COMMITTEE AS A WHOLE
27-Feb-2012

Honorable Mayor Mark D. Boughton
Members of the City Council

Council President, Joseph Cavo, called the meeting to order at 8:37 pm in the Council Chambers.

Present were Council Members: Philip Curran, Michael J. Haddad Sr., Jack Knapp, Warren Levy, Gregg Seabury, Colleen Stanley, Don Taylor, Joseph Cavo, Thomas Saadi, Fred Visconti, Andrew Wetmore, Peter Nero(entered at 7:13pm), Duane Perkins, Benjamin Chianese, Paul T. Rotello, Joseph Scozzafava and Mary Teicholz

PRESENT: 17 ABSENT: 3 Vacancy: 1
Phillip Colla was out of town on family business.
Michael Halas and Shay Nagarsheth were working.

Mr. Cavo stated the call of the meeting.

2. <u>Downtown Deferral of Assessments - Code of Ordinance, Section 18-25 (for Downtown Revitalization Zone)</u>

Council Member Knapp moved to recommend the City Council adopt the amendment to Code of Ordinance, Section 18-25, as presented by the Director of Planning and Zoning. The motion was seconded by Council Member Wetmore.

Motion unanimously approved.

As there was no further business before the Committee **Council Member Rotello made a motion to close the Committee as a Whole** seconded by Council Member Teicholz.

Motion unanimously approved. The meeting closed at 8:41 pm.

18-1

ORDINANCE

CITY OF DANBURY, STATE OF CONNECTICUT

CITY COUNCIL

_____ A.D. 2012

Be it ordained by the City Council of the City of Danbury:

Sec. 18-25. Deferral of assessment increases attributable to construction or improvements.

(a) *Preamble, general findings and authority.* Whereas, the Connecticut General Assembly has authorized municipalities to fix assessments for construction or improvements to real property or air space in accordance with the provisions of section 12-65b of the Connecticut General Statutes; and whereas the deferral of assessment increases attributable to new construction or improvements will encourage economic development within the City of Danbury and the continued economic vitality of the City; now, therefore, in accordance with section 12-65b of the Connecticut General Statutes, the City does hereby provide for the deferral of assessment increases attributable to construction or improvements to real property or air space within the City of Danbury as specified herein.

(b) *Application and eligibility.* An application to the City for a deferral of assessment increases for real property, air space and all improvements thereon or therein and to be constructed thereon or therein may be made by any party owning or proposing to acquire an interest in real property, or any party owning or proposing to acquire an interest in air space, or any party who is the lessee of, or who proposes to be the lessee of, air space in such a manner that the air space leased or proposed to be leased shall be assessed to the lessee pursuant to section 12-64 of the Connecticut General Statutes. In order to be eligible for the benefits provided by this section, a completed application form available from the department of planning and zoning must be submitted to the department and, upon receipt of a report from the department, the City Council must find that:

(1) Use. The applicant proposes to use the construction of improvements to real property (or property subject to air rights) for the following principal uses where allowed in zoning districts of the City of Danbury zoning regulations:

a. For permanent residential use for property designated blighted pursuant to section 10-92 et seq. of this Code, or for office use, manufacturing use, or warehouse, storage or distribution use, or

b. If the real property is located within the C-CBD zoning district, for permanent residential use, office use, manufacturing use, or warehouse, storage or distribution use, or

c. If the real property is located within the downtown revitalization zone, as designated in the zoning regulations, for office use, retail use, permanent residential use, information technology, recreation facilities, or transportation facilities in zoning districts where allowed in the DRZ.

(2) *Taxes.* The property or property subject to air rights is not delinquent in the payment of taxes owed to the City or taxes owed to the Downtown Special Services District at the time of application.

(3) *Written agreement.* The applicant agrees to enter into a written agreement with the City fixing the assessment of the real property, air space and all improvements thereon or therein and to be constructed thereon or therein upon such terms and conditions as are provided for herein and therein.

