



CITY OF DANBURY
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ZONING COMMISSION
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MINUTES
JANUARY 26, 2010

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The meeting was called to order by Chairman Robert Melillo at 7:30 PM.

Present were Anthony DiCaprio, Theodore Haddad Jr., Richard P. Jowdy (arrived at 7:40 PM), Robert Melillo, Gary Renz, Terry Tierney, Ted Farah and Alternates Elmer Palma, Thomas Spegnolo and Patrick Venuti. Also present was Deputy Planning Director Sharon Calitro.

Absent were Alan Kovacs and Walter Hoo.

Mr. Farah led the Commission in the Pledge of Allegiance.

Chairman Melillo appointed Mr. Spegnolo to take Mr. Kovacs place and Mr. Palma to take Mr. Hoo's place for the items on tonight's agenda. Mr. Venuti was appointed to take Mr. Jowdy's place for the first matter on tonight's agenda.

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Mr. Farah made a motion to accept the minutes of November 10, 2009. The motion was seconded by Mr. Haddad and passed unanimously. Chairman Melillo said they would table the acceptance of the January 12, 2010 minutes until the next meeting.

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**PUBLIC HEARING:**

7:30 PM – Petition of Narciso R. Rodriguez d/b/a Lula's Market LLC, 78 White St. (#113052) for Special Permit for Sale of Grocery Beer.

Mr. Renz read the legal notice. Narciso Rodriguez came forward and said he was here because this was his store. The Commission asked him questions and he answered them as best he could. He gave the hours of operation and said the store is run by himself, his wife and his son. Someone asked the size of the store and Mr. Rodriguez was not sure but the tenant/landlord affidavit from the file listed it as being a little over five hundred sq.ft. There were no other questions.

Mr. DiCaprio made a motion to close the public hearing. Mr. Renz seconded the motion and it was passed unanimously. Mr. Farah made a motion to move this matter to item one under the Old Business on tonight's agenda. Mr. Haddad seconded the motion and it was passed unanimously.

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7:45 PM – Petition of The Windmere LLC, 44 Old Ridgebury Rd. (#C16006) for Change of Zone from IL-40 to RMF-4.

Chairman Melillo said that Mr. Jowdy had arrived during the previous hearing, so Mr. Venuti will not longer be seated for him. Mr. Renz read the legal notice. Mr. Tierney read the Planning Commission recommendation which was negative. Chairman Melillo read the Planning Dept. Staff Report. Mr. Haddad read the following letters in favor of the proposed zone change: (1) John Dolan from WCI, (2) Aaron Smiles from Matrix Realty Group, (3) Paul Scalzo from 1 Reserve Rd., and (4) Joseph Putnam from 20-22 Ridgebury Rd Assoc.

Attorney Paul Jaber introduced the team that would be making the presentation: Attorney Fran Collins, his partner, Carl Kuehner Sr. of Building & Land Technology (the applicants), Joseph Canas PE from Tighe & Bond, Victor Mirontschuk, an architect from EDI Architecture and James Ford PE from Beta Group Inc. There also were three other gentlemen in the audience who did not speak.

Attorney Jaber then described the location of the property and some of the surrounding landmarks. He said is important to understand who the applicant is and how long they have been building in the City of Danbury. In the 35 years, they have built more residential units than any other developer in the history of Danbury. In addition to this location, they also own a vacant parcel at the reserve that is approved for commercial office space. In lower Fairfield County, they are the premier land developers under the name of Building & Land Technology. They also have had a substantial involvement of Ridgebury Rd. because they have developed other condo projects on this roadway. They purchased and obtained approvals for Willow Grove which was sold to Avalon who eventually developed it as it exists today. The applicant, who is the most significant developer on Ridgebury Rd.) is here tonight with a proposal to raze the existing office facility and build 79 residential units. These residential units would be in \$300,000 to \$350,000 market.

