



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

ZONING COMMISSION
www.danbury-ct.gov

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

MINUTES (REVISED)
OCTOBER 13, 2020

The web based meeting (hosted on Zoom) was called to order by Chairman Theodore Haddad Jr. at 7:31 PM

Present were Sidney Almeida, Candace Fay, Chairman Theodore Haddad Jr., Ryan Hawley, Angela Hylenski, James Kelly, Michael Masi, Robert Melillo, and Alternates Michael Henry and Nelson Merchan Jr. Also present was Planning Director Sharon Calitro.

Absent were Rick P. Jowdy, and Alternate Thomas Nejame.

Chairman Haddad asked Mr. Merchan to take Mr. Jowdy's place for the items on tonight's agenda.

Chairman Haddad said the next regular virtual meeting is scheduled for October 27, 2020. He then said this meeting is being broadcast live on the Planning & Zoning YouTube channel and instructions on how to participate in this meeting are listed on the agenda. He added that the legal notice and agenda were both posted on the Town Clerk and Zoning Commission pages of the City website. Lastly he said that all votes taken at this meeting would be by roll call.

Mr. Masi made a motion to accept the September 8, 2020 minutes. Mrs. Hylenski seconded the motion and it was passed unanimously by roll call vote with ayes from Mr. Almeida, Mrs. Fay, Mr. Hawley, Mrs. Hylenski, Mr. Kelly, Mr. Masi, Mr. Melillo, Mr. Merchan, and Chairman Haddad.

Chairman Haddad announced that the opening of the public hearing for Fairway Asset Management has been tabled for this evening.

PUBLIC HEARINGS:

Mrs. Calitro read the legal notice for all three public hearings noting it was posted on Town Clerk and Zoning Commission pages of the City website on September 24, 2020.

Petition of Encompass Health to Amend Sections 2.B. & 4.H.2.b.(3)(iii) of the Zoning Regulations. (Add "Physical Medical Facility, in-patient" to the PND zone)

Chairman Haddad read the Planning Commission recommendation which was positive. Mrs. Calitro read the Planning Department staff report dated October 1, 2020. Chairman Haddad then read the WestCOG recommendation which was their standard response: *"this is of local*

interest with minimal intermunicipal impact; therefore it is not being forwarded to adjacent municipalities and the regional staff is making no comment". Mr. Kelly asked who that agency is and Mrs. Calitro explained that WestCOG (Western CT Council of Governments) is the regional planning agency which used to be known as HVCEO (Housatonic Valley Council of Elected Officials).

Attorney Ward Mazzucco said he is representing the applicant and with him is Sarina Davis from Encompass, who can explain their services. He said the purpose of this petition is to add a new use to the Regulations, to amend an existing use to differentiate from the new use; and lastly to add the new use to the non-residential uses permitted in the PND zone. He said if this petition is approved, they will need to come back to the Commission to amend the Master Plan for The Reserve. He said this new use is an in-patient rehabilitation facility, it is different from a skilled nursing home facility. He then referred to a PowerPoint presentation saying Encompass Health is the nation's leading provider of inpatient rehabilitation services. They operate 136 inpatient rehabilitation facilities across the nation, offering post-acute care to patients who have suffered an acute event such as a stroke, heart attack, neurological event, and others. They provide physical rehabilitation including occupational & speech therapy to assist patients in becoming more independent to integrate back into their everyday routine. Patients will receive 24/7 nursing care, see the rehabilitation physician a minimum of three days per week, and undergo three hours of intense physical rehabilitation daily. Encompass does NOT offer drug, alcohol or psychiatric rehabilitation. The patients are transported from an acute care hospital on a non-emergency basis to this facility for a thirteen day duration on average. Daily operating hours are 7AM to 8 PM, with the patients resting the other hours to be ready for the next day's therapy. In order for this facility to operate, they need to be granted a Certificate of Need from the State Department of Health. This requires the State to find that this facility is necessary. Based on an estimate of need, this area requires 60 beds to accommodate the patients who need this type of rehab. There is only one of these facilities in the state, Mt. Sinai in Hartford. Danbury Hospital has only 14 beds devoted to this type of rehab. The proposed facility would contain 40 beds initially, with a possible expansion of 80 beds eventually. These patients are currently going to a skilled nursing home, but they do not get the specific type of rehabilitation they need there as they might only see a doctor two-three times a week versus every day at the proposed facility. This project will add to the tax rolls and create 75 to 122 jobs at the high end of the earning scale. It will not impact school enrollment and since the patients stay there, it should only create a modest traffic impact. The PND zone already allows healthcare providers as a non-residential use and this use is consistent with the other existing non-residential regulations. He said the master declarant of The Reserve has indicated they have no problem with this amendment.

