



**CITY OF DANBURY**  
155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

**PLANNING COMMISSION**  
www.ci.danbury.ct.us

(203) 797-4525  
(203) 797-4586 (FAX)

**MINUTES**  
**MAY 21, 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, Joel Urice and Alternate Robert Chiocchio. Also present was Deputy Planning Director Sharon Calitro.

Ms. Hoffstaetter made a motion to accept the March 5, 2014 minutes. Mr. Urice seconded the motion and it was passed unanimously. Ms. Hoffstaetter made a motion to table the March 19, 2014 minutes. Mr. Urice seconded the motion and it was passed unanimously.

Mr. Urice announced that he had watched the video of the May 7, 2014 meeting.

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Mr. Urice made a motion to move the Continuation of the Fong application to here as they were only waiting for one item. Mr. Cerminara seconded the motion and it was passed unanimously.

Lwis H. & Jing H. Fong -- Application for Special Exception to allow Accessory Apartment in the CN-20 Zone - 17 Padanaram Rd. (#H10154) -- SE #736.

Melvin Euen spoke in favor of this. He submitted photos showing the garage door and also the walkway from the driveway to the apartment. Mrs. Calitro said she had driven by the house today and seen both of these.

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

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

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**PUBLIC HEARING**

Cotswald of Danbury -- Application for Special Exception/Site Plan Approval to allow cluster development ("Heatherwood Acres") in the RA-20 Zone -- Padanaram Rd. (#F07052) -- SE #735.

Ms. Hoffstaetter read the legal notice. Chairman Finaldi explained that the applicant and his representatives would speak first and once that presentation was done, the opposition would be given a chance to speak. He added that all questions and/or testimony should be addressed to the Commission.

Dainius Virbickas PE from Artel Engineering spoke in favor of this. He said this land is part of an old subdivision of 114 lots that dates back to the 1970's. He said the actual work was started and roughed in; there are remnants of seventeen foundations in various states of disrepair. The roadways, as well as the water mains and sewer lines were also started. He said there currently are two parcels that total about seventy-four acres containing approximately eighteen acres of wetlands. The topography of the land varies, and this development is being proposed in the south west portion of the site. He referred to the map on the easel saying that forty-two homes are being proposed. Part of their Environmental Impact Commission approval was the once the site is developed, they will deed some of the undeveloped land to the City. Access will be from a twenty-six foot wide driveway which will be constructed to City road standards. The driveway will rise to a grade of 3% then drop back down. The proposed driveway will be an extension off of the cul-de-sac at the end of Eastwood Rd. and will end in a cul-de-sac. They are proposing to extend both sewer and water to the site. There is municipal sewer running along the property and water is already on the site. The sewer extension would be available to the City to provide sewer service to other properties in the area. They are planning to install sprinklers in the proposed homes and they also intend to provide fire hydrants which will benefit the entire City. He continued saying that this property is rugged and tough; there are grades of 17-25% in the area where the homes will be built. They are proposing retaining walls which will vary in height up to about sixteen feet tall. The stormwater drainage will consist of two basic systems; they will be reshaping a ditch along the western property line and installing new pipes. The storm drainage that will be created as part of the proposed development will be captured and piped into a network of detention ponds and ultimately out to Padanaram Brook. EIC also requested they oversize the drainage system so it is larger than what would normally be proposed for a comparable development. Due to the steepness of the site, there will be a substantial amount of earth movement. They will be importing fill, they will be filling in about 62,000 cubic yards. All of the development is proposed within the 20-24 acre portion in the southwest corner of the site. Each unit will have a two-car garage and two spaces in their driveway. He said he has all the details of the retaining walls if the Commission wants to hear more about them. A second means of access was suggested by one of the City Departments, but EIC did not want it. The Fire Marshal wants six fire hydrants, but they are proposing seven. They believe the proposed cul-de-sac is adequate for a fire truck to turn around. Mr. Urice asked if the applicant is picking up the cost of the sewer extension but not the individual hook-ups. Mr. Virbickas said they will pay to extend the line, but individual hook-ups are assessed to the individual property owners. Mr. Urice asked why they aren't building a City street instead of a driveway. Mr. Virbickas said this is a cluster development so the driveway will be owned by an association who will be responsible for maintaining it.

