



**CITY OF DANBURY**  
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PLANNING COMMISSION  
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**MINUTES**  
**FEBRUARY 5, 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., Joel Urice and Alternate Robert Chiocchio. Also present was Associate Planner Jennifer Emminger.

Absent was Helen Hoffstaetter.

Chairman Finaldi asked Mr. Chiocchio to take Ms. Hoffstaetter's place for the items on tonight's agenda. He added that 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 the November 6, 2013 & November 20, 2013 minutes. Mr. Urice made a motion to table the acceptance of these minutes. Mr. Chiocchio seconded the motion and it was passed unanimously.

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**OTHER MATTERS FOR DISCUSSION & POSSIBLE ACTION**

**Discussion & Recommendation of the proposed Capital Improvement Budget FY 14/15.**

Deputy Planning Director Sharon Calitro explained that she needed the Commission to make their recommendation by next week so it can be forwarded to the Mayor. She suggested they look at the numbers for FY14/15 saying she has been working with the Finance Director on these. They allocated funds for projects that are still ongoing, vehicle replacements for the Police Dept. and boiler replacements for public buildings. After that, the remaining funds are allocated to new requests. She said of course, the amount requested far exceeds the funds available. Mr. Urice asked about the grant funds listed under the Sewer fund. Mrs. Calitro explained that the Superintendent of Public Utilities had applied for a Federal grant (75%-25%), but we have to demonstrate that we can certify that we can provide the 25%. Mr. Urice then asked about the roof for Park Ave. school. Mrs. Calitro said the Superintendent of Public Buildings had a roof assessment done on all the schools and we are trying to build a fund so we can do one or two roofs a year. There were no other questions. Mr. Urice made a motion to approve this per the draft copy they reviewed. Mr. Cerminara seconded the motion and it was passed unanimously.

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PUBLIC HEARING

109 North Street LLC - Application for Special Exception/Site Plan Approval for Fast Food Restaurant generating over 500 vehicle trips per day - 109 North St. (#111012) - SE #734.

Mr. Urice read the legal notice. Attorney Gary Michael Jr. spoke in favor of this application. He said with him are Civil Engineer Benjamin Doto and Traffic Engineer Joseph Balskus from Tighe & Bond. He described the location as a .78 acre site located directly across from Exit 6 off of I-84. He said this site is vacant now, but has two buildings on it, both of which were used as business offices. He said there are State Dept. of Transportation improvements going on in this area consisting of widening the exit ramp and moving the existing traffic signal south about fifteen feet. He said the applicant is proposing to put the traffic signal in and do some of the improvements. He added that they believe this site had great potential given its proximity to Danbury Hospital, North St. Shopping Center and one of the main routes into New Fairfield. He said they do not yet have a tenant for this site.

Ben Doto, PE said this will be a completely new site development as there are a lot of non-conformities with the site as it exists today. He said they have already gone to the Zoning Board of Appeals to get some variances so they could make the best use of the site. He said presently there are two existing buildings with parking lots and two curb cuts. They are proposing to close both existing driveways and relocate one driveway higher up on Padanaram Ave. Their proposal requires 28 parking spaces and they are providing 30 spaces. They considered another driveway onto North St. with right turn only but DOT does not want that. So it will be removed and extra parking will take its place. He said this site is on an incline and the proposed new building will be lower than the existing higher building and will be served by sewer and water. He said there currently is no drainage system so the drainage flows out of the driveways into the road. They are proposing to install a new storm drainage system to stop this from happening. He said they do not need to worry about detention because once the new drainage is installed, their flows will be reduced. He said they are here because this use will generate 996 trips per day. He then distributed a rendering prepared by 72 Architects, showing the proposed new building. Mrs. Emminger said the rendering is already on file, so it is not an exhibit. Mr. Doto said they received the staff report today from Mrs. Emminger and they will address her comments by the next meeting. He said they have to look into adding a planting strip and move some of the trees. Mr. Urice asked the size of the loading zone and what size trucks will be accessing it. Mr. Doto said small box trucks and garbage trucks; it is not intended for tractor trailer trucks. Mr. Urice asked if they will level the lot. Mr. Doto said they will do some leveling around the building but there will still be a slope in the parking lot. He added that this is not located in a floodplain and there are no wetlands on the site. Mrs. Emminger asked Mr. Doto to explain the grade change and how much fill will have to be removed. Mr. Doto said referring to the grading plan, the actual change in grade is about 20 feet. The highest part of the wall along Padanaram Ave. is about 17 feet and in front it will be 4-6 feet high with the sidewalk and landscaped area. He said the new building will be at the second story of the existing front building. He added that the walls they are proposing are really just replacements for what is already there now; none of them can be reused, they all need to be replaced. He said additional beds and planting will be added per Mrs. Emminger's request.

