



CITY OF DANBURY
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ZONING COMMISSION
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MINUTES
JANUARY 28, 2014

The regular meeting was called to order by Chairman Robert Melillo at 7:32 P M.

Present were Jeffrey Barath, Christina Chieffalo, Sally Estefan, Theodore Haddad Jr., Rick P. Jowdy, James Kelly, Robert Laber, Annette Zatkovich, Chairman Robert Melillo, and Alternates Kevin Haas and Robert Oravetz. Also present was Planning Director Dennis Elpern.

Absent was Alternate Robert Arconti.

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

Chairman Melillo said the January 14, 2014 minutes were finished but did not get emailed out to the members, so they would have to table the acceptance of them. Mrs. Chieffalo made a motion to table the acceptance of the January 14, 2014 minutes. Mr. Haddad seconded the motion and it was passed unanimously.

Chairman Melillo said that the following public hearings had been continued until the February 25, 2014 meeting and there would be no discussion or action on either of them at this meeting:

Petition of Caraluzzi's Danbury Market, LLC for a Special Permit for the Sale of Grocery Beer at 102 Mill Plain Rd.(#C14014).

Petition of Caraluzzi's Wine & Spirits, LLC for a Special Permit for a Package Store License at 102 Mill Plain Rd.(#C14014).

PUBLIC HEARINGS

Mrs. Estefan read the legal notice for all three public hearings.

Petition of the City of Danbury by Dennis Elpern, Planning Director to Amend Sections 2.B. & 10.J. of the Zoning Regulations. (Temporary Moratorium on Applications for Medical Marijuana Dispensaries & Facilities)

Chairman Melillo read the Planning Commission recommendation which was positive.

Dennis Elpern spoke in favor of this petition. He said the State Regulations on this are quite lengthy and a lot to digest. He said the Department has been working with Assistant Corporation Counsel Robin Edwards reviewing them. He added that the State announced four sites that were approved for indoor marijuana farms. He said the reason he is here tonight is to request that the Commission impose a moratorium on “marijuana” applications so that staff has the time to draft the appropriate regulations.

Attorney Robin Edwards then spoke, she said this moratorium is consistent with what many of the other towns are doing and will give the City some time to study the State Regulations to determine what we need to put in place. She explained that the two definitions are taken directly from the Statutes. The State expects to issue three to five dispensary licenses in addition to the grow permits they announced today. She said this moratorium is needed because the State Regulations are quite voluminous and require several readings in order to understand them. Mr. Barath asked a question about the specific language regarding dispensing at retail instead of just being sold. Attorney Edwards said these definitions come directly from the State and they are not issuing any permits to wholesale the product. Mr. Barath then asked about the production facility. Attorney Edwards said it is best to parallel the State Statutes since that is all that is allowed at this time. She added that by time we draft our own regulations, things may have changed. Mr. Haddad asked if these two have to be under the same roof. Attorney Edwards said no, they are separate facilities. Mr. Haddad then asked what the Zoning Commission will be allowed to do to regulate these uses. Attorney Edwards said that is the purpose of the moratorium to determine if we want things like separation distances, or will it be a permitted versus special exception use. She said the local authority will have input on the State permit in a similar way to liquor licenses. Mr. Haddad said this really is quite involved; for example, just considering where we want the production facilities and where the distribution should be located. Mr. Kelly asked about an article in the News-Times where an application in another town was denied. Attorney Edwards said that was different situation because an applicant chose to come into that town and request a permit. She continued saying that applicants have the choice of whether to go to either the State or the town first and in this situation; he went to the town first. She then said she thinks the towns that were approved today for the grow facilities may already have regulations in place. Mr. Kelly asked if one year is not too long a time

period. Attorney Edwards said it could end up being a shorter length of time if the Regulations get drafted before the year is up. Chairman Melillo asked if the dispensary could be a pharmacy. Attorney Edwards said she is not sure, but she knows the dispensary has to be operated by a licensed pharmacist. Chairman Melillo then asked if this will be a special permit use or if it will be handled administratively by the Department. Attorney Edwards said that is one of the things they have to look into. Mr. Elpern then said they hope it will not take a full year, but they wanted to give themselves as much latitude as possible since this is such a complex issue. Mr. Haddad asked if the effective date will be the date of publication in the News-Times. Mr. Elpern said that was correct. Chairman Melillo reminded the Commission that the questions they have been asking this evening are similar to what the Planning staff gets asked every day. Mr. Elpern said these are the things they will be addressing when they write the regulations.