Traffic Engineer Michael Galante, from Frederick Clarke Associates said he had prepared the traffic report for this proposal. He said the City Traffic Engineer had suggested they focus on the morning peak numbers due to the Danbury High School traffic. He said they counted and analyzed two signalized intersections: Clapboard

Ridge Rd. (aka Rt. 39) at East Gate Rd. and at Beckerle St. He said they observed the vehicular and pedestrian traffic from 7:05 AM to 7:35 AM and matched the numbers to the State volumes. The High School is really the driving force of the traffic volumes in this area. They are looking at what kind of traffic will be generated by an additional forty-two homes. There will not be any review by the State DOT because the proposed development is too small; they don't review anything under one hundred units. He said they also looked at the accident data from the DOT. Most of them are caused by turning movements and rear end collisions. He said the traffic has not really grown in this area, it actually has decreased. The traffic volumes from the High School skews all the data, but the LOS is F at the southern intersection. He said when a new school is built on a State roadway; they don't require widening because the traffic impact comes in bursts at the same time every day. There were no questions for Mr. Galante.

Attorney Peter Scalzo said Mr. Virbickas and Mr. Galante have covered just about everything. They are still waiting for the Engineering Department comments. He said he has one correction to Mr. Virbickas' presentation; this is not a cluster subdivision with individual lots. It is a cluster development, which allows the developer to cluster the development within a specific portion of the site. The homeowners own their individual freestanding home, but the land and the driveway (all of the common areas) are owned by everyone, similar to a condominium. An association will govern the maintenance and use of the common areas. Lastly the applicant is ready to gift fifty-plus acres to the City in whatever form the City chooses.

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

Frederick Hallas, 16 East Gate Rd., said he built his house in 1969. He said he chose this site because of the nice homes located along Clapboard Ridge Rd. He is concerned about the loss in property values. He said several people have tried to develop this property; it seems that Nick Attick got the furthest in the process. He actually started to put some homes in, but the drainage never worked right and the water just flowed everywhere. He said he also is concerned about what it will actually take to put the proposed homes in on this site. He added that it is not fair to the neighbors to allow this.

Tom Pura, 43 East Gate Rd. said he has five letters in opposition from people who could not be here tonight. Mrs. Calitro said all of the letters will be entered into the record as exhibits. Mr. Pura then said his own comments pertain to water runoff liability and the existing storm drainage. He asked who will be liable if their proposed drainage does not work and suggested that there may be lawsuits from property owners on Padanaram Rd. who get flooded out. He said in order to develop this site, the applicant is going to cut down thousands of trees and that is a real waste. He read one of the letters into the record from Stephen Lukasic & Lynne Hamilton Lukasic, 22 Eastwood Rd. It expressed concern about the affect this will have on the quality of life, the property values and the disruption to the natural wildlife habitat that this property has become. This letter was designated Exhibit A. The remaining four letters were from Theresa Mercede, 13 Eastwood Rd. (Exhibit B), Karen Sauli, 1 East Gate Rd. (Exhibit C), Lou Sauli/ Sauli Masonry, 1 East Gate Rd. (Exhibit D), and Manik Roy, 10 East Gate Rd. (Exhibit E).

Laura O'Brien, 37 East Gate Rd., said she has two letters in opposition. One from her and one from her husband; although they did not work together on these. Her letter is Exhibit F. She expressed concern over the negative impact on the quality of life, City services, safety, and property values. They chose to live here because of the forest but that will be gone with this development. She said she is also concerned about the noise that they will have to listen to during the construction and then afterwards, once all the houses are occupied. She said the houses on East Gate are the opposite of what is being proposed, so this development would drastically change the character of the neighborhood. She added that the underground water is extreme in this area and she believes that the applicant has grossly underestimated the infrastructure that will be necessary to control this water. The existing residents are not happy about the only access being through East Gate Rd. There already is too much traffic in this neighborhood with many of the cars speeding. There are always illegally parked vehicles on East Gate due to its proximity to the High School. She then read her husband's letter into the record. (Exhibit G)