(4) *Site plan.* The application shall include a site plan, proposed exterior façade elevations, interior layout, and other specifications drawn to scale indicating all existing and proposed construction and other improvements sufficient for the tax assessor to determine the assessment increase of the property after completion of all proposed construction or improvements for which this deferral is being requested. City Council may require that proposed new construction or renovation of non-historic buildings located within the main street historic district comply with one or more of the contextual design guidelines for historic districts as specified in the City of Danbury *Plan of Conservation & Development,* as amended.

(c) Application procedure:

(1) All applications shall be submitted to the Danbury Planning Department on forms supplied by such department. Each such application shall include the applicant's estimate of the cost of the construction or improvements subject to deferred assessment hereunder.

(2) The planning department shall review each application submitted to it and shall forward each such application to the common council within thirty (30) days of receipt, together with the department's report concerning whether or not the application meets the eligibility criteria contained in this section. Such report shall include specific reasons in support of the findings expressed therein.

(3) Upon receipt of an application and report from the planning department, the common council shall either approve the application, reject the application, or return the application to the department for further information. If an application is rejected, the common council shall state its reasons for rejection upon the record. The applicant may file a revised application with the planning department which addresses the reasons for rejection by the common council.

(4) In the event of approval, the common council shall adopt a resolution authorizing the mayor to enter into an agreement with the owner or lessee of the property, as specified herein.

(d) *Assessment deferral agreement:*

(1) The assessment deferral agreement to be signed by the applicant and the mayor on behalf of the city shall refer to and incorporate the application as approved by the common council, shall reflect the assessment on the property immediately prior to the commencement of construction, and shall specify the period of deferral which shall begin with the issuance of a certificate of occupancy for the improvements to be constructed.

(2) The assessment deferral agreement shall provide that, upon completion of construction or improvements made in accordance with the terms of the agreement, and upon certification by the planning department, as hereinafter set forth, and upon issuance of the certificate of occupancy, the increase in the assessment on the property due to such construction or improvements shall be deferred in accordance with one of the following schedules, as determined by the common council:

a. For proposed construction or improvements which value three million dollars ($3,000,000.00) or more, the entire increase in the assessment may be deferred each year for a period not to exceed seven (7) years;

b. For proposed construction or improvements which value five hundred thousand dollars ($500,000.00) or more, the entire increase in the assessment may be deferred each year for a period not to exceed two (2) years;

c. For proposed construction or improvement which [with] value not less than twenty-five thousand dollars ($25,000.00), fifty (50) percent of the increased assessment may be deferred each year for a period no to exceed three (3) years, including but not limited to permanent residential use property, which property has been designated blighted pursuant to section 10-91 et seq. of this Code.

(3) Deferred assessments shall not apply to taxes levied under section 19B-3 of this Code of Ordinances applicable to Downtown Special Services District taxes.

(4) The assessment deferral agreement shall provide that such construction or improvements shall be completed by a date fixed in such assessment deferral agreement. In the event that on the date so fixed for completion the planning department has denied certification that the construction or improvements have been performed in accordance with the eligibility criteria as set forth in this section and in accordance with the terms of the assessment deferral agreement, or at any time if the planning department determines that the owner or lessee or the property is in default under the terms of said agreement, and has failed to cure said default after notice and an opportunity to do so, the agreement shall terminate. In the event of such termination, the owner or lessee of the property, as herein provided, shall be liable for any increase in taxes for which he would have been liable in the absence of such agreement. The agreement shall further provide that a property owner or lessee, as herein provided, may apply to the planning department for an extension of time in which to complete the construction or improvements which, for good cause shown, the planning department may approve, but in no event shall such extension of time exceed a period of one (1) year.

