



**CITY OF DANBURY**  
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PLANNING COMMISSION  
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**MINUTES**  
**JULY 2, 2014**

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The meeting was called to order by Chairman Arnold Finaldi Jr. at 7:38 PM.

Present were Fil Cerminara, Helen Hoffstaetter, Joel Urice, Arnold Finaldi Jr. and Alternate Robert Chiochio. Also present were Associate Planner Jennifer Emminger and Deputy Planning Director Sharon Calitro.

Ms. Hoffstaetter made a motion to accept the May 7, 2014 minutes and to table the April 2, 2014 minutes. Mr. Cerminara seconded the motion and it was passed unanimously.

Chairman Finaldi announced that the two regular the two regular meetings scheduled in August (August 6th & August 20th) have been cancelled and there will be one special meeting on Tuesday, August 12, 2014. The next regular meeting after the special August 12<sup>th</sup> meeting will be held on Wednesday, September 3, 2014.

He then said on tonight's agenda, item #3 under the Continuations of Public Hearings (Middle River Hills subdivision) will be continued with no testimony until the next meeting and the three referrals will be tabled.

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**PUBLIC HEARING**

MMP Realty LLC - Application for Revised Special Exception/Revised Site Plan (in acc. w/Sec. 10.D.7.a.) for Additions to Existing Structure (Cartus Corporation) & Parking Lot Improvements in the IL-40 Zone -- 40 Apple Ridge Rd. (#E17061) - SE #509.

Chairman Finaldi read the legal notice into the record and said that the staff report has been e-mailed to the Commission members. Mrs. Emminger distributed 11" x 17" copy of the site plan. Mark Kornhaas, from Artel Engineering spoke in favor of this. He said it was in the newspaper that Cartus had decided to stay in Connecticut. This is a 24 acre site accessed through a private road. It is partially located in the Lake Kenosia Watershed, which factors into the review. He continued saying he believes the original building was constructed in 1977, although it has had several expansions. This proposal is to expand the cafeteria by adding a patio and also the main entrance on the north side. He said the parking lot is being expanded but not any further north toward LakePlace. They are actually decreasing the amount of pervious coverage. Neither of these additions will be generating any additional employees. The building is served by both sewer and water and both additions will have a fire suppression system.

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

Mrs. Emminger said all of the departmental comments have been received. The Engineering dept. wants some minor clarification but nothing major. The only thing they are waiting for is a decision from EIC, who has been trying to schedule a site walk.

Ms. Hoffstaetter made a motion to continue the public hearing. Mr. Cerminara seconded the motion and it was passed unanimously. Ms. Hoffstaetter then made a motion to move this to Other Matters so they can give Mrs. Emminger guidance since the only thing they are waiting for is the EIC decision. Mr. Cerminara seconded the motion and it was passed unanimously.

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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 read a letter from Matthew Knickerbocker, First Selectman of the Town of Bethel, noting that it was addressed to the Zoning Commission Chairman, Robert Melillo.

Attorney Neil Marcus said this letter sort of frames this application. The people from Bethel just don't like that this business is located across the street from them. They have been allowed to speak at these public hearings, although they don't have standing. He added that he does not believe they should be commenting unless it is to the Zoning Commission to change the zone. He said since the last meeting, their engineers (CCA) has sent a response to the Engineering dept. comments and address all of their concerns since most were minor. He said the major concern has been the proposed widening of Payne Rd. He said Mr. Boa, Ms. Levesque, and himself had met with Mr. Mohammed to address the memo that Police Chief Baker had written. He said he had thought the issues were addressed but obviously Mr. Mohammed was not satisfied based on the letter they just received this evening. It seems that what they spoke about at that meeting does not matter. He explained that the widening would be for about 165 linear feet, so it would really not make that much of a difference. The City has money held as a bond to cover the cost of this work, but they cannot do it because they cannot get permission to move the telephone pole. He said he had previously spoken to Mr. Turner's lawyer about getting permission but now he only wants to talk about selling his property, no more discussion about an easement. He said if the City is serious about the widening, they have the money; all they need to do is get the easement from Mr. Turner. He added that this site has been active for almost twenty years and no one has hit the telephone pole yet. He said he does not understand why Mr. Mohammed seems so committed to widening Payne Rd. Nancy Levesque, PE from CCA said they looked at possible improvements to the entrance to this property. She said they considered shifting the driveway to directly across from