Mr. Kelly asked if the hospital would not be the primary place to offer this service. He then mentioned Burke Rehabilitation Hospital in White Plains, NY, saying that is the closest facility he knew of. Attorney Mazzucco said he had heard of Burke but did not know if they could provide the additional beds that are needed to serve this area. Mr. Hawley then asked why they are calling it a "Physical Medical Facility, Inpatient" instead of a rehabilitation hospital. Attorney Mazzucco said the Dept. of Health calls it a chronic care hospital, but the industry refers to it as an inpatient hospital. Mr. Melillo said as a point of clarification, that approval of this petition would not put this use into either of the PND locations; the Master Plans would need to be amended. Attorney Mazzucco said this is the first step, if this is approved then they have to amend the Master Plan, and lastly would be a site plan review for the actual facility.

Mr. Kelly asked if Nuvance had been contacted about this proposal. Attorney Mazzucco said they have not, they have access to the same data and they still only devote 14 beds to this use. Mr. Kelly asked where the numbers of beds needed comes from. Attorney Mazzucco said it comes from the Dept. of Health information statistics, they have determined this area requires a minimum of 60 beds offering this specific type of service in addition to all of the other rehab/care facilities. Ms. Davis added that this use will be of help to the acute-care hospital by being there when the patient is ready to be discharged. Ms. Davis said upon discharge patients would be offered the prescription to go to the rehab facility. Mrs. Hylenski asked if Encompass would work on their own or would they be a part of the hospital? Ms. Davis said they would be an independent business and not a part of the hospital. Mr. Melillo asked if this means the City is underserving the population by sending them to nursing homes where they do not get this kind of specialized care that they need. He added this could be helpful to the nursing homes by freeing up the beds to be used for other patients. Attorney Mazzucco said right now, that option is not available, that is why they are here tonight.

Chairman Haddad asked if there was anyone else to speak in favor of this petition and one person came forward.

City Councilman Paul Rotello, 11 Linden Place, said he thinks this could be a good thing for the City. It would give local medical practices additional tools to help people and adding forty million to the Grand List would be great for the City. Also adding 122 jobs paying \$80,000 a year would help the citizens of Danbury

Chairman Haddad asked if there was anyone to speak in opposition to this petition and one person came forward.

City Councilman Ben Chianese, 5E Briar Ridge Road, said he is employed by Hancock Hall, which is a nursing home/continuing care/rehab facility that has been in existence for over 70 years. He said he takes offense that Attorney Mazzucco saying that nursing homes do not provide this quality of rehabilitation care. He said Hancock Hall devotes 45 beds to rehab and if you count the other nursing homes in the City, they more than make up the beds that Attorney Mazzucco says are needed. He said if they keep this public open, they would get plenty of opposition from the other nursing homes. He said Hancock Hall takes rehabilitation seriously and he is sure many more people would be opposed to this.

Attorney Mazzucco spoke in rebuttal to Mr. Chianese's comments saying that nowhere in his presentation did he criticize nursing homes, as they definitely serve a need in the community. He added that this business can provide additional services because a nursing home and a rehab facility are not the same thing. This kind of rehab facility offers a more intense and specific rehab. He asked Ms. Davis to speak to this. Ms. Davis said they will be submitting to the State who considers all nursing homes and rehab facilities before issuing the Certificate of Need. She added that their services are not well known in this area, as they provide a more specific type of services than a nursing home. She continued saying there will always be a need for skilled nursing homes, but this would be another choice specifically for rehabilitation services. Attorney Mazzucco then said to conclude he did not intend to say or infer anything negative about nursing homes. It is just that his client offers something different and in the medical field, it is always better to have more options than less. He asked that the Commission approve

this petition and if the Department of Health approves them, they will be back with additional information

At this point Mrs. Calitro reiterated that the purpose of this petition is simply to add a new definition, modify an existing definition, and add the new use to the PND zone. Chairman Haddad said Ms. Davis summed this up and explained the conceptual idea of this type of facility and they do still need approval from the State. Attorney Mazzucco said the State will assess all of the data and determine if this need is already being met before they issue them approval. Chairman Haddad said it sounds like they should get an answer soon. Ms. Davis said the process for a Certificate of Need takes eight-to-ten months to get approved. Attorney Mazzucco said the decision is ultimately made by the State based on reams of data. If they are concerned about competition that is not what this is about.

Mr. Kelly then said he would like to hear this discussion continued with Nuvance and all of the healthcare facilities included. Mr. Melillo asked if that was a motion to continue. Chairman Haddad looked to Mr. Kelly who said it was to continue the public hearing. Chairman Haddad then asked if anyone wanted to second Mr. Kelly's motion but there was no second so the motion failed.

Mr. Melillo then made a motion to close the public hearing. Mrs. Fay seconded the motion and it was passed unanimously by roll call vote. Mr. Melillo then made a motion to move this matter to item #1 under the Old Business on tonight's agenda. Mrs. Fay seconded the motion and it was passed with eight ayes (from Mr. Almeida, Mrs. Fay, Mr. Hawley, Mrs. Hylenski, Mr. Masi, Mr. Melillo, Mr. Merchan, and Chairman Haddad) and one nay (from Mr. Kelly).