(5) The assessment deferral agreement shall further provide that the agreement is contingent upon the following conditions:

a. That, in addition to the certification requirement of subsection (e)(3) of this section, the property shall be subject to inspection and certification by the building inspector and health director, as being in conformance with such provisions of the state building and health codes and local housing codes as may apply, and by the zoning enforcement officer to ensure conformance with the zoning regulations, as required;

b. The assessment deferral shall continue only as long as the use of the property remains a use authorized by subsection (b)(1) of this section;

c. That the assessment deferral shall cease if there is any delinquency in the payment of taxes on the property; and

d. That the assessment deferral shall cease upon the sale or transfer of the improvements unless the new owner or lessee, as the case may be, of such property shall enter into a new contract with the city incorporating all the terms of the agreement with the former owner or lessee, as herein provided.

e. That the assessment deferral shall cease upon a change of use or substantive deviation from the assessment deferred project as approved of the construction or improvements unless, prior to said change of use or substantive deviation taking effect, the owner, lessee or successor in interest applies for and obtains approval of the common council for the continuation of said assessment deferral.

(e) *Miscellaneous provisions:*

(1) The assessor shall have the sole responsibility for determining the cost and value of the construction or improvements subject to a deferral of assessment increases hereunder.

(2) A copy of any assessment deferral agreement entered into pursuant to the provisions of this section shall be forwarded to the assessor, who shall adjust his records accordingly.

(3) The planning department shall forward a copy of its certification that the construction or improvements has been completed in accordance with the assessment deferral agreement to the assessor. In the event that the planning department denies such certification, it shall send a copy of its denial to the assessor, who shall readjust his tax records in accordance with the provisions of this section.

(4) Any agreement entered into under the provisions of this section shall be recorded on the land records of the city.

(5) The planning department is authorized to establish written procedures and technical specifications for the administration of this section.

(6) Properties upon which construction or improvements commenced prior to the adoption of this section, but which have not yet received a certificate of occupancy, may be eligible for the benefits set forth in this section, provided that they meet the requirements of and apply in accordance with the provisions of this section.

Copy showing deletions and new language

Sec. 18-25. Deferral of assessment increases attributable to construction or improvements.

(a) *Preamble, general findings and authority.* Whereas, the Connecticut General Assembly has authorized municipalities to fix assessments for construction or improvements to real property or air space in accordance with the provisions of section 12-65b of the Connecticut General Statutes; and whereas the deferral of assessment increases attributable to new construction or improvements will encourage economic development within the City of Danbury and the continued economic vitality of the city; now, therefore, in accordance with section 12-65b of the Connecticut General Statutes, the city does hereby provide for the deferral of assessment increases attributable to construction or improvements to real property or air space within the City of Danbury as specified herein.

(b) *Application and eligibility.* An application to the city for a deferral of assessment increases for real property, air space and all improvements thereon or therein and to be constructed thereon or therein may be made by any party owning or proposing to acquire an interest in real property, or any party owning or proposing to acquire an interest in air space, or any party who is the lessee of, or who proposes to be the lessee of, air space in such a manner that the air space leased or proposed to be leased shall be assessed to the lessee pursuant to section 12-64 of the Connecticut General Statutes. In order to be eligible for the benefits provided by this section, A COMPLETED APPLICATION FORM AVAILABLE FROM THE DEPARTMENT OF PLANNING AND ZONING MUST BE SUBMITTED TO THE DEPARTMENT AND, upon receipt of a report from the ~~planning~~ department, the ~~common~~ CITY council must find that:

(1) *Use.* The applicant proposes to use the construction of improvements to real property (or property subject to air rights) FOR THE FOLLOWING PRINCIPAL USES WHERE ALLOWED IN ZONING DISTRICTS OF THE CITY OF DANBURY ZONING REGULATIONS:

a. For permanent residential use for property designated blighted pursuant to section ~~10-81~~ 10-92 et seq. of this Code, OR for office USE, ~~or~~ manufacturing use, or ~~for~~ warehouse, storage or distribution use, or

b. If the real property is located within the C-CBD zoning district, for permanent residential use, ~~for~~ office USE, ~~of~~ manufacturing use, or ~~for~~ warehouse, storage or distribution use, or

