminger then distributed a revised copy of what she had sent. She said the most important revision was the inclusion of the traffic signal at Jeanette St. She said additionally all of the maps were revised through 12/23/13, so that was changed from the draft they had received by email. She added that they still need their floodplain permit, but she is waiting for the Engineering Dept. to sign-off on it. Mr. Urice made a motion to approve this per the revised draft resolution that they received this evening. Mr. Cerminara seconded the motion and it was passed unanimously.

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## REFERRALS

### 8-24 Referral/December 2013 City Council Agenda Item #14: Request for Water and Sewer Service Extensions, Sawmill & Turner Rds.

Mrs. Emminger said they should have received Mrs. Calitro's report by email. She added that the site plan was approved today and reminded them that this site is located on the Ridgefield border so this work will have to be coordinated with the town of Ridgefield. Mr. Urice made a motion to give this a positive recommendation with the standard condition (prior to recording on the Land Records, all documents are to be reviewed and approved by both the Engineering Dept. and Corporation Counsel's office) and noting that since portions of Turner Rd. are located in Ridgefield, approval will be required from Ridgefield to do the necessary work in those portions of Turner Rd. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

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### 8-24 Referral/December 2013 City Council Agenda Item #15: Conveyance of Land for Road Widening Purposes, Corner of Hospital & Forest Aves.

Mrs. Emminger said this was a condition of approval for the special exception that was approved in April 2013. Ms. Hoffstaetter made a motion to give this a positive recommendation with the standard condition. Mr. Cerminara seconded the motion and it was passed unanimously.

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### 8-3a Referral - Petition of the City of Danbury by Dennis Elpern, Planning Director to Amend Sections 2.B. & 10.J. of the Zoning Regulations. (Temporary Moratorium on Applications for Medical Marijuana Dispensaries & Facilities) Zoning Commission public hearing scheduled for January 28, 2014.

Mrs. Emminger briefly reviewed the staff report included with this petition. She said that in August of 2013, the State adopted regulations concerning the "Palliative Use of Marijuana". These seventy-plus pages of regulations will strictly control the administration of the State's Medical Marijuana Program, including requirements for the production and dispensing of medical marijuana. After Corporation Counsel's office reviewed these regulations, it was proposed to impose a moratorium on these uses, so the City will have adequate time to draft their own regulations. A big issue is to protect the City without causing any conflict with the State regulations. Ms. Hoffstaetter asked when the moratorium would expire. Mrs. Emminger said one year from the enactment. Mr. Urice asked about the reference to the Federal regulations. Mrs. Emminger said the State has okayed this, but the Federal government is still questioning it. Mr. Urice said, for the record, he hopes we get in gear with this because it can help a lot of people. Chairman Finaldi said we need to be sure that whatever regulations the City puts into effect are consistent with the State and Federal guidelines. Ms. Hoffstaetter made a motion to give this a positive recommendation for the following reason: Enacting a moratorium will allow the City

time to draft Regulations that will protect the community without conflicting with State Regulations. Mr. Cerminara seconded the motion and it was passed unanimously.

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Chairman Finaldi said the secretary had once again sent out the regular meeting schedule for 2014. He continued saying under For Reference Only there was one floodplain permit listed and a reminder about the Capital Improvement Budget being on the agenda for the next meeting. Mrs. Emminger said two new applications came in; 109 North St. scheduled for public hearing at the February 5<sup>th</sup> meeting and a subdivision on King St. that is scheduled for public hearing on February 19<sup>th</sup>.

At 9:30 PM, Mr. Cerminara made a motion to adjourn. Ms. Hoffstaetter seconded the motion and it was passed unanimously.