



BY: 

CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

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

MINUTES
SEPTEMBER 11, 2012

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

Present were Sally Estefan, Theodore Haddad Jr., Rick P. Jowdy, James Kelly, Alan Kovacs, Marina Loyola, Robert Melillo and Alternates Robert Oravetz and Elmer Palma. Also present was Planning Director Dennis Elpern.

Absent were Walter Hoo, Terry Tierney and Alternate Kevin Haas.

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

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Chairman Melillo said the next regular meeting is scheduled for October 9, 2012 because there is no second meeting scheduled in September due to Yom Kippur.

Mr. Haddad made a motion to accept the June 12, 2012 & August 14, 2012 minutes. Mrs. Loyola seconded the motion and it was passed unanimously.

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**PUBLIC HEARINGS:**

Petition of Toll CT III LP, Saw Mill Rd & 13-37 Old Ridgebury Rd. (#A15005, #A16002, #A16004, #A17006, #B15001, #B15002, #B15005, #B16001, #B16002, #B16003, #B16004, #C15021, #C15022, #C15023, #C16012, #C16044, #C16045 & #C16046) to Revise the Master Plan of The Reserve (PND Zone).

Mrs. Estefan read the legal notice. Mr. Haddad then excused himself and left the dais as he is abstaining from this matter.

Matt Madison, from Toll Bros requested that the public hearing be opened and continued until next month's meeting.

Mr. Kovacs made a motion to continue this hearing without further testimony until the October 9, 2012 meeting. Mrs. Estefan seconded the motion and it was carried unanimously.

Mr. Haddad returned to the meeting at this time.

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Petition of the City of Danbury by Dennis I. Elpern, Planning Director to Amend Sections 2.B, 3.C., 3.F. of the Zoning Regulations. (Entertainment Activities & Special Permits)

Mrs. Estefan read the legal notice. Chairman Melillo asked Mr. Elpern if he wanted the staff report read into the record. Mr. Elpern said it was not necessary because he would cover it in his presentation. Chairman Melillo read the Planning Commission recommendation which was positive

Mr. Elpern said these amendments pertain to entertainment activities and special permit uses. They are meant to coordinate the Regulations with proposed Entertainment Licenses in the Code of Ordinances. These Entertainment Licenses will be required in the Downtown Revitalization Zone, as proposed in the Main Street Task Force report entitled *Downtown Danbury: Issues & Recommendations*. He said this also includes some changes to special permits which will complement the new Ordinance, as well as to update some deficiencies and ambiguities. He said these proposed amendments have been reviewed by Corporation Counsel, the Mayor, and the Downtown Special Services District. He noted that previously in the Zoning Regulations, the State body governing liquor sales has been referred to as the "CT Department of Liquor Control"; all references have been changed to reflect the correct title, the "CT Department of Consumer Protection Liquor Control Division." He said the entertainment activities permitted in cafes, taverns and restaurants located in the CG-20, CA-80 and C-CBD zoning districts have been clarified. The RR-10, PND, LCI-40, CL-10, CN-5, and CN-20 zones cannot engage in entertainment activities. The reason for this prohibition is because entertainment activities conflict with the purposes of these districts and may create land use conflicts and/or traffic concerns. Entertainment activities and hookah bars are defined. Hookah bars must be listed as a use within a zoning district(s) to be allowed; they cannot be treated as an accessory use. For restaurants, the minimal percentage of patron seats at tables is included to ensure that bars cannot be construed as restaurants. There is a clear description of what types of uses can be determined Entertainment activities. Mr. Kelly asked why hookah bars are not allowed anywhere in the City. Mr. Elpern said no one has specifically come in to add the use to any zone. He said he thought it prudent to include it in the types of entertainment activities that cafes, taverns and restaurants might offer. He added that the intent is no adult business uses or hookah bars can be considered entertainment activities.

Mr. Haddad asked where he got the entertainment activities definition from. Mr. Elpern said he culled it from other communities. He added that the definition for entertainment activities is being added because it is referred to the proposed Ordinance. He said the State has a myriad of types of liquor permits they can issue, but it is left to the local municipalities to determine which ones they want review power over. Our Zoning Regulations currently designate cafes and taverns, grocery stores, package stores, and restaurants. He suggested the Commission not bother with hotels, drug stores, clubs, country clubs, and others. He

said the Zoning Officer must review and sign off on these other applications to determine compliance with zoning before these uses can be issued State permits.