Mr. Haddad made a motion to close the public hearing. Mrs. Estefan seconded the motion and it was passed unanimously. Mr. Haddad made a motion to move this item to number one under the Old Business on tonight's agenda. Mr. Laber seconded the motion and it was passed unanimously.

Petition of Dora Minchala d/b/a La Kabanita Restaurant, 35 White St. (#113059) Special Permit for Restaurant Beer & Wine.

Juan Contreras (the owner) spoke in favor of this petition. He said this is a family restaurant; but the demand is there for beer and wine. He said they serve Ecuadorian, Columbian and a little bit of American cuisine. They started out serving breakfast but there are too many places in the immediate vicinity that offer Breakfast. He said they would like to do a bigger dinner business but people keep asking for beer and wine. He said some people bring their beer or wine, but he really believes that if he could offer it, more people would come for dinner. Mr. Haddad asked how many seats there are. Mr. Contreras said there are forty seats. He added that they have been open for four months, and the first month was great. Sunday is their busiest day, followed by Friday and Saturday nights. Chairman Melillo asked the hours of operation. Mr. Contreras said 9 AM to 9 PM during the week and 9 AM to 11 PM on the weekends. There were no other questions.

Chairman Melillo asked if there was anyone to speak in opposition to this petition and there was no one. He asked Mr. Elpern for staff comments and Mr. Elpern said they cannot vote on this until the tables are drawn on the floor plan. He also suggested they consider limiting it to a service bar.

At 8:10 PM, Chairman Melillo said they would take a five-minute recess in order to give the applicant the time to draw the chairs onto the floor plan. The meeting was called back to order at 8:13 PM; Chairman Melillo confirmed that none of the Commission members had left the meeting during the recess and that he had received a revised floor plan from the applicant showing both the tables and chairs.

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

Petition of Plumtrees Green Wine & Liquors LLC d/b/a Warehouse Wine & Liquors, 61 (a.k.a. 63) Newtown Rd./Plumtrees Plaza (#L12018) for a Special Permit for a Package Store Permit.

Attorney Bob Eberhard spoke in favor of this petition. He said this store is the former location of Perez Wine and Spirits, who have moved to Federal Rd. He said the applicant is Joseph Chianese, whose family has a package store in the Trader Joes shopping center located on Mill Plain Rd. Mr. Chianese's family also has an interest in Tuscanero's restaurant located in that same shopping center. Mr. Haddad asked about the Statutes saying that no one entity can own more than two liquor permits in Connecticut. Attorney Eberhard said family is defined to include husband, wife and children but the number of permits has been increased to three. Mr. Jowdy asked about the location and Attorney Eberhard pointed out that a map was submitted with the petition. He then showed them a floor plan of how the store will be laid out and explained that the reason he used both street numbers is because Perez had their permit under #61 although the shopping center is referred to as #63. Mr. Jowdy asked another question about the location within the shopping center. Mr. Chianese said it is located between Aldis and Subway. Mr. Jowdy then asked if CT Martial Arts would be considered a school. Chairman Melillo said we do not consider Karate training centers to be schools. He then asked Attorney Eberhard to specify on the record, the exact distances between where this store will be compared to the one located next to Marshall's (Avallone's) and the one located on the corner of Woodside Ave. (Janesky's) Attorney Eberhard said the exact distance between this new location and Janesky's is 2,458 ft. and between this and Avallone is 2,768 ft. Chairman Melillo asked if that is the door to door along the roadway measurement. Attorney Eberhard said it is and there is a certified map in the Planning Dept. file. Mrs. Chieffalo asked if there is a license available and Chairman Melillo said there still will be one left even if this and Caraluzzi's are both approved.

Chairman Melillo asked if there was anyone to speak in opposition to this petition and there was no one. He asked Mr. Elpern for staff comments and Mr. Elpern said he had nothing to add.

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

NEW BUSINESS

Petition of Thomas W. Beecher, Esq. as Agent, 1 & portion of 3 Clapboard Ridge Rd. (#H12011 & #H12012) for Change of Zone from RA-20 to CL-10. Public hearing scheduled for March 11, 2014.

