



CITY OF DANBURY
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ZONING COMMISSION
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MINUTES
AUGUST 28, 2007

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The meeting was called to order by Vice Chairman Ted Farah at 7:36 PM.

Present were Theresa Buzaid, Theodore Haddad Jr., Helen Hoffstaetter, Richard P. Jowdy, Robert Melillo. Ted Farah and Alternates Victoria Hickey and Patrick Johnston. Also present were Planning Director Dennis Elpern and Deputy Planning Director Sharon Calitro.

Absent were Anthony DiCaprio, Donald Kennedy and Chairman Jack Knapp.

Mr. Farah asked Mr. Johnston to take Mr. DiCaprio's place and Ms. Hickey to take Chairman Knapp's place for the items on tonight's agenda.

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

Mr. Melillo made a motion to accept the minutes of July 24, 2007 and August 14, 2007. Mr. Johnston seconded the motion and it was passed unanimously.

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Mr. Melillo then made a motion to deviate from the order of the agenda and do the Old Business before starting the public hearing. Mr. Johnston seconded the motion and it was passed unanimously.

OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

Petition of Allegiance Capital Group Inc. to Amend Secs. 5.E.2 & 5.E.4. of the Zoning Regulations. (Add Self-Storage as Permitted Use in CN-20 Zone). *Public hearing closed 6/26/07 – 65 day period to make decision ends 8/30/07.*

Mr. Farah said there was a negative recommendation from the Planning Commission so a two-thirds majority vote is needed in order to approve this. He added that there are eight members present who are eligible to vote on this: Buzaid, Farah, Haddad, Hickey, Hoffstaetter, Jowdy, Melillo and Johnston. Ms. Hickey said she had listened to the tapes for the meeting that she missed. Mr. Farah asked for a motion to open the discussion. Mr. Melillo made a motion to deny this application for the following reasons:

- It does not conform to the Plan of Conservation & Development and the proposed use is not appropriate for the CN-20 zone.

Ms. Hoffstaetter seconded the motion. Mr. Melillo said he would be willing to look at this again if they retooled and came back with another petition. Mr. Farah called a roll call vote and the motion to deny was passed unanimously.

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PUBLIC HEARING:

7:30 PM – Petition of the City of Danbury by Dennis I. Elpern, Planning Director to Amend Secs. 3.E.3., 6.A., 6.B. & 6.C. of the Zoning Regulations. (Revise Industrial Zones)

Mr. Haddad excused himself and left the meeting as he is abstaining from this matter.

Ms. Hoffstaetter read the legal notice. Mr. Melillo read the Planning Commission recommendation which was positive.

Dennis Elpern spoke in favor of this petition. He noted the four letters in opposition had been received and would be read into record later. He then read his errata into the record. He said these proposed amendments have been reviewed by many people within the City, specifically Corporation Counsel as well as the Mayor. This package revamps the two industrial zones and supplemental regulations. He said the reasons for this proposal are many. He quoted results from the Community Attitude survey showing that traffic congestion and safety were a repeated concern. He said these changes will not affect existing development. The News-Times made an error and mechanical contractors is not being deleted. Machine manufacturing was removed from IL-40 but not from IG-80 because it does not belong in the light industrial zone. Many uses were changed from permitted to special exception, especially those that can create nuisances to abutting properties. The reason is so there will be a hearing where everyone would have the chance to speak. Many uses in both zones were shifted from permitted uses to special exceptions and some uses were just eliminated because they were incompatible with the purpose and intent of the zones. The landscaped requirements have been enhanced in the same way that they were in the commercial zones. There is no off-street parking, storage or display in the front yard setback. Mrs. Buzaid asked if the survey is available for people to look at. Mr. Elpern said it is in the Planning & Zoning Office. The Commission chose to ask Mr. Elpern specific questions about the amendments rather than him going through it line by line.

Mr. Farah said they had received some letters in opposition. He then read a letter from Attorney Sanford Kaufman. Mr. Melillo read a letter from Attorney Ward Mazzucco. Ms. Hoffstaetter read a letter from Morris Gross of Danbury Hospital. Mr. Johnston read a letter from Michael Iapaluccio. Mr. Farah asked if there was anyone to speak in opposition.

Anthony Rizzo, Sr., distributed copies of his comments to the Commission members. This was designated Exhibit A. He spoke about Danbury's rich historical background as a manufacturing town. He then described the current perspective on local business. In closing, he mentioned that most modern business parks include health clubs, which would be prohibited by this amendment.