~~c. If the real property is located within the Downtown Redevelopment Area, for permanent residential use for property designated blighted pursuant to section 10-81 et seq. of this Code, for office, manufacturing, or retail use, or for warehouse, storage or distribution use.~~

c. IF THE REAL PROPERTY IS LOCATED WITHIN THE DOWNTOWN REVITALIZATION ZONE, AS DESIGNATED IN THE ZONING REGULATIONS, FOR OFFICE USE, RETAIL USE, PERMANENT

RESIDENTIAL USE, INFORMATION TECHNOLOGY, RECREATION FACILITIES, OR TRANSPORTATION FACILITIES IN ZONING DISTRICTS WHERE ALLOWED IN THE DRZ.

(2) *Taxes.* The property or property subject to air rights is not delinquent in the payment of taxes owed to the city or taxes owed to the Downtown Special Services District at the time of application.

(3) *Written agreement.* The applicant ~~proposes~~ AGREES to enter into a written agreement with the city fixing the assessment of the real property, air space and all improvements thereon or therein and to be constructed thereon or therein upon such terms and conditions as are provided for herein and therein.

(4) *SITE PLAN.* THE APPLICATION SHALL INCLUDE A SITE PLAN, PROPOSED EXTERIOR FACADE ELEVATIONS, INTERIOR LAYOUT, AND OTHER SPECIFICATIONS DRAWN TO SCALE INDICATING ALL EXISTING AND PROPOSED CONSTRUCTION AND OTHER IMPROVEMENTS SUFFICIENT FOR THE TAX ASSESSOR TO DETERMINE THE ASSESSMENT INCREASE OF THE PROPERTY AFTER COMPLETION OF ALL PROPOSED CONSTRUCTION OR IMPROVEMENTS FOR WHICH THIS DEFERRAL IS BEING REQUESTED. CITY COUNCIL MAY REQUIRE THAT PROPOSED NEW CONSTRUCTION OR RENOVATION OF NON-HISTORIC BUILDINGS LOCATED WITHIN THE MAIN STREET HISTORIC DISTRICT COMPLY WITH ONE OR MORE OF THE CONTEXTUAL DESIGN GUIDELINES FOR HISTORIC DISTRICTS AS SPECIFIED IN THE CITY OF DANBURY *PLAN OF CONSERVATION & DEVELOPMENT*, AS AMENDED.

(c) Application procedure:

(1) All applications shall be submitted to the Danbury Planning Department on forms supplied by such department. Each such application shall include the applicant's estimate of the cost of the construction or improvements subject to deferred assessment hereunder.

(2) The planning department shall review each application submitted to it and shall forward each such application to the common council within thirty (30) days of receipt, together with the department's report concerning whether or not the application meets the eligibility criteria contained in this section. Such report shall include specific reasons in support of the findings expressed therein.

(3) Upon receipt of an application and report from the planning department, the common council shall either approve the application, reject the application, or return the application to the department for further information. If an application is rejected, the common council shall state its reasons for rejection upon the record. The applicant may file a revised application with

the planning department which addresses the reasons for rejection by the common council.

(4) In the event of approval, the common council shall adopt a resolution authorizing the mayor to enter into an agreement with the owner or lessee of the property, as specified herein.

(d) *Assessment deferral agreement:*

(1) The assessment deferral agreement to be signed by the applicant and the mayor on behalf of the city shall refer to and incorporate the application as approved by the common council, shall reflect the assessment on the property immediately prior to the commencement of construction, and shall specify the period of deferral which shall begin with the issuance of a certificate of occupancy for the improvements to be constructed.