Mr. Elpern said other changes include eliminating convents and charitable institutions as considerations in the location of cafes, taverns, grocery stores, package stores, and restaurants. There are very few convents, if any, located in the City and almost all charitable institutions operate as professional business offices. Floor plans and hours of food service will still be required for cafes, taverns and restaurants to ensure that the principal use of the space will be a restaurant. This still gives the Commission broad latitude to determine if a business is a restaurant or a club since many restaurants clear out tables for entertainment once the dinner hours are over. He also said the language regarding restaurants needing to maintain a 60/40 receipts split was taken out and put does not serve alcohol. He said other language was clarified because it was so tortured that it often was misinterpreted. The distance requirement for package store location was also clarified for the same reason.

Chairman Melillo asked if the Commission could say no to entertainment when approving a special permit. Mr. Elpern said they cannot. Chairman Melillo said an entertainment venue would have different traffic than a restaurant would. Mr. Elpern said then the reason for denial would be based on concern for traffic impact. Mr. Haddad asked if this could be achieved through a condition on the approval. Mr. Elpern said it could based on the general criteria which says the Commission can impose any conditions they deem necessary. Mr. Elpern then said this will remove the language about eminent domain and discontinuance of use. Corporation Counsel has advised that there is a whole body of law covering both of these so they are redundant and unnecessary. Also the State imposes a time frame for discontinuance of use, so it does not need to be spelled out in the Regulations.

Mr. Elpern said this also includes removal of the prohibition on cafes and taverns in the Downtown area. There has been a lot of concern over this removal since in 2003 the Downtown businesses wanted cafes prohibited due to the proliferation and problems with them. Since that time, they have come forward and said they want them back. Many of the problems with these cafes/clubs consisted of noise, trash, etc., so the Mayor decided to try Entertainment Licenses for this area. Based upon the proposed Ordinance, in the Downtown Revitalization Zone, entertainment activities must obtain an Entertainment License. One reason these are different is because enforcement of these licenses will not be the responsibility of Zoning. Any violations will be handled legally in the same manner as other Ordinance violations. The proposed Ordinance is currently before the Council and the intent was for these amendments to be made effective in conjunction with the date of the Ordinance approval.

Mr. Elpern suggested that if they approve these changes, they should make them effective the same date as the effective date of the City Council Ordinance, Sec. 11-6. Mr. Kelly asked what the impetus was for these amendments. Mr. Elpern said working on the entertainment ordinance led to making changes to the language in the Zoning Regulations. Mr. Jowdy asked Mr. Elpern if he has met with the Main Street Task Force before preparing these changes. Mr.

Elpern said he had met with the CityCenter members, Andrea Gartner and the Main Street Task Force members. Mr. Haddad said the CityCenter people were the ones who wanted the cafes/bars removed in 2003 and then blamed the Zoning Commission for preventing new businesses in the downtown. Mr. Kovacs said the removal was based on problems with noise, trash and undesirable activities, so these new entertainment licenses will control all of that.

Mr. Elpern said there will be no grandfather clause; all existing businesses have to get a license. They must file for the license no later than thirty days after the ordinance goes into effect. The first license will be good for three years. He reminded the Commission that the entertainment licenses only apply to the Downtown Revitalization Zone. He said they went back and forth as to whether it should be citywide or just in the downtown. They finally decided that since the problems are only in the downtown, the licenses should be confined to the downtown.

Chairman Melillo asked Mr. Elpern if the Commission wants to require approval of special permits for hotel licenses, does that language have to be proposed in a separate permit. Mr. Elpern said it will have to be done as a separate petition.

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

Chairman Melillo asked Mr. Palma to take Mr. Tierney's place and Mr. Oravetz to take Mr. Hoo's place for this matter. Mr. Palma then made a motion to close the public hearing. Mrs. Estefan seconded the motion. Mr. Kelly asked if they have to vote on this matter tonight as he still has questions and would like more time to digest it all. Chairman Melillo said if Mr. Kelly is not ready to vote, they can just close the hearing this evening and bring it up as Old Business at the next meeting. He then called for a vote on the motion to close the public hearing and it was carried unanimously by voice vote. Mr. Haddad stated that it has always been this Commission's policy to table the vote until all of the members feel ready to vote. He added that since Mr. Kelly needs some time to breathe on this matter, he would not be making a motion to move this to Old Business.

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Chairman Melillo said there was nothing under New Business, Correspondence or For Reference Only. He asked if anyone had anything to discuss under Other Matters and there was nothing.

At 9:00 PM, Mr. Haddad made a motion to adjourn. Mrs. Loyola seconded the motion and it was passed unanimously.