Randy McGarrigal, 41 East Gate Rd., said he has lived here since 1972. He thanked the Commission for the work and for volunteering their time. He suggested they walk the property because it is very different than what was presented tonight. He said he does not want to look at a 16 foot high retaining wall. Also he does not feel this is compatible with the character of the neighborhood. He said previous attempts to build on this property resulted in houses sliding off their foundations. He said there is a great amount of work that needs to be done in order to create an infrastructure that can handle the problems this site has. He compared it to a glass of water that so full that one more drop will make it spill over. He said the traffic is already so heavy that he has to sit through the traffic light at least three times before he can get out onto Clapboard Ridge Rd. He said the EIC looked at this site for several years, and denied applications from this applicant. But they kept coming back with a little bit less each time until they got this approval.

William McKinnon, 37 Eastwood Rd., said he is the gatekeeper of cul-de-sac since he lives on the end of the road. He said they moved here in 2001 because it was a great neighborhood for kids. He mentioned his neighbors, the Brockett's who are also opposed but could not be here because the wife had to bring the children to their baseball game. He said he laughed at their description of the proposed homes as a condo like development where everyone owns the land. He said the reason this is funny is because this is a neighborhood where each of the properties are at least one acre. He said the school buses do not even travel down Eastwood; they have to walk their kids to the beginning of the road to get picked up. Based on that he wondered why they are being allowed to extend the road even further. He expressed concern about the possibility of a future connection to Padanaram Rd. He then said the flow of traffic on East Gate Rd. is significant all day. He asked where the City will stop services on Eastwood Rd., if their homeowner's association is taking care of their roadway. He said the water runoff on Eastwood Rd. is significant and suggested they really need to see it. He said even after the school traffic has settled, the rest of the traffic that was held up by school traffic is still waiting to get through this area. In closing, he said this is not about economics; it is about the quality of life. He asked that they please listen to everything especially about the traffic and safety issues.

Joe Macari, 27 East Gate Rd., said he also had lived on Eastwood Rd. When the opportunity presented itself, they bought in this neighborhood because the lots were large and spaced out. But on the proposed plan there are three houses with huge retaining wall running along the length of his property. He said this will totally change his property and it is not what he bought.

Ken Gucker, 89 Padanaram Rd., said from his property, he gets to look up at this site. He said he was not going to speak about the obvious environmental issues because he was at every EIC meeting and could speak endlessly on the issues. This project has had three different attorneys and at least three different project engineers. He said when EIC finally approved this; it was with many conditions because the site is so wet, it will be very difficult to develop. He said the water from this site flows to Padanaram Brook and when Padanaram Brook gets too full, it floods and everyone feels it. He questioned if the previous approval is still valid because this proposal no longer meets the standards that approval was granted under. He said there have been several incarnations of this proposal; originally it was for 112 houses on half acres. The next application was for 69 houses; but the environmental impact was so great, that was denied. The next application was for 42 houses which was denied. Next it was 27 houses; which was also denied. They appealed that decision in court and lost. So now they are back with 42 houses. He said he understands that the environmental issues are not this Commission's purview but the real question is if this proposal is compatible with the existing development in this area. He said a cluster development is a great tool when the entire parcel is developable, but in this situation, most of the land is not usable. He said they are proposing to put these houses 20 feet apart with 32 foot driveways, all uniform and exactly the same. The people who live on East Gate will have to look at these homes and they cannot put in enough foliage in to block this view. There is no guarantee that the character of the existing neighborhood will be maintained and saying there will be a homeowner's association is not comfort. The concern about there being only one way in/one way out was a big issue at first, but now the Fire Marshal has no problem with it. It is still a safety issue. He said traffic is like water, it takes the path of least resistance. This will affect the quality of life for the people who live on East Gate; they will get to watch an endless stream of cars just idling waiting to get out onto Clapboard Ridge. He said this developer has done nothing to clean up the site; it is just as it was when it was purchased 8-10 years ago. All that has been done is that their engineer has come up with a design to squeeze houses on the usable land so they can get the return on their investment. In closing, he implored them to check out the file and really look at the plans. He suggested if they decide to walk the site, they need to be careful because it is in really poor shape and someone could get hurt there. He submitted a letter in opposition from Paul Schaefer, 31 East Gate Rd., which was designated Exhibit H.