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

OLD BUSINESS FOR DISCUSSION AND POSSIBLE ACTION

Petition of the City of Danbury by Dennis Elpern, Planning Director to Amend Sections 2.B. & 10.J. of the Zoning Regulations. (Temporary Moratorium on Applications for Medical Marijuana Dispensaries & Facilities)

Mr. Haddad made a motion "to approve the proposed amendments to Sections 2.B and 10.J of the Zoning Regulations, which amendments define medical marijuana dispensary facility and production facility and which amendments also impose a temporary moratorium on the acceptance of applications and the issuance of zoning permits for medical marijuana production facilities and dispensaries for a twelve month period. The Zoning Commission finds that the temporary moratorium regulations are reasonable as they (1) provide the Commission with the reasonable time necessary to review and consider the new state law and regulations relative to medical marijuana and the related issues arising therefrom; (2) provide the Commission with the reasonable time necessary to evaluate future land use and consider suitable regulations; (3) serve to protect the health, safety and welfare of the citizens of Danbury; and (4) do not conflict with the Plan of Conservation and Development. We find that the Planning Commission voted to give a positive recommendation for the petition at a meeting held on January 15, 2014. We further direct the Director of Planning and his staff to cause the publication of these amendments to occur as soon as possible and authorize the Director of Planning to insert

the necessary dates in Section F. of the regulation as required". Mrs. Zatkovich seconded the motion.

Mr. Kelly then asked if this motion was to approve and if so, shouldn't the Commission review the State regulations before taking this vote. Chairman Melillo said part of the purpose of this moratorium is to give the City time to draft regulations. He continued saying that without this moratorium in place, if someone came into the office tomorrow attempting to open a facility, there are no regulations. He added that it is typical in this Commission's history to impose a moratorium for a one year time period; that has always been the standard time frame. At this point, Mr. Haddad said as a former Chairman of this Commission for over ten years, what Chairman Melillo is saying is the truth. Chairman Melillo then took a roll call vote on the motion to approve and it was passed unanimously with nine AYES.

Petition of Dora Minchala d/b/a La Kabanita Restaurant, 35 White St. (#113059) Special Permit for Restaurant Beer & Wine.

Mr. Barath made a motion to approve this because it satisfies all of the criteria in Sec. 3.F.2. of the Zoning Regulations. Mrs. Zatkovich seconded the motion. Mr. Elpern suggested adding that the facility meets the definition of a restaurant in the Regulations. Mr. Haddad suggested they add a condition that it to be limited to a service bar only. Chairman Melillo clarified the definition of a service bar for the new members and said this could be added as a friendly amendment. Mr. Barath and Mrs. Zatkovich agreed to the amendment. Mrs. Chieffalo asked how this would affect them. Chairman Melillo said it would mean that the beer and wine would have to be served to the patrons as opposed to having a sit-down bar where people could just drink without ordering food. If it was reported to the Zoning Enforcement Officer that it had turned into a bar, they he would be able to stop them from serving because they would be in violation of this approval. Chairman Melillo then suggested adding a condition that open beverages must remain in the building. Mr. Elpern said he did not think that was a good idea. Chairman Melillo said he knows that if a bottle of wine is opened in a restaurant, it can be corked and taken home. Mrs. Chieffalo said he said that people bring in their own bottles and she wondered if it was legal to do that. Chairman Melillo said it is legal in Connecticut for people to bring their own bottles into a restaurant that does not have a liquor license. Chairman Melillo said it would be similar to the condition they put on the Red Robin Restaurant at the Danbury Fair Mall. Mr. Barath asked who regulates the hours of operation. Chairman Melillo said that is controlled by the State

Chairman Melillo took a roll call vote on the motion to approve with a service bar only and it was passed unanimously with nine AYES.

Petition of Plumtrees Green Wine & Liquors LLC d/b/a Warehouse Wine & Liquors, 61 (a.k.a. 63) Newtown Rd./Plumtrees Plaza (#L12018) for a Special Permit for a Package Store Permit.

Mrs. Chieffalo made a motion to approve this as it complies with the criteria in the Zoning Regulations and it will not have a negative effect on any churches, schools or charitable institutions in the immediate area. Mr. Laber seconded the motion. Chairman Melillo took a roll call vote and the motion to approve was passed unanimously with nine AYES.

Chairman Melillo asked if there was anything to discuss under Other Matters and there was nothing. He said there was nothing listed under For Reference Only because they have nothing scheduled for the next meeting. Based on that, they will be cancelling the February 11, 2014 meeting, so the next meeting will be on February 25, 2014. The secretary will send out a cancellation notice.

At 8:50 PM, Mrs. Estefan made a motion to adjourn. Mr. Laber seconded the motion and it was passed unanimously.