Attorney Neil Marcus said he is representing Ed Kilian, owns large parcel on Old Sherman Tpke. Which is zoned IG-80. He questioned the procedure of errata being brought in since many people were not privy to it. He does not agree that the purpose of these amendments is to improve land development. He added that some of the uses can go by the wayside as they are no longer

appropriate. He said that Chemical manufacturing is a bad example because Miller-Stephenson on Miry Brook Rd. is a good neighbor and is an appropriate use for this area. He also questioned the other two reasons: to contain overdevelopment or to help with traffic congestion problems. He said trip generation is a special exception use, so it's already covered. He questioned if electrical generation would really create traffic? He said to say that Elmer's and Dunkin-Donuts exacerbate traffic problems is not true. He offered to submit traffic counts after the Dunkin-Donuts is open to prove this is a fallacy. He said it is also not right to delete machine manufacturing in IL-40, citing the LORAD facility. It is machine manufacturing although diagnostic in nature as opposed to surgical manufacturing. Also mentioned Jovil Manufacturing and suggested they should have asked the Chamber of Commerce to determine whose business might be excluded by these changes. He said when you exclude your basic industrial base, it will hurt the town. He asked who would choose to come to Danbury in the future. He added that Doran Bros. machine shop would not longer be allowed. He said he believes we should try to attract blue collar industry to Danbury. He then said that a modern corporate park would include some of the things that are proposed to be excluded, such as health club and day care centers. He said it used to be that all uses were separate, but now we are getting back to mixed use village type development. He said the baseball fields, specifically Lee Field, were built to encourage hatters to have recreational facilities. He said schools should be located where the demand is, but maybe storage and processing of paper does not belong. Sewer and Water pumping, treatment and storage facilities are all necessary for society. He said the proposed changes will make development almost impossible and these regulations are basically anti industry. He continued saying that to allow power generation by fuel cell only is ridiculous. This is zoning for the type of use and it is like specifying what kind of food a fast food restaurant can sell. Don't eliminate generating power, we should encourage it. He said by doing this we are moving in a direction that is the opposite of State policy. He submitted a copy of article from the News-Times (designated Exhibit B) and also a summary of recent legislation regarding power generation in State of CT (designated Exhibit C). He suggested that homework should be done by City staff before proposing these changes. Eliminating electrical power generation is denying the future. He said the DPUC can overrule the City regulations and suggested that Corporation Counsel get involved and look at what the City can actually regulate. He said a modern electrical power system is important to Danbury because most of what exists is dated and old. None of the Planning Director's reasons for these changes have anything to do with electrical generation, it generates enormous amount of tax revenue. The elimination of screening, junkyards, and transfer stations will create traffic because people will have to travel farther for these services. He suggested the Commission take a hard look at this. In closing, he said when everything is a special exception, then nothing is a spec exception.

Attorney Aimee Hoben, Murtha & Cullina, said she represents the owner of the property at 15 Old Newtown Rd. (the former Risdon site). She said they are opposed to these changes because they will make existing industrial properties less valuable. She said this does the opposite of what the City should be doing to stimulate interest in these former industrial sites. They have a potential buyer for this site, but these changes will have negative impact on the sale. She said specifically the change from permitted use to special exception use for warehousing and the second change regarding the deletion of a gym on a manufacturing site. These changes destroy the proposed sale and use of this property. She said the proposed changes are not consistent with purpose and intent of IL-40, nor are they consistent with the Plan of Conservation & Development. She submitted her comments with the Executive Summary from the POCD attached to them. This was designated Exhibit D.

Roy Steiner of Berkshire Industrial Corp., Riverview Dr., said he would direct his comments toward the IL-40 zone. He explained that they had rezoned this land from IG-80 to IL-40 in order to allow a hotel or recreational facility on site. He added that a modern corporate park needs to offer a hotel/motel, a day care center, some warehouse space and a recreational facility on the site in order to compete with other corporate parks. He said the demand for manufacturing still exists in Danbury. He referred to a site plan of the GE parcel located in Berkshire Corp. Park and pointed out the steep topography saying they have three lots accessed by one driveway and really think it is the best plan. He said there is more to say but he will stop so others can speak. He suggested that the City really should be marketing itself but regulations like these leave people with a question mark.

Phyllis Shook, said she owns property that is zoned IL-40. She said her father had owned a hat factory and loved Danbury. These changes would be detrimental to her family, so of course they have concerns.

Rob Zohn, Business Aircraft Center at Danbury Airport, said he is also a longtime resident of Danbury. He said he did not hear anything about any difficulties at the Airport so why are these changes being proposed. He then recapped the hurdles that he has to go through in order to do any development at his business located on the Airport. Step one is to start with the Aviation Commission, then to the FAA for their approval, then to the EIC, and on through nine more steps. He said shifting the Airport activities into special exception uses will limit business at the Airport. He mentioned the noise study which was commissioned by FAA and said if they are trying to control the noise, this is not the way to do it. He said the Control Tower records show a decrease in activity at the Airport and the noise study proves that noise is not a problem, so they don't need to fix a problem that does not exist.