Joanna DiCerbo, 33 Eastwood Rd., does not want to repeat what others have said but she is in opposition to this proposal. She added that she is lifelong Danbury resident who just bought this home last year. It is one of the last homes on the cul-de-sac which is one of the reasons why she bought the home. She said she values the peace and quiet and does not want her property to lose any value because of this new proposal.

Dr. Eli Syed, 21 Eastwood Rd., said his father purchased this home in 2005. Although his father commutes daily to NYC, he chose to buy in Danbury for the quality of life.

He said his concern is the public health hazards that this development could cause. He said the demographics on Eastwood Rd. are extremely diverse as there are both small children and elderly residents. He said all of the residents seem to spend a lot of time outside enjoying the area. He is worried about both security and safety concerns that will be caused by these additional homes. He fears they will hinder the outdoor activities and cause a lot more noise and health pollution. He said these issues are not quantifiable but that are the issues that everyone who lives in this neighborhood will face. In closing, he asked who will pay the price in the long run.

Joseph Zatkovich, 16 East Gate Rd., thanked the Commission for their time and for allowing all of them to speak. He said sometimes he works with the Police on street crossing in the mornings. He said additional cars on these roads will make the situation even worse. The cars fly on these roads and don't pay attention to any pedestrians who might be walking on the side of the road. He said this area is also heavily traveled by commuters from NY State into CT and the other way around. There are site distance issues on Clapboard Ridge Rd. and they never fix the road, it is just patched. He implored the Commission to take a deep look at this site before they make a decision on this application.

Jean Novaco, lives on Grace St., but also owns a condo at Crown Court on Padanaram Rd. This condo development is surrounded by Padanaram Brook and experiences a lot of water problems. There already is a lot of water on the subject property which has nowhere to go and eventually ends up on Padanaram Rd. She said years ago Padanaram Brook was rerouted without any concern for the long term consequences and the property owners on Padanaram Rd. have paid the price for that. She said it seems like this was unbuildable land and now they are trying to force the development of it. She questioned why we keep encouraging developers to build new homes in Danbury, when there are so many older homes for sale. She said she often wonders if the goal is to grow Danbury at any price. In closing, she said she wanted to remind the Commission that this proposal may not seem like much but there are always unintended consequences when new homes come into an existing neighborhood.

Eugene Gaudreault, 3 East Gate Rd., said this is the junction of East Gate and Wynwood Rds. He said he sees the East Gate/Clapboard Ridge intersection every morning when he leaves for work. He has to get out by 6:45 AM, because after that the traffic is so heavy, he cannot get out. He said the school buses stop for other school buses, but not for regular traffic. He said any additional traffic will make this already bad situation even worse. He cited many of the issues that have already been brought up by the other speakers. He said this definitely will have a negative impact on their property values. In closing, he said when something is going on at the High School, this entire area becomes a giant parking lot with cars parked all over the place. He submitted his comments in writing (Exhibit I).

Chaur-Jian Hsu, 35 East Gate Rd., said he agrees with his neighbor's comments that the water is an issue. Safety is also an issue; someone mentioned a mudslide which can happen when the ground is saturated. He said there also is the threat of global warming. If this project goes forward, the ability of the area to absorb water will deteriorate drastically. He said he is concerned about whose problem this will be, because he doubts the developer will come out to take care of this. He said he agrees

with all of the issues his neighbors have brought up and just does not see how the Commission could approve this proposal.

Remo DiGrazia, 453 Main St., lived off of Padanaram Rd. for many years. The thing that bothers him about this is that with each proposal for this site, the lot sizes keep getting smaller. The proposed lot size should be comparable with the surrounding neighborhood. He also is concerned about the water issues, people keep coming out to public hearings and speaking about drainage and water issues but nothing ever gets done. He submitted a letter with his thoughts, which was designated Exhibit J.

