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CITY OF DANBURY
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ZONING COMMISSION
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MINUTES
APRIL 9, 2013

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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., Walter Hoo Jr., Rick P. Jowdy, James Kelly, Alan Kovacs, Robert Melillo, and Alternate Kevin Haas.

Absent were Marina Loyola, Terry Tierney and Alternate Robert Oravetz.

Chairman Melillo then asked Mr. Haas to take Mrs. Loyola's place for the items on tonight's agenda. Chairman Melillo noted that they still have a vacant alternate seat which hopefully will be filled next month.

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

Chairman Melillo said there had been only one meeting in March due to Passover falling during the last week of March.

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Chairman Melillo said before they make any motions to accept the minutes, they have to be sure that whoever makes the motion and seconds it, must have been at the meeting. Mrs. Estefan said she was present for all four of the meetings, so she made a motion to accept the January 8, 2013, January 22, 2013, February 26, 2013, and March 12, 2013 minutes. Mr. Haas then said he also was present for all of these meetings, so he seconded the motion. Chairman Melillo called for a vote and the motion was passed unanimously.

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**PUBLIC HEARING**

7:30 PM – Petition of Luis Reyes/Angela DeLucia for a Special Permit for Package Store License at 128 West St. (#H14158).

Attorney Tom Beecher spoke in favor of this petition. He described the location of this shopping strip. He said it is located within the CG-20 zone and contains a

restaurant named Amigos'. He said the applicant and his family have operated this business at this location for many years. They presently have a grocery beer permit on this site, used in conjunction with their take-out business. They are prepared to surrender the grocery beer permit if they get approval for the package store. He said this storefront was formerly a Laundromat and before that, it was a package store, which the property owner ran for many years. This store is in the center of the strip, and the Planning Dept. approved the change of use in March of this year. The nearest church is on Spring St., which as shown on the map is over 900 ft. from this site. There is adequate parking on the site to accommodate all of the uses it contains. He said Mr. Reyes and his son Richard are here this evening if anyone has any questions for them.

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

Mr. Haddad made a motion to close the public hearing. Mrs. Estefan seconded the motion and it was passed unanimously. Mr. Haddad then made a motion to move this matter to the Old Business on tonight's agenda. Mr. Jowdy seconded the motion and it was passed unanimously.

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CONTINUATION OF PUBLIC HEARING:

Petition of Leonardo Rodriguez/White Street Investment LLC for Special Permit for Package Store License at 298 White St. (#K13098).

Mrs. Estefan made a motion to continue this public hearing. Mr. Jowdy seconded the motion and it was passed unanimously.

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OLD BUSINESS FOR DISCUSSION AND POSSIBLE ACTION

Petition of Luis Reyes/Angela DeLucia for a Special Permit for Package Store License at 128 West St. (#H14158).

Mr. Haddad made a motion to approve this petition with the following condition: The applicant's other business at this location, Amigo's will surrender their grocery beer permit upon receiving State Liquor Control Commission approval of their package store license. And these businesses (Amigo's and the new package store) are to remain as separate units with no structural connections between the businesses. Mr. Kelly seconded the motion and it was passed unanimously 8-0 with one member not voting.

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NEW BUSINESS

Petition of Equity One Inc to Amend Sec. 5.B.2.b.(16) of the Zoning Regulations. (Add Fast Food as Special Exception Use to CA-80 Zone) Public hearing scheduled for May 28, 2013.

Mrs. Estefan made a motion to refer this matter to the Planning Commission for a recommendation. Mr. Hoo seconded the motion and it was passed unanimously.

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REFERRAL:

ZBA Referral – Application #13-13: SST Automotive Inc., 52 Miry Brook Rd. (#F19049), USE VARIANCE to Sec. 6.A.2.a., to allow limited sales of automobiles in conjunction with and accessory to an existing automotive repair facility. (IL-40 Zone) Zoning Board of Appeals public hearing scheduled for April 11, 2013.

It was noted that the attorney for this applicant was present as he had represented the applicant for the first public hearing this evening.

Chairman Melillo asked if the subcommittee was ready to discuss this. Mr. Jowdy said they had not had the chance to prepare a report. Chairman Melillo suggested the Commission act as a committee of the whole and discuss it now. Mr. Jowdy said he agreed with that idea. Chairman Melillo said if this is approved by the ZBA, it will then have to come back to this Commission to get approval of a dealer's license. Mr. Kovacs said he had read the minutes from when the repair license was approved and it was made abundantly clear that it was for repair only; no sales are permitted in this zone. Mr. Haddad then said he has two issues; the first is that this zone does not allow retail sales and second, the intent of the IL-40 zone is to make industrial land available for industrial uses. He then said Sugar Hollow Rd. and Federal Rd. are littered with automobile sales because they are both zoned commercially. Mr. Kovacs said it is hard to imagine why they would ask for this now. Chairman Melillo then reiterated what the Planning Director said when the Commission looked at the ZBA Referral for the driving school on Padanaram Rd.: "He does not believe in granting use variances because they give one property rights that another property located in the same zone does not have".

Mr. Jowdy asked if anyone had the minutes from the meeting where this Commission approved the general repair license. Chairman Melillo asked the secretary to go

downstairs to the Planning & Zoning Office and get them. He then said they would take a five-minute recess (8:30 PM). At 8:35 PM, the meeting was called back to order and the Commission members had the chance to review the minutes from the June 10, 2010 meeting. Chairman Melillo then read from the 2010 Site Plan Waiver approval letter. It stated that the approval was for a change of use from Warehousing, Wholesaling or Distribution to Automobile Repair. "The auto repair shop will utilize 13,000 sq.ft. The newly created tenant space will be located in the northwest portion of the building and will utilize the existing two garage bays for vehicular entrance. The repair shop specializes in custom renovations of specialty automobiles. Pursuant to 6.A.2.a(23) of the Zoning Regulations, repair of automobiles is a permitted use in the IL-40." This approval was subject to the following administrative requirements:

1. Approval is granted strictly for the proposed change of use. Any additional changes to the site layout will require a revised Site Plan application.
2. The use of parking spaces for the storage or sale of automobiles is strictly prohibited.
3. This approval does not waive any other departmental approvals, requirements or permits that may be necessary to complete this project, including that required for site signage.

Mr. Jowdy then said after reading the minutes and hearing the condition of approval, there is no doubt that this applicant knew that they would not be able to sell cars from this location. He added that for them to now recommend approval of this request would set a dangerous precedent and would violate the intent of the IL-40 zone. Mr. Jowdy then made a motion to give this a negative recommendation for the following reasons:

- The intent of the IL-40 zone is to provide an area for expansion of the industrial base in the City; and that is why retail sales are not allowed. Approval of this request would set a dangerous precedent. And when the applicant leased the property in 2010, they knew that sales were not permitted in this zone.

The motion was seconded by Mr. Haddad and passed 8-0 with one member not voting (vacant seat).

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Chairman Melillo asked if there was anything to discuss under Other Matters and there was nothing. He then noted that there was nothing listed under For Reference Only.

At 8:40 PM, Mr. Kovacs made a motion to adjourn. Mr. Hoo seconded the motion and it was passed unanimously.