



**CITY OF DANBURY**  
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PLANNING COMMISSION  
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MINUTES  
FEBRUARY 19, 2014

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The Executive Session of the Planning Commission was called to order by Chairman Arnold Finaldi Jr. at 7:00 PM.

Present were Fil Cerminara, Helen Hoffstaetter (arrived at 7:02 PM), Joel Urice, Arnold Finaldi Jr. and Alternate Robert Chiochio. Also present were Assistant Corporation Counsels Daniel Casagrande and Robin Edwards, Deputy Planning Director Sharon Calitro, Director of Public Works Antonio Iadarola and Associate Planner Jennifer Emminger.

Mr. Urice made a motion to go into Executive Session to discuss and take possible action on the following matters:

MSW Associates LLC vs. City of Danbury Planning Commission: discuss (and take possible action on) strategy and negotiation regarding pending litigation.

Town of Bethel vs. City of Danbury Planning Commission: discuss (and take possible action on) strategy and negotiation regarding pending litigation.

Mr. Cerminara seconded the motion and it was passed unanimously. Chairman Finaldi then invited Attorney Casagrande, Attorney Edwards, Mrs. Calitro, Mr. Iadarola and Mrs. Emminger to join them in the Executive Session.

At 7:30 PM, Mr. Cerminara made a motion to come out of Executive Session. Mr. Urice seconded the motion and it was passed unanimously.

Chairman Finaldi stated that he had recused himself from the MSW discussion.

Ms. Hoffstaetter made a motion to authorize Corporation Counsel to proceed as directed in the Executive Session. Mr. Chiochio seconded the motion and it was passed unanimously.

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The regular meeting of the Planning Commission was called to order by Chairman Arnold Finaldi Jr. at 7:35 PM.

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

Chairman Finaldi seated Mr. Chiocchio for the vacant seat left by Mr. Keller's resignation.

Ms. Hoffstaetter made a motion to accept the November 6, 2013 and November 20, 2013 minutes and to table the December 4, 2013 minutes. Mr. Cerminara seconded the motion and it was passed unanimously.

Chairman Finaldi said there are two adjustments to be made to tonight's agenda.

The first is to move the item listed under For Reference Only to Other Matters for Discussion. Mr. Urice made a motion to move the following matter to item one under Other Matters for Discussion: Estate of Richard E. Molari - Application for two (2) lot Subdivision of 6.15 acres in the RA-80 Zone - 145-149 Brushy Hill Rd. (#J20037) - SUB #14-02. Mr. Chiocchio seconded the motion and it was passed unanimously.

Mrs. Emminger said the second item is the Floodplain Permit for 58 Padanaram Rd. was mistakenly left off the agenda so they need a motion to add it under Other Matters for Discussion. Mr. Urice made a motion to add the following item to tonight's agenda as item number two under Other Matters: RonJohn's Pit Stop/John Lasczak - Application for Floodplain Permit - 58 Padanaram Rd. (#H09076) - SE #733. Mr. Cerminara seconded the motion and it was passed unanimously.

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## PUBLIC HEARING

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.

Mr. Urice read the legal notice. Chairman Finaldi asked for a motion to hear these two applications together. Ms. Hoffstaetter made a motion to hear these two applications as one item. Mr. Cerminara seconded the motion and it was passed unanimously.

Attorney Neil Marcus spoke in favor of this. He said this property is located on the north side of King St. It is bounded by Corner Pond to the north, existing homes to the east and west and King St. on the south. There is a single family dwelling on the property which will be demolished. He said the first application is to request a waiver to the section of the Subdivision Regs. that requires new roads intersecting an existing collector road to have a 600 ft. minimum separation distance. This is not feasible in this situation as the distance between the proposed road and Middle River Rd. is about 560 ft.

Dainius Virbickas PE from Artel Engineering then spoke. He said the proposed lots are various sizes, all over two acres. They are proposing to build a 1,500 ft. long road to access the lots with a simple cul-de-sac. This proposed road will be called Corner Pond Court and all of the lots except four will be accessed from this road. These four lots will use accessways to get from the road to their dwellings. The road will be offered to the City for acceptance, once the development is complete. He then said portions of the

property are located within the East Branch Croton River Watershed and the Padanaram Watershed, which are both classified as a Class I Watershed Areas. They are waiting for the Health Dept. to complete their review with respect to compliance with the requirements of the Public Water Supply Watershed Protection Zones. The lots will be served by private wells and septic systems, which are also being reviewed by the Health Dept. for compliance with the Public Health Code. The Subdivision Regs. require a minimum of 5% of the acreage be set aside for open space. The plans show 9.26 acres of open space located in the area south of Corner Pond. They will also be installing storm water detention and treatment systems to mitigate the storm water run-off from the proposed road, driveways and roof drains. He said they have received some Departmental comments, but are still waiting for the Fire Marshal. He said most of the comments are about adding notes to the plans.