Chairman Finaldi offered the applicant the chance to rebut the opposition's comments. Someone who had spoken previously interrupted and asked if they could get a question answered. The question was inaudible.

Mr. Virbickas said he would answer the question. The only area slated for development is the area that is shaded green on the plan that is displayed on the easel. Mr. Virbickas then said they would hold off on their rebuttal until the next meeting. Mr. Urice asked Mr. Virbickas to present the topographical maps as well as the justification for the 16 foot high retaining walls at the next meeting.

Mr. Urice then made a motion to continue this public hearing until the June 4, 2014 meeting. Mr. Cerminara seconded the motion and it was passed unanimously.

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At 9:35 PM, Chairman Finaldi announced they would take a five-minute recess in order to clear the room.

The meeting was called back to order at 9:40 PM with all of the members still present.

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#### CONTINUATION OF PUBLIC HEARINGS

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

Chairman Finaldi said they had to read some things into the record. Ms. Hoffstaetter read Exhibit A, a letter in opposition from Town of Bethel First Selectman Matt Knickerbocker. Chairman Finaldi then read a letter from the Town of Bethel Planning & Zoning Office signed by P & Z Director Steven Palmer. The letter said it was in response to a report received from the applicant's engineer. It was designated Exhibit B. Both letters said they were representing the residents of Bethel who live directly across the street from the subject property.

Attorney Neil Marcus then spoke in favor of this application. He said the letters sound more like they object the City of Danbury allowing this use in the industrial zone. He said he is not sure what they expect Danbury to do since the applicant's property is located in the heavy industrial zone. He then said these types of uses have to be

permitted somewhere if we are going to have economic development. He added that this is the area designated for this use, and it has been this way for over fifty years. He said if this is not going to be allowed, then Danbury is saying that they don't want growth or economic development in the City. He said he agrees with Mr. Palmer's comments about the site lines, and managing dust on the site. He said they will operate this plant within the hours allowed by the Zoning Regulations. He said there are a number of other issues that have been raised, one being what they are allowed to screen on this site. The term "earth material" has caused problems because no one can agree about what this consists of. He then started talking about bituminous products and manufacturing versus storage of them. He said they are not going to manufacture on this site. He submitted a copy of the "CT DEEP Clean Fill" regulations, which say that bituminous is clean fill. It says bituminous material is clean fill or consists of bricks, asphalt, concrete, ceramics, and reclaimed asphalt. He said reclaimed asphalt is considered clean because it is a manufactured product that has been through a process. He said they should read these regulations because they would see that what they are proposing to screen is clean fill. He continued to talk about bituminous products to demonstrate the claim that it should be considered an earth material, since it is the result of processing earth materials. He said Danbury does not limit screening to just sand and stone, it allows the screening of earth products. He said this is a synopsis of his discussion with Mrs. Calitro. He asked that they look at the definitions of bitumen to determine that it is an earth product.

He then said the second question was whether the special exception covers the storage of the reclaimed asphalt bituminous material. He said the previous site plan approval covered this as did the previous special exception application which was withdrawn. Both of them listed the building materials they were talking about. He said they believe that this application is complete and that the bituminous material being stored on this site is legal. He said the next issue is the removal of three SNET poles for the purpose of widening the area in front of the subject property so it can be paved. This was a requirement of the previous site plan approval in order to add 6 ft. to the front of their site. The City has not done their part because they were supposed to acquire a R-O-W in front of Skip Turner's property and the Jehovah Witness property. They cannot widen the applicant's site without doing these other properties being involved. He said this has to be done by eminent domain, the applicant cannot do it. So widening the road at this point is problematic. He read a letter that he had sent to the City Traffic Engineer regarding this issue and also read Mr. Mohammed's response to that letter. He said he would contact Mr. Turner's representative to see if this could be resolved. He said the plan before them has been explained in excruciating detail, but they are still waiting for EIC to take action. He said if the Commission decides they want a separate application to allow storage of bituminous on the site they will come back once this is decided. He said their sound expert is willing to come if the Commission would like to hear from him. He said this is an opportunity to improve the site plan for the operation that is currently in existence on this site. He said the bad news is that this is still a construction yard and will function as one despite the residential neighborhood located across the street. He said this application is complete and meets all of the requirements in the Regulations.