Petition of Fairway Asset Management II, LLC, 18.22 acres on Reserve Road (C16046) & 1.345 acres to the center of the adjacent right-of-way (total of 19.565 acres) for a Change of Zone from PND to IL-40.

Chairman Haddad asked for a motion to table this matter. Mrs. Fay made a motion to table the opening of this public hearing. Mr. Kelly seconded the motion and it was passed unanimously by roll call vote.

Petition of City Center Developers/Los Rivera's Caffe, I Ives Street (I14262) for Special Permit for Restaurant Liquor license.

Mrs. Calitro said Commission members were sent the documents from the 2006 special permit approval which had expired after not being used for several years. They also received the site approval from March of this year. Chairman Haddad pointed out that both he and Mr. Melillo were on the Commission at that time.

Attorney Hillel Goldman spoke in favor of this petition. He said this is much simpler than Attorney Mazzucco's petition. He reiterated what Mrs. Calitro said regarding there being a previous approval from ten years ago and added that this petition is the same as that one. He

said this location is in the building that is closest to the green. Chairman Haddad then said the site approval letter says this is for a 4,200 sq.ft. restaurant on the first floor of this building. He said there are 105 seats (70 dining room, 19 bar, and 16 patio) and 8 employees which means 35 parking spaces are required. The letter states that the Parking Authority has submitted a letter stating the 35 parking spaces are available in the Patriot Garage. The previous use in this building was Gallucci Catering.

Mr. Melillo asked for clarification purposes, if “Caffe” is just the name of the business, since they are asking for a restaurant liquor license. Attorney Goldman said that is correct, the “Caffe” is just part of their name. Attorney Goldman said the Chairman said everything he was going to say, except that the restaurant will be open from 11AM to midnight and will be serving food all day. It is their intention to be a full service restaurant. There were no other questions.

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

Mrs. Hylenski made a motion to close the public hearing. Mr. Kelly seconded the motion and it was passed unanimously by roll call vote. Mr. Melillo then made a motion to move this matter to item #2 under the Old Business on tonight’s agenda. Mr. Masi seconded the motion and it was passed unanimously by roll call vote.

OLD BUSINESS:

Petition of Encompass Health to Amend Sections 2.B. & 4.H.2.b.(3)(iii) of the Zoning Regulations. (Add “Physical Medical Facility, in-patient” to the PND zone)

Mr. Melillo made a motion to approve this petition for the following reasons: the use is consistent with the Plan of Conservation & Development (POCD); it meets the purpose & intent of the district to which it is proposed to be allowed; it is compatible with the other PND uses; it will not negatively impact the health, safety, and welfare of the general public, and it will add a use to the City of Danbury that seems to be lacking. Mr. Masi seconded the motion. Chairman Haddad asked if anyone had anything else to say before they take the vote. Mr. Melillo said while he felt this petition was simply to add a use to the Regulations, he agreed with Mr. Kelly that when this comes back as an amendment to the Master Plan, the Commission may want to seek additional information from other medical professionals. Chairman Haddad said he agreed with that. Chairman Haddad then took a roll call vote and the motion to approve the petition was passed with eight ayes (from Mr. Almeida, Mrs. Fay, Mr. Hawley, Mrs. Hylenski, Mr. Masi, Mr. Melillo, Mr. Merchan, and Chairman Haddad) and one nay (from Mr. Kelly).

Petition of City Center Developers/Los Rivera’s Caffe, I Ives Street (I14262) for Special Permit for Restaurant Liquor license.

Mr. Melillo made a motion to approve this petition for the following reasons: the proximity of these premises will not have a detrimental effect upon any adjacent school, church or other place of worship; or upon the immediate area including adjacent residential neighborhoods including

the impact of the use upon traffic congestion and safety. Mr. Almeida seconded the motion and it was passed unanimously by roll call vote.

NEW BUSINESS:

Petition of 56 Padanaram Road LLC & Fiesta's Deli for Special Permit for Restaurant Beer & Wine License, 56 Padanaram Road (I10978). Public hearing scheduled for October 27, 2020.

Chairman Haddad noted that there are referrals needed for this type of petition.

Petition of the City of Danbury by Sharon B. Calitro, Planning Director to Amend Sections 2.B. & 6.A.5.d. of the Zoning Regulations. (Amend definition of "Continuing care facility" and delete independent units in said facilities in the IL-40 zone) Public hearing scheduled for November 24, 2020.

Mr. Melillo made a motion to accept this petition, refer it to the Planning Commission for a recommendation, put on file in the Town Clerk's office, and forward to any other agencies as may be required. Mrs. Hylenski seconded the motion and it was passed unanimously by voice vote.

Chairman Haddad asked if there was anything to discuss under Other Matters and there was nothing. He then said there was nothing listed under Correspondence or For Reference Only, although there is one public hearing scheduled for October 27, 2020.

At 8:53 PM, Mrs. Fay made a motion to adjourn. Mr. Masi seconded the motion and it was passed unanimously by voice vote.

Respectfully submitted,

JoAnne V. Read
Planning Assistant