Mr. Urice asked where the access is to the open space area. Mr. Virbickas said it is a grass strip located between lots 9 & 10. Mr. Urice then asked why not extend the roadway to give the back lots direct access to the street. Mr. Virbickas said if the road were longer there would be much more of a land disturbance. Mr. Urice asked how much further they would need to extend the road in order to do that. Mr. Virbickas said it would be at least 300 ft. Mr. Chiochio asked about the accessway to lots 5, 6, & 7. Mr. Virbickas said lots 5 & 6 are accessed from the top through 12 ft. wide driveways and lots 7 & 8 will be accessed by similar driveways. Mr. Urice then asked if the use of the accessway would make these flag lots, which would require 50 ft. of street frontage. Paul Fagan, LS from Surveying Associates, said the 50 ft. of street frontage is not required in order for a lot to be accessed by an accessway. Attorney Marcus then said all of the proposed lots are designed to comply with the Zoning Regulations regarding the frontage.

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

Steve Reich, 14Wedgewood Dr., said he just wanted to point out that land is wet. Chairman Finaldi said they are aware of that and this application is currently before the wetlands commission who has yet to make a decision.

Mr. Urice made a motion to continue the public hearing to the next meeting. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

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#### CONTINUATION OF 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.

Attorney Gary Michael Jr., member of 109 North St said they have made some changes since the last meeting. First they have: eliminated the questionable driveway on North St. and added sidewalks around the property. Ben Doto, PE then said they have made minor revisions based on verbal comments from City staff, but they still haven't received the City Traffic Engineer or the Engineering Dept. letters. Mr. Doto said since there were concerns about the location of the loading zone, it has been moved and

enlarged. He added that the dumpster was moved and handicapped parking spaces were put in the front. He said he has been working with the City Traffic Engineer on the driveway but is still waiting for a letter from him. Mr. Urice said since they don't know what kind of fast food they are discussing; he has concerns because this site is not designed for tractor trailer deliveries. Mr. Doto said it will not be a Burger King or a McDonald's because both the parcel and the building are too small, but the site can accommodate box trucks. At this point, Ms. Hoffstaetter said she had watched the video of the previous meeting.

Joseph Balskus PE/Traffic Engineer from Tighe & Bond then distributed a packet of 11 X 17 sheets so the Commission can follow along with his presentation. He briefly reviewed what he had presented at the previous meeting because now the Commission has the design on paper in front of them. He described the DOT plans to realign the intersection so Exit 6 will be directly across from Padanaram Ave. He said the exit ramp will be widened and the traffic signal will be relocated to control this intersection. He said the applicant is working with the State and will be setting the stage by installing this traffic signal before the DOT improvements are done.

Chairman Finaldi asked if there was anyone to speak in opposition to this application and several people came forward.

George Woycik, 25 Padanaram Ave., said he is concerned about the extra cars this will bring. No one ever makes left turn out of Padanaram Ave. because you cannot see. He does not believe this will improve even with the DOT improvements. He also said that everything on the street, with the exception of the subject property, is residential. He said he believes that moving the driveway further up the hill will only make things worse. Since they don't know what is going in there, it could have a negative impact on the homes. It will be noisy and the proposed retaining wall will not help with the noise. He said it seems like they are putting a lot of thought into how to get into this site, but they are not considering how this change will affect the residential neighbors. He asked if their deliveries will be restricted to no tractor trailers and suggested flip-flopping their layout so the new building will be in the front of the lot with the parking behind it. He added that most of the neighbors are opposed to this.

RJ Haro, 20 Padanaram Ave., said he has lived on this street for a long time and does not believe this will be an improvement. Since they don't know what the business is, he is concerned it will have a negative impact on the residential homes. He is also concerned about getting hit by a car while walking his dogs.

Gonzalo Suarez, 23 Padanaram Ave., owns house next to this building. He said even though this building is located there, they consider this a residential neighborhood. He is worried that it will affect their quality of life and if it is open 24/7, they might not get any rest.

Mr. Doto spoke in rebuttal to the opposition's comments. He said some of the residences are located in the CG-20 zone, so they are non-conforming. He said this presently is an existing office building with major non-conformities. It is vacant now but if it was full, there would be 50 people coming and going every day. He added that there currently are too many driveways into the property now. He said they did the

best design they could by moving the new building away from the residences and dropping it in grade. In response to question if the building could be located somewhere else on the property; it could be if they didn't need the drive-thru. There were many things taken into consideration when they planned the new building; they intentionally placed it at a lower grade to help buffer the noise. The driveway has to be located at least 100 ft. from the intersections. He said they realize that Padanaram Ave. is sometimes used as a shortcut but they cannot control that, nor did they cause it. The existing office building is 1,700 sq.ft. and the new building will be 2,000 sq.ft.

Mr. Balskus added that even though he does not live here, he drives the neighborhood and walks around as part of his ongoing review of the traffic. He said right now all you can do is turn right out of Padanaram Ave. so a traffic signal is a good thing. He said maybe the traffic signal will reduce the use of the road as a cut-through because people will not want to wait for the signal to change. He said they could have used the existing building to determine the traffic counts but instead he gave them the numbers as they will be with the new structure.