Mr. Urice asked if he is saying that anything that comes from the earth naturally is an earth material. Attorney Marcus said that is correct. Mr. Urice said using that definition, could one consider uranium an earth material that could be screened on this property. Attorney Marcus said it does not naturally come out of the ground. Mr. Urice said asphalt

is the result of a process; it does not come out of the ground naturally. Its chemical composition is different than when it is pumped from the ground, so it does not agree with Attorney Marcus's own definition. Mr. Urice said this also applies to concrete; it is not naturally occurring. It is the result of a chemical reaction of earth materials that is his point. Attorney Marcus said the DEEP allows you to put back in the earth these materials and it is commonplace to screen these materials here in the northeast. Mr. Urice said he is not arguing whether it is commonplace to screen this, he is looking at how our Regulations treat this.

Chairman Finaldi asked if there was anyone to speak in opposition. He then gave his speech asking that they only present NEW issues. He added that given the tremendous amount of opposition that they have already heard, he does not expect there to be much left to say.

Anthony Valenti, lives in the area in Bethel, said this is his first hearing. He said he works in the industry and asphalt is not clean material.

Joseph Tresca, 21 Partridge Dr., Bethel, said he applauds the questions Mr. Urice brought up. He said he has delivered diesel fuel to asphalt plants in New York State and none of them are located near any residential homes. He said he is happy that they finally got the list of materials the applicant intends to store on his property. He is not happy about changing the road so more trucks can travel on it. He said this operation is not a screening it is a crushing operation. They keep presenting a smoke screen about what they are doing on this property. There is no room on Payne Rd. for more trucks.

Michael Patten, 23 Partridge Dr., Bethel, said regarding the hours of operation; at 6:30 AM yesterday, he got stuck waiting for a truck that was trying to get to this operation. He said they can make promises, but when Attorney Marcus uses words like "intend" and "try", he wonders how sincere they are. He said there also have been many conflicting terms used, like crushing versus screening. He said he has a problem with their statement that this will not bring more traffic, just look at all the construction going on in the Stony Hill area. Lastly he said it is not the congestion they should be looking at but the safety of the people in this area.

Ruben Soto, 55 Payne Rd., brought some pictures with dates on them that were taken about 2-3 ft. from his driveway. He said being located directly across the street; he gets all the diesel fumes. Also it is his driveway that is used when someone backs out of Mr. Boa's property. He said Attorney Marcus said they have been in business for 17 years, but he bought his house in 1999 and they were not there then. He asked how long this illegal operation is going to be allowed to continue. In closing he said that the safety of people traveling on Payne Rd. is in jeopardy because of this operation.

Reed Turner, 60 Payne Rd. said he has been negotiating with Mr. Boa for at least ten years. He said Mr. Boa caused him to be demonized by the City and threatened with condemnation of his property. He said Mr. Boa has never made a financial offer to him. All discussion had stopped until recently when Mr. Boa made a low-ball offer. Chairman Finaldi asked him to not discuss the details of the transaction. Mr. Turner said Mr. Boa has not done anything to try to negotiate with him. He said he no longer runs his business there and would like to sell his property but he also is open to

working with Mr. Boa. He said he has lived there forty years and Mr. Boa has operated there for 15 years, most of that time without a permit.

An unidentified man came forward and thanked Mr. Urice for questioning the term "earth materials".

Mrs. Calitro said she wanted to respond to some of Attorney Marcus's comments. She said she sent them a staff report/chronology where she went through the history of this site. The previous site plan approval has expired, so this is a new application for the uses listed on their special exception application. Regarding the screening of earth materials, she said she went back to when it was added to the Zoning Regulations. She looked at how it was adopted and what exactly was meant by the term screening of earth materials. She said there should be no confusion as to what the intent was when this was adopted. She said she never indicated that this site was operating for 17 years without any problems. She said she did suggest if they had an issue with any previous conditions of approval or traffic issues, they should speak directly to Mr. Mohammed. She said staff stands by this memo and if the applicant wants to do other activities on their site, then they need to apply for them.