(2) The assessment deferral agreement shall provide that, upon completion of construction or improvements made in accordance with the terms of the agreement, and upon certification by the planning department, as hereinafter set forth, and upon issuance of the certificate of occupancy, the increase in the assessment on the property due to such construction or improvements shall be deferred in accordance with one of the following schedules, as determined by the common council:

a. For proposed construction or improvements which value three million dollars ($3,000,000.00) or more, the entire increase in the assessment may be deferred each year for a period not to exceed seven (7) years;

b. For proposed construction or improvements which value five hundred thousand dollars ($500,000.00) or more, the entire increase in the assessment may be deferred each year for a period not to exceed two (2) years;

c. For proposed construction or improvement which [with] value not less than twenty-five thousand dollars ($25,000.00), fifty (50) percent of the increased assessment may be deferred each year for a period no to exceed three (3) years, including but not limited to permanent residential use property, which property has been designated blighted pursuant to section 10-91 et seq. of this Code.

(3) Deferred assessments shall not apply to taxes levied under section 19B-3 of this Code of Ordinances applicable to Downtown Special Services District taxes.

(4) The assessment deferral agreement shall provide that such construction or improvements shall be completed by a date fixed in such assessment deferral agreement. In the event that on the date so fixed for completion the planning department has denied certification that the construction or improvements have been performed in accordance with the eligibility criteria

as set forth in this section and in accordance with the terms of the assessment deferral agreement, or at any time if the planning department determines that the owner or lessee or the property is in default under the terms of said agreement, and has failed to cure said default after notice and an opportunity to do so, the agreement shall terminate. In the event of such termination, the owner or lessee of the property, as herein provided, shall be liable for any increase in taxes for which he would have been liable in the absence of such agreement. The agreement shall further provide that a property owner or lessee, as herein provided, may apply to the planning department for an extension of time in which to complete the construction or improvements which, for good cause shown, the planning department may approve, but in no event shall such extension of time exceed a period of one (1) year.

(5) The assessment deferral agreement shall further provide that the agreement is contingent upon the following conditions:

a. That, in addition to the certification requirement of subsection (e)(3) of this section, the property shall be subject to inspection and certification by the building inspector and health director, as being in conformance with such provisions of the state building and health codes and local housing codes as may apply, and by the zoning enforcement officer to ensure conformance with the zoning regulations, as required;

b. The assessment deferral shall continue only as long as the use of the property remains a use authorized by subsection (b)(1) of this section;

c. That the assessment deferral shall cease if there is any delinquency in the payment of taxes on the property; and

d. That the assessment deferral shall cease upon the sale or transfer of the improvements unless the new owner or lessee, as the case may be, of such property shall enter into a new contract with the city incorporating all the terms of the agreement with the former owner or lessee, as herein provided.

e. That the assessment deferral shall cease upon a change of use or substantive deviation from the assessment deferred project as approved of the construction or improvements unless, prior to said change of use or substantive deviation taking effect, the owner, lessee or successor in interest applies for and obtains approval of the common council for the continuation of said assessment deferral.

(e) *Miscellaneous provisions:*

(1) The assessor shall have the sole responsibility for determining the cost and value of the construction or improvements subject to a deferral of assessment increases hereunder.

(2) A copy of any assessment deferral agreement entered into pursuant to the provisions of this section shall be forwarded to the assessor, who shall adjust his records accordingly.

(3) The planning department shall forward a copy of its certification that the construction or improvements has been completed in accordance with the assessment deferral agreement to the assessor. In the event that the planning department denies such certification, it shall send a copy of its denial to the assessor, who shall readjust his tax records in accordance with the provisions of this section.

(4) Any agreement entered into under the provisions of this section shall be recorded on the land records of the city.

(5) The planning department is authorized to establish written procedures and technical specifications for the administration of this section.

(6) Properties upon which construction or improvements commenced prior to the adoption of this section, but which have not yet received a certificate of occupancy, may be eligible for the benefits set forth in this section, provided that they meet the requirements of and apply in accordance with the provisions of this section.

Note: New language is indicated by CAPITALIZATION COMBINED WITH UNDERLINE except that capitalization is not utilized for the letters in parentheses which indicate subsections.