Attorney Michael said he can respect the opposition's comments and they can speak to the history of what has gone on in this area. He said this proposal meets the purpose and intent of the CG-20 zone and they understand that this is a balancing act, but they believe these uses can co-exist.

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

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At this point (9:10 PM), Chairman Finaldi said they would take a five-minute recess to clear the Chambers. He called the meeting back to order at 9:15 PM and noted that all of the Commission members were still present.

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#### OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION

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" in the CA-80 Zone – 102 Mill Plain Rd. (#C14014) – SE #535.

Mrs. Emminger said she needs for them to give her guidance as to what they want in the resolution. Chairman Finaldi said he wants to approve this because it complies with the requirements of the zone and meets the criteria in Sec. 10.C.4. of the Regulations. He said there is a lot of information on the record regarding the proposed traffic signal and the applicant has demonstrated that the level of service (LOS) will be maintained or improved. He then said the "separation distance" between two package stores is not the purview of this Commission; it falls under the Zoning Commission's responsibilities. Mr. Urice said this is really just a revision to the previous approval and with the addition of the traffic signal; it will be better even for the property located across the street from this site. Ms. Hoffstaetter said she agrees with all of what has been said. Mr. Cerminara said once the traffic signal was approved by the State, he had no further

concerns. Mr. Chiocchio said he had nothing left to add but agrees with all that has been said.

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#### NEW BUSINESS

Randhawas Corp. Inc. -- Application for Revised Special Exception/Revised Site Plan Approval (1) for uses generating over 500 vehicle trips per day and (2) allow Fast Food Restaurant ("Mobil Service Station Expansion") in the CG-20 Zone - 40 Backus Ave. (#F17007) - SE #425. Public hearing date to be announced.

A & J Construction - Application for Special Exception/Site Plan Approval to permit "Outdoor Storage of Construction Equipment & Building Materials; and Screening of Earth Materials", 50-56 Payne Rd. (#M12009) in the IG-80 Zone - SE #731. Public hearing date to be announced.

Chairman Finaldi said there is no action necessary for either of these matters. Mrs. Emminger said they will have the public hearing dates listed by the next meeting; they just wanted to acknowledge formal receipt of these application.

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#### REFERRALS

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.

Mr. Urice made a motion to table this matter. Mr. Cerminara seconded the motion and it was passed unanimously.

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#### OTHER MATTERS FOR DISCUSSION & POSSIBLE ACTION

Estate of Richard E. Molari - Application for two (2) lot Subdivision of 6.15 acres in the RA-80 Zone - 145-149 Brushy Hill Rd. (#J20037) - SUB #14-02.

Chairman Finaldi said they all should have received a staff report on this from Mrs. Emminger. She then said this matter does not require a public hearing because it is just two lots and it does not get noticed because that is not required. She said the lots are identified as Parcel B1 (which is 2.67 ac.) and Parcel B2 (which is 3.30 ac.) land they are located in the RA-80 zone. The minimum lot area in this zone for a single family home is 80,000 sq.ft. They are proposing individual driveways for each lot. The lots will be served by private wells and septic systems, which are currently being reviewed by the Health Dept. for compliance with the Public Health Code. She said she has requested that the property be staked and we are still waiting for comments from the Engineering Dept., the Fire Marshal and also the Health Dept. She added that they City Traffic Engineer would like some widening along the front which would require the stone wall to be pushed back. Mr. Cerminara said it will be interesting to see how wet it is back there. Mrs. Emminger said the applicant's engineer did a

stormwater analysis which she should have by the next meeting. She said now that she has given them this information they can decide if they want a presentation from Mr. Mazzucco. She said this was not eligible for a first cut because it was not in existence prior to the Subdivision Regs.; it was created as the result of a lot line revision approved in 2012. She asked them if they wanted Mr. Mazzucco to make a formal presentation and they said not. She then asked them if they felt there were any big issues and they all said there were not. Lastly, she asked them if they wanted her to draft an approval for the next meeting and they said yes. She said this would be moved to Old Business and they would discuss it at the next meeting.

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

Mrs. Emminger said the special exception/site plan for this gas station/convenience store was approved at the January 15, 2014 meeting. This property received a Letter of Map Amendment (LOMA) Determination from FEMA stating that the building is not located within the 100-year floodplain. So although the building is outside the flood zone, portions of the property remain in the Special Flood Hazard Area. The established base flood elevation for this area ranges from 446.0 ft to 447.0 ft. The proposed activities within the floodplain consist of relocation of three fuel dispensers, a portion of the canopy, construction of a small retaining wall, a proposed parking area, and a small portion of the underground fuel storage tanks. The proposed building addition is located outside of the floodplain boundary and the proposed first floor elevation is 448.41, which is a minimum of a foot above the base flood elevation. Much of this work is within the limits of the floodplain but there is no site work or filling proposed below the 446.0 ft. elevation. She said the resolution contains the standard conditions including requiring an elevation certificate and any changes to the approved plans will require approval of a revised Floodplain permit. Mr. Urice made a motion to approve this floodplain permit per the resolution. Mr. Cerminara seconded the motion and it was passed unanimously.

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