Chairman Finaldi thanked Mrs. Calitro for putting together a chronology of the history of this site. He then asked Attorney Marcus if he wanted to speak in rebuttal to any of the opposition's comments.

Attorney Marcus said regarding the pictures submitted by Mr. Soto, he does not believe that they depict any problematic operation at Mr. Boa's site. He said he agreed with the speaker who sees no need to change the road. He reiterated that are not crushing, they are trying to screen. And lastly he would like to revisit the whole need for moving the telephone poles.

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

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Mrs. Calitro said she sent them a draft resolution for the Fong matter. Chairman Finaldi said he did not receive it, so he would prefer to wait until the next meeting to discuss this.

#### REFERRALS

8-3a Referral -- Petition of Paul J. Valeri, 10-12 Downs St. (#H12166 & #H12155) for Change of Zone from R-3 to CG-20. Zoning Commission public hearing scheduled for May 27, 2014

Chairman Finaldi asked if anyone had any questions regarding the staff report they had received from Mr. Elpern. Mrs. Calitro said this is pretty straightforward and the land use map in the Plan of Conservation & Development shows this area as limited commercial zoning. Mr. Urice made a motion to give this a positive recommendation for the following reasons: The *Plan of Conservation & Development* suggests these lots be used for Limited Commercial development. These lots also meet the re-zoning

criteria in Section 10.1.3 of the Regulations. Mr. Cerminara seconded the motion and it was passed unanimously.

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8-24 Referral/May 2014 City Council Agenda Item #9 - Request to use City Property by Property Owner of 2-4 Germantown Rd.

This request is to allow the use of five parking spaces located at the intersection of Hospital Ave. and Germantown Rd. This property is adjacent to 2-4 Germantown Rd. This intersection was recently reconstructed by the City and some of existing parking spaces in front of 2-4 Germantown are partially located in the City right-of-way. Because of this, there are some legal issues that should be addressed in the lease for the parking spaces. Due to the layout of the intersections, it is unlikely that these five parking spaces would be used by any other business. Mr. Urice made a motion to give this a positive recommendation subject to the following conditions as included in the Deputy Planning Director's report:

- the City reserving the right in the future to terminate said license at its sole discretion;
- a clear recognition that if additional improvements or tenants are proposed for the Alam property that require use of the leased parking spaces to meet the parking space requirements of the Zoning Requirements, the provisions of Section 8.C.1.(b)3 shall apply. The Commission should advise the Council that if this occurs (licensed parking spaces are used to meet the requirements for the Alam site) and the license agreement is terminated by the City, there will be insufficient parking spaces to support the uses on his site;
- verification from the City Traffic Engineer and Department of Public Works that the excess land in this area is not required for future roadway purposes;
- verification that Alam remains responsible for the maintenance of all improvements within the leased area and that, prior to use of parking spaces, Alam shall be required to submit a site plan and obtain approval, at its expense, for the parking spaces which such plan shall meet all zoning requirements (e.g. properly sized parking spaces, landscaped islands at each end);
- a provision in the license agreement for public rights to pass and repass through the parking area as it will remain City property;
- inclusion of indemnification and insurance terms in the license agreement acceptable to the Office of Risk Management;
- a current appraisal of the property for use as parking for this commercial property to ensure the parking spaces are leased at a fair value. Similar values have been calculated for other parking space license agreements;
- a provision in the license agreement that prohibits any other improvements or signage on City property unless approved by the City;
- including portions of some of the existing parking spaces in front of the building as shown on the Alam survey that are located within the City right-of-way in any license agreement for use of the 5 new parking spaces. These are existing encroachments that should be legalized; and

- agreeing to terms favorable to the City for the lease of this land for parking purposes and submitting required legal documents to the Office of Corporation Counsel for review and approval.

Ms. Hoffstaetter seconded the motion with all of the conditions and it was passed unanimously.