Attorney Jaber said that the applicant anticipates that it could take a while to find a new tenant for this building and by then it would probably require renovations. They are really afraid that this site will end up like the Novo Lab building on Sawmill Rd. That was built over twenty years ago and at that time; it was the finest office space in the City. The quality and design of that building were first class. When the tenant moved out, the owner was left with 97,000 sq.ft. of R & D/office space and they have not been able to lease or sell it. It has been vacant for so long now that the beauty of building is gone and it no longer has any function as office building. Their only option is to tear it down. The Kuehners don't want to take that risk with this property. They don't want ten or fifteen years to pass. And they feel the proposed change is compatible with the surrounding area.

He then explained that this property was once one piece with the parcel that Briar Woods is located on. At one time, Newmont Mining had their offices there, until they moved out and sold the site to the Kuehners. They believe this would be a transition area, because there are approximately 450 existing homes within three complexes. Attorney Jaber said the maximum density of this site is 79 units, although the staff report says they could build more. Based upon this, they had Paul Fagan from Surveying Associates; calculate the exact density once you deduct the pond, public utility easements. If you take the remaining land and divide by 4,000, you will get the maximum number of units that can be built. He distributed a letter from Mr. Fagan stating this info, which was designated Exhibit B. He then pointed out that in the staff report, Mr. Elpern refers

to Ridgebury Hills as being zoned RA-40. It is not, it is actually zoned RA-8 and was developed under the Affordable Housing Act. The court mandated that the Commission rezone the portion to be developed but to leave the undevelopable area zoned RA-40. When Kensington Woods and Willow Grove were developed, the Regulations did not require you to deduct ponds. At Kensington, if you deducted the Still River area and the wetlands, you would lower the density. And it would be similar with Willow Grove since that parcel is split in two pieces by the gorge and wetlands running through it. Although both of these are zoned RMF-10, if you remove the unbuildable areas, that significantly lowers the permitted density. He next addressed the comment in the Planning Commission recommendation about this being the only multi-family development on Old Ridgebury Rd. He read from the staff report where it describes a parcel that is City-owned and zoned PND. He said if multi-family is permitted in PND then it is permitted on Old Ridgebury Rd. The third reason he feels this should be approved is the significant reduction of traffic that this will have on the area. And housing has been Danbury's economic generator for the last several years. Manufacturing and Industrial uses don't come to Danbury any longer. In the 1950's, much land was dedicated to industrial uses in an effort to attract companies to located here. In the 1960-70's, people who worked in Norwalk or NY State discovered Danbury as a great bedroom community and this has helped us to maintain our economic stability. There still are plenty of land and/or buildings available for office or industrial usage.

Victor Mirontschuk AIA from EDI Architecture said he has designed several hundred units in the City of Danbury. He said he tried to utilize existing amenities such as the existing entry, keeping pond as amenity, as well as the trees along the eastern side of site which are nicely developed. He described the mix of units among buildings and said they have more than enough parking onsite to meet the parking requirements. At this point, Chairman Melillo asked him to stop focusing on the site plan because this Commission does not consider site plans. It is this Commission's purview to consider the potential intensity for any of the uses that are permitted in the proposed zone.

Joseph Canas, PE from Tighe & Bond who is the successor to Consultants & Engineers, who actually did the original design work for this site. He spoke briefly about sewer and water saying there is plenty of capacity to serve the site in both sewer and water, but the services will need to be upgraded to current standards. The stormwater drainage plan has been designed so this new proposal will generate less runoff.

James Ford, PE from Beta Group Inc. said he did the traffic report that is tab #7 in the binder that was part of the application. He said he compared the trip generation of an office versus a residential complex. The office has much higher peak rate both coming and going; whereas residents of the proposed complex will only be leaving the area, so it would not be a major traffic generator. He said residential use would have far less impact on the street system and all in all, the rezoning would reduce traffic in the area.