Joe Balskus, Traffic Engineer from Tighe & Bond, said he had prepared the traffic study for this project. He said he wanted to focus on the improvements proposed by both the applicant and the DOT. Using an aerial photo of the site, he pointed out the intersections that would be affected by this proposal. He said the heaviest volume of traffic through this corridor is during the afternoon. He said the highway ramp has detectors built into the pavement so when traffic backs up the traffic signal is forced to turn green to relieve the traffic on the ramp. This is coordinated with the signals at Hayestown Ave. and on North St. He said one problem that always exists is that you cannot turn left out of Padanaram Ave. because the site distance is inadequate. He said looking at the worst case scenario for this site, which would be a coffee shop with a drive-thru, there would be 200 cars in the morning peak. Based on this, they looked at signalizing the Padanaram Ave. intersection. But since the DOT is planning to realign the highway exit ramp and move the existing traffic signal by 2016, it seemed logical to the applicant to get involved in this. So the applicant is proposing to build their part of the traffic signal. Chairman Finaldi asked if this will be a separate signal or will the existing one be moved. Mr. Balskus said they will do what needs to be done on their end so they can get this signal in sooner than the DOT planned to. He said this has been vetted by the DOT and they like it. Based on this change, they will be able to accommodate the traffic generated by the proposed new use. Mr. Chiochio asked him to review the existing lanes on North St. and how they will be changed. Mr. Balskus said there are four lanes now and under the bridge to the light at Hayestown Ave. will be increased to five lanes ( two northbound/three southbound) and they are adding left turn lanes. At this point Attorney Michael came forward and said they are committed to the traffic light and any proposed tenants will be shown the plans including the light. Mr. Urice said they need to make sure the DOT is on board with what they are proposing. Mrs. Emminger asked if putting the signal in will allow them to handle the current back ups that occur without the DOT improvements in place. Mr. Balskus said they are also proposing changes in the timing of the signals, and DOT is behind this plan so it does do what they intend it to do.

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

George Woycik, 25 Padanaram Ave., said he does not know where to begin but does know that nobody wants a fast food restaurant right next to their house. He said he has lived on this road for over twenty years and their never were problems when this site was used for offices. He said he is concerned about the safety, the increase in traffic this will bring and the overall disruption this use will be to the residential neighbors. He questioned if the existing sewer line can handle the additional volume and also wondered what they will do with the snow during the winter. He said none of his neighbors seemed to know about this and he wondered about the notices.

Chairman Finaldi said this hearing was properly noticed in the News-Times and Mrs. Emminger read the list of property owners who were sent notices.

Mr. Doto spoke in rebuttal to Mr. Woycik's comments. He said this property is zoned CG-20 and they are trying to make every improvement possible to the site to make this change more palatable to the residential neighbors. He said and the drive-thru will be

located at a lower level than the retaining walls (and lower than the existing front building) and the retaining walls will buffer the sound. He said they cannot push snow out into the roadway, so if there is an abundance, they will have to remove it from the site. He added that although these buildings are vacant now, both were previously used for business offices which can be pretty intense as a use, so this really is not that much of a change. He said the traffic signal will give cars the ability to turn left out of Padanaram Ave. which is something they definitely cannot do now.

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

At 9:05 PM, Chairman Finaldi announced they would take a five-minute recess to clear the room. The meeting was called back to order at 9:11 PM and all members were present and seated as before.

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#### CONTINUATION OF PUBLIC HEARING

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. He said with him this evening are Traffic Engineer Joe Balskus, Civil Engineer Ben Doto and Mark Caraluzzi, representing the Caraluzzi family. Attorney Jaber said there were a couple of things left over from last meeting; they had eliminated one parking space at the City Traffic Engineer’s request and some changes were made to the traffic study.

Benjamin Doto, PE said the request to eliminate the parking space was verbal; no memo was issued. He explained that 7-8 spaces were previously eliminated to allow all vehicles to get around the site, but this was one compact space that could be a problem if not parked in correctly.