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8-24 Referral/May 2014 City Council Agenda Item #10 -- Request for Consideration of a Cell Tower Facility at Richter Park.

Richter Park Authority is looking to explore the feasibility of placing a cell tower somewhere within the park. They have a "Partial Waiver of the Deed Restrictions" signed by the appropriate relative of the original property owner who imposed land use restrictions on the property when it was deeded to the City. There was a similar request to this made in February 2011, but that one did not include the waiver. This type of cell tower facility is governed by the CT Siting Council. The City has jurisdiction over wireless telecommunication facilities, and there are guidelines in the Zoning Regulations that govern their placement. Since the least preferable location is in a residential neighborhood and Richter Park is zoned residentially, it would be considered a least desirable location. If the cell tower vendor does select a location within the park, the City Council would have to approve it before the vendor could file an application with the Siting Council. Mr. Urice said he had previously voted against this, but he would rather have it located in the golf course than in the middle of a residential neighborhood. He then made a motion for a positive recommendation with the understanding that if a site is chosen within the park, this will come back before the City Council. Mr. Cerminara seconded the motion and it was passed unanimously.

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8-24 Referral/May 2014 City Council Agenda Item #11 -- Request for Sewer and Water Extension for Heatherwood Acres, Padanaram Rd. & Eastwood Rd.

Chairman Finaldi said precedent has been set many times that they Commission does not make a recommendation on this utility extensions proposed for projects that they are currently reviewing. This proposal is for a cluster development which had been approved by the Environmental Impact Commission in April 2013. The public hearing before the Planning Commission was just opened earlier in tonight's meeting. Ms. Hoffstaetter made a motion to table this request as it is their policy not to issue recommendations on proposed developments while the public hearing is still open. Mr. Urice seconded the motion and it was passed unanimously.

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8-24 Referral/May 2014 City Council Agenda Item #12 - Request for Expansion of City Sewer Service Area - Great Plain & Great Meadow Rds.

This request is from Albert Salame, who owns 96+ acres in the Great Plain area, to extend the boundaries of the sewer service area to include his properties. This acreage encompasses many different sized lots that are zoned RA-20, RA-40 and RA-80. None of

the lots are located within the watershed area, but the one lot which is zoned RA-40 is landlocked and consists of wetlands. None of this land is located in an area currently proposed to be served by City sewer. Mr. Salame has said once this is approved, he will submit development plans for a cluster development on this land. There are some zoning requirements that he will not be able to meet but he will address them at that time. He has other alternatives available such as rezoning the properties or proposing a community system. Based on the Plan and the Comprehensive Sewerage Study, extensions of the area should only be granted to address pollution problems and if there is capacity available. In this situation, there are other options available, but if the City Dept. of Public Utilities determines there is enough additional capacity, then the maximum number of units served should not exceed 63. Any more units than this would have a negative impact on the density in this area. Mr. Urice made a motion to give this a positive recommendation with the following restriction: said extension shall be limited to serve only 63 dwelling units. This recommendation is subject to compliance with the Engineering Dept. design and construction conditions and submission of all plans and documents satisfactory to Corporation Counsel in terms of form and content prior to acceptance and recording. Mr. Cerminara seconded the motion. Ms. Hoffstaetter asked what the difference is between this request and the other request for Cotswald that they tabled. Mrs. Calitro said this request is to extend the boundaries of the sewer service area versus that request which was to extend existing sewer & water lines (already in the service area) to allow a specific project to hook up to both. Mrs. Calitro then noted that Loraine Seder of Great Plain Rd., had submitted a letter regarding this item, but we don't take public comment on referrals. The place to speak about them is at the Council meeting. Chairman Finaldi called for a vote on the motion for a positive recommendation with restriction and the motion was passed with four AYES and one NAY (from Ms. Hoffstaetter).

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Chairman Finaldi noted that there was nothing under Other Matters and listed under For Reference Only was a public hearing scheduled for May 21, 2014.

At 10:15 PM, Mr. Chiochio made a motion to adjourn. Mr. Cerminara seconded the motion and it was passed unanimously.