Castle Hill Rd., but there is a telephone pole there also. She said no matter what option they look at to improve the entrance, at least one utility pole has to be moved. She said they did widen the driveway for vehicular access and installed a gate. Attorney Marcus then went through Mr. Mohammed's letter point by point explaining why he does not agree with it. He said most of the comments circle back to the road widening, which the City could do at any time, since they are holding a bond from Mr. Boa. He added that this property is being treated differently than other properties in the same zone. He continued saying the only reason he is here is because for many years previously, the applicant operated a screener on this property. He did not understand that he needed another permit to do that. This new plan is a substantial improvement to the property and now they are in a catch-22 regarding the widening of the road which creates all these other issues about the driveway. He suggested the Commission members need to go out there and look at it to decide if this needs to be denied. He then mentioned Mrs. Calitro's memo dated May 20, 2014 saying they submitted a response identifying the types of uses they will not do on this site. He said he still believes bituminous should be included. He said they have addressed all of the other concerns that were raised including how the noise is not really an issue. He said that is all he has to say, which they probably will think is crazy since Mr. Mohammed does not approve of their plan. He said there is not a lot more they can do and for the Commission to deny the use of this property over three poles is just not right. He added that they would welcome a condition of approval that would require them to pay for the widening as soon as the City makes it feasible for them to do it.

Chairman Finaldi asked the hours of operation. Ms. Levesque said they are listed on the plan under note 23; before 7 AM and after 8 PM are prohibited per the City ordinances. He then asked to be shown the landscaping and the fence. Ms. Levesque referred to the planting plan, pointing out the existing berm and saying they would leave the fence and would be adding plantings on the northerly side. Mrs. Calitro asked what will happen to the pile of material on the backside of the fence. Ms. Levesque said it would be moved. Mrs. Calitro said her concern is that it will creep over the barrier into the front yard. Ms. Levesque said everything is being moved back on the site to keep it from being seen from the roadway. She added that they are buffering the front of the fence to make the street frontage look good and to give the plantings a chance to mature. Chairman Finaldi said they had indicated the intent to move the screening to the rear of the property (further away from Payne Rd.) also raising the grade in the rear of the property. Attorney Marcus said Mr. Boa addressed that saying it would take a couple of years before he could amass enough fill to move the screening operation to the back of the lot. Ms. Levesque said about 14,000 cubic yards will be needed in order for them to maintain a 12% grade driveway. Attorney Marcus said a time limit in which to do this would not be an unreasonable condition of approval.

Ms. Hoffstaetter said she reviewed the video of the previous meeting. She asked Attorney Marcus about items in Mr. Mohammed's latest memo. It says they do not have the ability to maneuver tractor trailers, when Ms. Levesque just said it can be done. Ms. Levesque said she had submitted a truck movement plan on June 25<sup>th</sup>. Chairman Finaldi asked if there was anything in the notes on the plans regarding moving the driveway apron south. Ms. Levesque said there is: they proposed planting in the old area, so the concrete needs to be removed. She added that Mr. Boa has also agreed to pave 170 feet deep into the property to help reduce the dust in the front portion of

the site. Chairman Finaldi then asked if the equipment storage area will be paved. Ms. Levesque said it will be left as gravel; adding that all servicing of their vehicles happens off site. She said they have an oil separator and another one proposed in the rear of the site. Mr. Chiocchio asked if the sales operation will be open 7 days a week. Ms. Levesque said often the materials will have to be ordered. Mr. Chiocchio then asked about the screening material; will it just be Mr. Boa's or will others be bringing it in also. Attorney Marcus said the intent is run the screening for his own jobs, but since there are so few screening operations in the area, he might occasionally take in other materials. Ms. Hoffstaetter said she had asked about what buffering they are doing for the screening noise. Ms. Levesque said until they actually have the screening equipment onsite, they cannot tell if they will violate the noise ordinance. Attorney Marcus said they cannot operate in violation of the noise ordinance so if it is necessary, they will put up a barrier.