Joe Balskus, Traffic Engineer from Tighe & Bond, said since the previous meeting he had looked at the other intersection volumes to see how they would be impacted by the new traffic signal. He said he updated the table to show the revised LOS, which is excellent now. The Commission had no questions for any of these witnesses.

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

Attorney Greg Cava said he is representing the property owners of Mill Plain Package Store. He said had just reviewed the traffic report revisions and had some comments. He said after the traffic signal was approved, the traffic engineer said this would be a straight “A” report card but there are still some B and C conditions that exist. Also he said that splitting the traffic between two intersections just moves the delays around. He said this allows for several queuing areas which will result in cars lined up waiting to get out and this is what causes congestion. So this is a case of making the conditions

look better than they really are. The other point he wanted to return to is that this application does not comply with the Zoning Regulations. Chairman Finaldi asked him to not repeat what has already been said. The issue was the way the applicant was interpreting the regulation about distance requirements between package stores. They want to measure from door to door not along the roadway as the regulations say it should be done. He reiterated that the correct way to measure this distance is along the street, not door to door. He said when being offered two interpretations, you do not choose the one that is ridiculous or absurd. If you go door to door it brings the stores closer together and that is not the intent of the regulation. He said doing it the way the applicant is, could result in two adjacent lots both having package stores on them which from door to door are 2,000 feet apart. He showed the Commission a hand-drawn sketch of two side by side lots, 50 feet apart with package stores on both of them. He said this is absurd but it is what the applicant is saying despite the fact that this creates a situation which defeats the purpose of this regulation. He said a court will not find the applicant's proposal of how to measure the separation distances supportable or sustainable and it will not hold up. He submitted this drawing for the record.

Chairman Finaldi asked if the Zoning Commission is currently hearing the application for the special permit and Mrs. Emminger said yes. He then said the separation distance is a Zoning Commission issue and not within the Planning Commission's purview. Attorney Cava said that is true but the Zoning Regulations say that the Planning Commission cannot grant a special exception for a property that is in violation of the Zoning Regulations. He said it is his position that this application is in violation because the applicant is using an irrational interpretation of how to measure the distance between their property and his client's property. He added that the applicant has put this Commission in a box because this does not comply with the Zoning Regulations. He said they will not be doing anyone any favor by approving this because they will lose on appeal. This will be tied up in the courts for anywhere from fourteen months to five years and they will lose. There was no other opposition.

Attorney Jaber spoke in rebuttal saying the reason the Regulations were changed was because the two distance requirements were measured differently. He added that the Planning Commission does not approve package stores; that is the Zoning Commission's jurisdiction. This Commission would be approving the parking and the traffic for the site.

Mrs. Emminger said they are still waiting for the final signoff from the City Traffic Engineer, although they did receive verbal comments last week. She added that his report can be accepted after the public hearing is closed. She said the only other thing is that Engineering is waiting for the fire flow calculations but typically, they are not received until during the permit process. She said they are in a good position to close this hearing.

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

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION

RonJohn's Pit Stop/John Lasczak – Application for Floodplain Permit – 58 Padanaram Rd. (#H09076) – SE #733.

Mrs. Emminger asked that they table this as the resolution is not completed yet. Mr. Urice made a motion to table this matter. Mr. Chiochio seconded the motion and it was passed unanimously.

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NEW BUSINESS

Elizabeth Healy & Knapp Family Land Mgmt. Rev Trust. - (1) Application for Waiver to Chap. 4, Sec. B.9.2. of the Subdivision Regulations, and (2) Application for twelve (12) Lot Subdivision ("Pondview Estates") of 38± acres in the RA-80 Zone - 95-97 King St. (Portions of B06006 & C06121) - SUB #14-01. Public hearing scheduled for February 19, 2014.

8-3a Referral -- Petition of Thomas W. Beecher, Esq. as Agent, 1 & portion of 3 Clapboard Ridge Rd. (#H12011 & #H12012) for Change of Zone from RA-20 to CL-10. Zoning Commission public hearing scheduled for March 11, 2014.

Chairman Finaldi noted that these applications had been received and are on file in the Planning & Zoning Office at City Hall.

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Chairman Finaldi said listed under For Reference Only was one subdivision application and a reminder of the Executive Session scheduled for 7:00 PM on February 19<sup>th</sup> before the regular meeting.

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