Carl Kuehner Sr. then distributed list of projects that they have built (designated Exhibit B). There were almost 1,500 residential units and over 3,262,000 sq.ft. of office space. He said the first project they did in Danbury was Village Square condos in 1975. This was followed by Sterling Woods, Arlington Woods, Kensington Woods, Briar Woods, etc. About ten years ago they became interested in office building development. Most of these are in Stamford and Norwalk. They have residential developments in other towns, he just didn't mention it, but they are the largest commercial developer in Fairfield County. He showed the Commission an article in today's News-Times about one of their commercial developments. He said they are not a residential

developer looking to find a use for an office bldg that is currently vacant. They are capable of doing both kinds of development. He then listed two websites that have their data on it. Up until the 1980's, there was a great number of acres of industrially zoned land. The loss of these eight acres based on what you can do with it does not make a great deal of difference. He added that they also own a large piece at The Reserve but there is no demand for the development of it. They do not see the burning desire for industrial or office space. The company that owns the former Union Carbide site has vacant space available. Also the Hawley's built a new medical building on Germantown Rd. last year and it is still vacant. He said regarding the subject site, Danbury Hospital was looking at renting this site, but they needed more parking. So they went to the Planning Commission and proposed adding more parking which eventually was approved. Danbury Hospital then backed out so they were stuck with an empty building. They had GE as a tenant for a long time and they hoped it would be forever, but they moved out in December. So now they have 22 year old building that needs major renovation and it could cost up to nine million dollars to bring it up to today's standards and get a tenant in there. They believe that it is in the best interest of City to move this along. They are prepared to start construction as soon as they get approval. It will be easy right now to hire people because everyone is looking for work. He said they have a track record of doing what they say they will and it will be better for the City to have the tax revenue from these residential units than from an old vacant building. Mr. DiCaprio asked why they are not building on The Reserve property. Mr. Kuehner said WCI has had financial problems so they have not done the sewer and water work that they were supposed to and also they don't believe there is a market for the 300 units that the site is approved for. The proposal they are looking at tonight is at a much smaller scale.

Attorney Jaber then gave a brief summary of their points. The applicant doesn't want this to become another Novo Labs and he is committed to not having that happen. They do think this is a transitional property. The proposed density is really comparable with the other four projects in this area. He then said regarding the Planning Commission recommendation, their process is that they take no testimony. They vote on the facts before them using whatever information they may possess. He added that he would like to see this changed, but that would require both sides to be present. He said the third reason why this should be approved is that there is an abundance of office space available in Danbury. This would be an economic benefit to the City, a reduction in the amount of traffic and a reduction in the amount of impervious surface on the site. In closing he said that whatever Mr. Kuehner says he will do, he does, he lives up to his commitments. At this point, Mr. Jowdy asked about the number of units versus the number of children who will be added to the school system. He asked how many bedrooms the units would have. Mr. Kuehner said that people use rooms differently, sometimes what one would consider a bedroom, is really a den. There was some discussion about the decreasing number of school children and then someone said condos don't usually attract people with a lot of children, their usual market is the "just wed" and the "nearly dead". Attorney Jaber said this always comes up and they have looked at it extensively in the past. And have found that these developments do not attract people with school children. Mr. Kuehner said they have even gone so far as to count the children getting off the school buses and they continually find that these developments do not attract families with children.

At 9:17 PM, one of the Commission members called for a five-minute recess. At 9:22 PM, Chairman Melillo called the meeting back to order. He took a roll call vote to be sure that everyone had returned and then announced that the four letters that were read in favor of this petition would be designated Exhibit C.

Chairman Melillo asked if there was anyone to speak in opposition to this petition and several people raised their hands.

Paul Rotello, 13 Linden Pl., said he is not necessarily in favor or against this proposal. He then pointed out to the Commission where their jurisdiction lies. He then said as hard as it is to get rid of industrial property, it also is hard to market residential locations.