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

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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.

Dainius Virbickas, PE from Artel Engineering spoke in favor of this application. He said they have received all departmental comments and have submitted volumes of paperwork in response. He said the concern that there is not enough parking has been expressed. There are 168 spaces for 42 units, which is more than what is required. He added that the client has agreed to put in an additional eight parking spaces located centrally on the site. This can be done by them eliminating one unit.

Chairman Finaldi asked if there was anyone to speak in opposition to this application and several people raised their hands. He said "for the record", these meetings are videotaped so everything that has already been said is in the record. He then asked that people confine their comments to the application before them and that they only speak if they have new information to present.

Ken Gucker, 89 Padanaram Rd., said he wanted to point out the conditions that the EIC put on their approval. Mrs. Emminger said they already have a copy of it in the file. He then spoke about the parking situation - applicant has said they could get extra parking by asking neighbors to allow their extra spaces to be used. Chairman Finaldi said Mr. Virbickas had said they could remove one house and get eight additional parking spaces. Mr. Gucker then said this development is nothing like the neighborhood around it. He said they all know this is a tough to build site; but the only difference between this and a high-density condo is these structures are not attached to each other. He added that the bottom line is they don't have the parking; the City Traffic Engineer said there is to be no parking within 100 ft. of the cul-de-sac and that eliminates five houses right there. He said there already is no enforcement of the existing parking issues on the surrounding roads. This is one parcel with 42 houses on it, not like the surrounding neighborhoods with one house on one parcel. The proposed driveway is on the end of a dead-end street that is off of another a dead-end street. He asked if that has been addressed by Fire Dept. because there are a ton of safety

issues involved. He said that a lot of what is in Mr. Mohammed's traffic report has not been addressed in their responses. He said when they talk about donating the land, they talk about two parcels but it really is one big parcel. He said from his house he gets to look up at this project and he will be looking at the retaining walls. In order for them to install the retaining walls, they have to clear-cut the area, so anything that holds the land together will be removed. At this point, he suggested the Commission really needs to walk this project. He said you cannot see from the plans that the grade changes are substantial; this is one reason this land has been vacant for so many years. He added that they say they can't put anymore impervious surfaces in because it will negatively impact the environment. He referred to this afternoon's rain saying Padanaram Rd. was under two ft. of water, due to drainage at Stetson Place being jammed. He said they need to look at the area around the proposed development because that is who ultimately will pay the price. He added that all of the neighbors who have spoken are trying to let the Commission see what they see every day. He said they really need to visit the site before making a decision. Chairman Finaldi said he attempted to walk the site today but realized he was not dressed to do that; he suggested anyone attempting it, wear hiking boots and appropriate clothing.

Joseph Zatkovich, 16 East Gate Rd., said he is a mail carrier and the only way that Tobin's Court is similar to this, is that it always has cars parked along their roadway because their garages are not used for parking. He said the proposed roadway will be completed once the development is gone, and by then the builder will be long gone. The City will be left to take care of the issues that come up even if this isn't a City road. He said speaking for the neighborhood, they don't oppose development; they just want it to be in character with what is already there.

Laura O'Brien, 37 East Gate Rd., said that enforcement of no parking/fire zone signs does not work. She added that no one pays attention to them anymore than the speed limit signs. She said there will be additional vehicles passing through the neighborhood besides the residents of this new development; such as fuel delivery, garbage pick-up, cable and utility company vehicles and also USPS and other package delivery services. She said there already are huge quantities of water, which has tremendous force due to the grade, traveling through their properties. The applicant is proposing to redirect the water and channel it under the site, but she does not know how the water can be stopped from cutting through the land and ultimately causing flooding. Lastly, she said that she has 2 ft. retaining wall outside her garage that is no longer perpendicular to the building due to the water runoff, so what will happen to the retaining walls they are proposing.