Jeff Ryer, Ryer Associates, said he also has a small piece of land on Kenosia Ave. which is zoned IL-40. He said from a commercial real estate perspective, these changes will reduce Danbury's competitiveness. He added that we will lose our economic diversity as well as industrial land. In closing he said that making everything a special exception adds another layer to the process which makes development more expensive.

Roy Young, Fairfield Processing, said his attorney already entered letter on their behalf. He explained that he is wearing two hats tonight; one as developer of a medical building on Sandpit Road, and the other as president of Fairfield Processing. He said that warehousing is an integral part of development and also in attracting new business. These amendments will prevent any expansion or changes to the existing sites which abut the rail lines and since the cost of moving freight is exorbitant, it is almost impossible to do it without rails. Mr. Young then said that they shouldn't add anything that would detract from people wanting to locate in Danbury.

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Mr. Johnston made a motion for a five-minute recess. Mr. Melillo seconded the motion and it was passed unanimously with a quick roll call vote.

At 9:25 PM, Mr. Farah called the meeting back to order.

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Mr. Farah then offered Mr. Elpern the change to speak in rebuttal to the opposition's comments.

Mr. Elpern started by saying that if everything that was said is true, he would vote against this. He then said as a personal comment; these amendments were advertised, yet none of the opposition ever contacted him to discuss them. He said many who spoke are known to our Department and know that we support economic development. He mentioned that the Planning Dept. was instrumental in the development of a tax deferral program which has helped attract new business to Danbury. This was an effort to try to deal with attitudes towards future development. He said regarding the letters that were read in opposition, the first one from Attorney Kaufman, medical buildings have been put back in as a special exception use and warehousing is still allowed in both IG-80 and IL-40 zones. He referred to the letter from Attorney Mazzucco, also about medical offices, saying that it had already been addressed. He said that Attorney Mazzucco did call to speak to him about this petition before tonight's meeting. He said he agrees with Mr. Steiner's comments about hotels being located in industrial parks. The problem is we don't have industrial park regulations. He said the letter from Morris Gross has also been addressed since that too was about medical offices. He said screening, etc. was moved to a general category, storage or sale of earth materials. He said regarding Mr. Rizzo's letter, the point is that we don't want to see valuable industrial land used up for health clubs or hotels. Regarding Electric Power Plants, the way it is written would allow something that we really don't want. He said he is willing to meet with Attorney Marcus to write the regulations that would protect the City. He said in IG-80, we removed the phrase chemical products from manufacture of household and industrial chemicals because it is too ambiguous and we do not know what that phrase includes. He said he is willing to meet with anyone to discuss a more specific description. The same with machine manufacturing, the concern was that this general type of language allows too much leeway. In response to Attorney Marcus's comment that we will become a one industry town, he read through the list of uses that are allowed, saying there are enough so that won't happen. Parks can be built in an industrial development but the City is not going to build any parks in the industrial zones. He said much of what was removed has been moved to the section titled Additional Industrial Regulations. Junkyards were removed because much industrially zoned land abuts residential properties. Regarding transfer stations, there has been concern expressed about traffic issues for this use, referring to AWD on White St. He explained how the proposed Dunkin-Donuts on Osborne St was denied as a special exception, so they shrunk the building down so it was not longer a special exception use and just submitted a site plan for administrative review. He said there was concern expressed about warehouses but they are allowed. Ms. Hoffstaetter asked if that means a hotel could be an accessory use. Mr. Elpern said his concern is that valuable IL-40 land could end up being used for a use that really is commercial. Mr. Johnston asked about the electric power plant issue. Mr. Elpern said right now it is too wide open, but he would be willing to sit down with Attorney Marcus and see what they could come up with. He reiterated that the Mayor is very concerned with the possibility of an electrical power plant. He added that things like Elmer's Diner and Dunkin-Donuts make it seem like things are out of control. There was brief discussion about the various issues. Mr. Melillo made a motion to close the public hearing, but there was no second.

Attorney Marcus came forward and said they can't close the hearing because he has questions that have not been answered.

Mr. Johnston asked if the purpose of keeping it open would be for changes to be made. Mr. Farah said they need a motion on the floor in order to discuss this. Mr. Johnston made a motion to continue the public hearing. Ms. Hoffstaetter seconded the motion. Mr. Elpern said he had tried to answer the questions that were brought up. He added that if the opposition had contacted him ahead of time, he could've addressed their concerns. Mr. Johnston amended his motion to specifically continue the hearing to the September 25th meeting. Ms. Hoffstaetter amended her second and the motion was passed unanimously.

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Mr. Farah noted that there was nothing under New Business, Other Matters, or Correspondence and the For Reference Only listed the public hearing scheduled for September 25, 2007.

At 10:15 PM, Mr. Johnston made a motion to adjourn. Mr. Melillo seconded the motion and it was passed unanimously.