Paul Heery said he lives at Briar Woods and is also on their Board of Directors. He said he is not here in his role as neighbor, he is here as a Danburian. He said introducing residential units on Briar Ridge Rd. is a mistake. He added that he was at meeting with other Carl who said it will take them a year to build this out, but once that is done, the benefit to the City will be done. He asked that they not be short sighted and look at the long term benefit for Danbury.

Attorney Gary Michael Jr., said he is representing Fairway Asset Mgmt., the owner of 5 Ridgebury Rd. which is currently occupied by Belimo Air Controls USA Inc. He said they are opposed because this will adversely affect the industrial and commercial economy of this area. And changing this to RMF would take away from the future development potential.

Mrs. Calitro said to clarify something that Attorney Jaber said in reference to Mr. Elpern's staff report, apparently Mr. Elpern apparently looked at the wrong side of the road when he said it was zoned RA-40. Instead of seeing Ridgebury Hills, (which is zoned RA-8) he saw the other single family district.

Attorney Jaber said there is nothing to say in rebuttal because they have already addressed these comments.

Mr. Tierney asked Mr. Kuehner if the existing buildings are vacant. Mr. Kuehner said one building and has been vacant since May. Mr. Tierney asked how many people worked there. Mr. Kuehner said there on 394 parking spaces on the site. Mr. Tierney asked if that means that they would no longer have the space for 394 employees. Mr. Kuehner said he cannot find those people. Mr. Tierney asked if he is sure he can find 79 people to buy these units. He also questioned how they can say there will only be eleven kids there. He added that he does not see how this proposal would help the City as Mr. Kuehner would walk away once the residential is built and sold. If it was an office building, then they would have to stick around and take care of it. Mr. Kuehner said all he can say is that he does not make up the statistics. Mr. Tierney said he does not think this makes sense for the City; all the benefits are for the applicant. He added that he thinks they should try more aggressively to market this as an office building. Mr. Kuehner said they had the identical situation next door because it was no longer a functional office building. He added that he does not make up the statistics. Mr. Tierney said he just does not think this makes sense for the City, all the benefit is for the property owner. He added that he feels that they should try more aggressively to market it as an office building. Mr. Kuehner said the identical situation existed where Briar Woods is now located and that was successful. He added that there is single family on Old Ridgebury Rd. so why is multi-family a negative?

Mr. DiCaprio made a motion to close the public hearing. Mr. Farah seconded the motion. Chairman Melillo said before they vote on this motion, he wanted to remind the Commission that once this is closed, they will only be able to ask questions of the staff not of the applicant's representatives. Mr. Jowdy said this is a win-lose situation because if the applicant could get a tenant, that would be great because they could save industrial land. If they build residential, they

are also creating revenue for the City. He added that this is a tough decision because the housing market is strong in Danbury, but he also can see the benefits of the other side. Chairman Melillo called for a vote on the motion to close the public hearing and the motion was passed unanimously.

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

Petition of Narciso R. Rodriguez d/b/a Lula's Market LLC, 78 White St. (#113052) for Special Permit for Sale of Grocery Beer.

Mr. DiCaprio made a motion to approve this for the following reasons:

- The proximity of such premises will not have a detrimental effect on any church, school, or charitable institution. Nor will it have a detrimental effect on the immediate neighborhood concerned, due consideration having been given to the character of the surrounding neighborhood. And this is a very small operation.

Mr. Palma seconded the motion. Chairman Melillo took a roll call vote and the motion to approve this was passed with eight AYES (from Mr. DiCaprio, Mr. Venuti, Mr. Renz, Mr. Tierney, Mr. Farah, Mr. Palma, Mr. Spegnolo and Chairman Melillo) and one NAY (from Mr. Haddad).

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There was nothing under New Business or Correspondence. Chairman Melillo asked if there was anything to discuss under other matters and there was nothing. The two public hearings scheduled for February 9, 2010 were listed Under For Reference Only.

At 9:50 PM with no further business to discuss, Mr. Haddad made a motion to adjourn. Mr. Jowdy seconded the motion and it was passed unanimously.