Jean Novacco, 9 Grace St., submitted a News-Times article regarding height increases of multi-family buildings in Danbury. She said she does not know all the details about drainage but she believes they could put ten houses in here instead of this proposal. She added that she is not saying they should not build, but if the zoning allows single-family houses on half acre lots; then that is what they should build here. She said this newspaper article proves there is sufficient housing located in Danbury.

Lynne Lukasik, 22 Eastwood Rd, said the existing neighborhood is a community and Heatherwood would definitely change the character of this area. She said they all know each other and watch out for each other, but it has taken them years to get to

this point. She asked that they take the character of the surrounding neighborhood into consideration when looking at this proposal.

Roger Snow, 29 East Gate Rd., said his property backs onto the proposed development. He said he can attest to the steepness of the land. He added that he is skeptical that the retaining walls will successfully retain the earth and water over a period of time. Lastly, it seems that these houses are very different in character from the ones located in the surrounding neighborhoods.

Attorney Scalzo spoke in rebuttal to the opposition's comments. He said he wanted to clear up the confusion about the type of ownership they are proposing. These units will be individually owned, but the common areas will be owned by everyone. He then suggested the Commission look at the section of the Zoning Regulations which addresses cluster developments. Mr. Chiochio asked the average size of the homes and who they will be marketed to. Attorney Scalzo said the homes will be between 1,800 to 2,300 sq.ft. and priced within the \$300,000 range. He said he does not have any demographics but will get some together for the next meeting.

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

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Robert N. Talarico, Trustee -- Application for six (6) Lot Subdivision ("Middle River Hills") of 14.53 acres in the RA-40 Zone - 147-153 Middle River Rd. (#C10052) -- SUB #14-03.

Chairman Finaldi said this item is to be tabled until the next meeting. Mr. Cerminara made a motion to table this matter until the next regular meeting. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

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#### OTHER MATTERS

MMP Realty LLC - Application for Revised Special Exception/Revised Site Plan (in acc. w/Sec. 10.D.7.a.) for Additions to Existing Structure (Cartus Corporation) & Parking Lot Improvements in the IL-40 Zone -- 40 Apple Ridge Rd. (#E17061) - SE #509.

Chairman Finaldi said everyone is very glad that Cartus is staying in Danbury because they are a good neighbor and employer. This proposal showed no new employees or changes to the drainage, actually it is proposing less impervious surface. Mr. Cerminara asked why they need the addition if there are no new employees. Mr. Chiochio pointed out that Mr. Kornhaas had said they are implementing new security procedures through a new main entrance and they want to fix up the cafeteria. Ms. Hoffstaetter said she is in agreement that there are no issues to worry about with this proposal.

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## REFERRALS

8-3a Referral -- Petition of Gera Danbury LLC d/b/a The Matrix Corporate Center to Amend Secs. 6.A.2.a.(11) & 6.B.2.a.(9) of the Zoning Regulations. (Add "Natural Gas Power Generation Facility" to existing Fuel Cell Power Generation Facility language.) Zoning Commission public hearing opened and continued until July 22, 2014.

## NEW BUSINESS

8-3a Referral -- Petition of Ward J Mazzucco Esq. for Nejame Development LLC, 1 Scuppo Rd. (#F14073) for Change of Zone from RA-40 to RMF-4. Zoning Commission public hearing scheduled for July 22, 2014.

8-3a Referral -- Petition of Gera Danbury LLC d/b/a The Matrix Corporate Center to Amend Secs. 2.B., 6.A.4.d. & 6.B.4.d. of the Zoning Regulations. (Add Definition, Restrictions and Limitations for "Natural Gas Power Generation Facility".) Zoning Commission public hearing scheduled for July 22, 2014.

Chairman Finaldi said they would discuss these items at the next meeting. Mr. Cerminara made a motion to table all three of the referrals. Mr. Chiochio seconded the motion and it was passed unanimously.

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Chairman Finaldi said there was one item under For Reference Only which was a public hearing scheduled for July 16, 2014.

At 9:55 PM, with no further business to discuss, Mr. Cerminara made a motion to adjourn. Mr. Chiochio seconded the motion and it was passed unanimously.