



CITY OF DANBURY
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PLANNING COMMISSION
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MINUTES
DECEMBER 2, 2020

The web based meeting hosted on Zoom was called to order by Chairman Arnold Finaldi at 7:30 PM.

Present were Robert Chiocchio, Perry Salvagne, Joel Urice, and Arnold Finaldi Jr. Also present were Planning Director Sharon Calitro and Deputy Planning Director Jennifer Emminger.

Absent were Helen Hoffstaetter and Alternates Kevin Haas and Alternate Gary Renz.

Mr. Urice made a motion to accept the November 18, 2020 minutes. Mr. Chiocchio seconded the motion and it was passed with four AYES (from Mr. Chiocchio, Mr. Salvagne, Mr. Urice, and Chairman Finaldi).

Chairman Finaldi said that they have scheduled a special virtual meeting to be held on Wednesday, December 16, 2020. The next regular meeting (to be held virtually) is scheduled for January 6, 2021.

Chairman Finaldi then explained the Zoom meeting process and how the public could access this meeting. He added that all votes taken at this meeting would be by roll call.

PUBLIC HEARINGS:

JAR Associates LLC/D & B Wellness LLC – Application for Special Exception/Revised Site Plan Approval for a Medical Marijuana Dispensing Facility in the CA-80 Zone – 105 Mill Plain Road (C14063) – SE #779.

Chairman Finaldi read the legal notice of this hearing into the record. Speaking in favor of this application was Attorney Neil Marcus. Attorney Marcus said with him are Civil Engineer Ralph Gallagher who prepared the site plan, Project Planner Stephen Hambrecht from Hambrecht-Oleson Design who did the interior design, and Carl Tirella, the General Manager from Acreage Holdings, who owns and manages three medical marijuana facilities in the State of Connecticut, including this one.

Attorney Marcus said this application is to relocate the existing medical marijuana facility in Bethel to this new location in Danbury. This site contains a 6,000 sq.ft. building that was originally constructed and used for many years as a bank. The building is located at 105 Mill Plain Rd by Exit 2 and the Trader Joes Shopping Center. This property is owned by JAR Associates who originally developed the site, which is approximately 17,500 sq.ft. in area and is zoned CA-80. The Zoning Regulations were amended earlier this year to add medical marijuana facility as a special exception use in the CA-80 and CG-20 zones. Attorney Marcus said as a matter of history, D & B currently owns the medical marijuana facility in Bethel, which has become too small for the operation, so they are looking to relocate the business to this site. He said the Bethel facility was one of the first in Fairfield County to open and at first there was tremendous opposition to it. The residents appealed the approval but the town upheld it, and since then there have been absolutely no problems. He continued saying that the Bethel facility is very secure, very well-run, and a successful business operation. He said this new location is much more convenient and accessible than the Bethel location. He added that the proposed site plan revision is not really that different from what has existed on the site for many years. He then asked Stephen Hambrecht to describe the proposed interior renovations.

Stephen Hambrecht then briefly reviewed the floor plans for the interior saying that the three floors will all be used but only the main floor will be accessible to the public. There will be a retail dispensing area, office/administration space, and common areas. He added that they will also be using the existing bank vault for storage of product. The basement area will be for the employees and for now the second floor will remain as office space to be used when needed. He said the employees will enter from the rear of the building but all customer entry will be through the front entrance. Mr. Urice asked how they will control the employee entrance and Mr. Hambrecht said it will be card access. Mr. Urice questioned the handicapped access. Mr. Hambrecht said they will be installing an elevator on the main level of the building.

Next to speak was PE Ralph Gallagher who spoke about the exterior site improvements. He said there are 15 parking spaces required and they are providing 35 spaces. He said they have to move the loading dock as where they proposed it is not acceptable. There is no paving proposed, but they are proposing a redesign of the parking area and the addition of curbing in some areas. He added that the existing drainage system has worked well, so they will continue to use it. He said there are outstanding comments from Construction Services, so he will be submitting a revised site plan to address them.

Attorney Marcus then spoke about the existing canopy over the area that once was a drive-thru window for the bank. He said the window has been boarded up but they are not sure they can remove the canopy as they do not own the building. He quickly added that no sales would be conducted through the window, and he is still in discussion with the staff about the canopy. He said the parking area is pre-existing as it was approved on a previous site plan but since the use of the building is changing, there will be changes that must be made to comply with current requirements. He said the issues in the

Planning Department staff report that need to be addressed may require some tweaking of the site plan but none are too difficult to do.

Also speaking in favor of this application was Sixth Ward Councilman Paul Rotello, 13 Linden Place. He said he is familiar with this site and also is in favor of this application. He said he feels the parking is not really an issue but is disappointed that they will not be allowed to use the drive thru window, especially since COVID. He said this is a good idea and he thinks the City should revisit the prohibition on drive-thru windows.

The next speaker was the other Sixth Ward Councilman Benjamin Chianese, 5 Briar Ridge Road. He said he is in favor of this and has no objections. He questioned what kind of signage they will have for the business and asked if the timing of the traffic signal at Old Ridgebury Road would be adjusted.

Next was Fourth Ward Councilman Farley Santos, 27 Westview Drive. He said having this business in Danbury will be beneficial to the residents and constituents of the City.

The last speaker was Seventh Ward Councilman Richard Molinaro, 14 Hoyt Street. He said he has been to the facility in Bethel and was quite impressed by the amount of security and the overall operation there. He added that he is a Parkinson's patient who has benefited from the use of medical marijuana and would like others who suffer to be able to benefit.

Chairman Finaldi asked if there was anyone to speak in opposition to this application and there was no one. He asked Attorney Marcus to have the team address some of the issues that had come up during the discussion.

Mr. Hambrecht said the current thinking is that they will use the existing pylon sign and there will be no illuminated signage on the building. Attorney Marcus then said this is a low volume traffic use and asked Mr. Gallagher to speak to it. Mr. Gallagher said the parking is not an issue as they are providing 35 parking spaces and this use only requires 15 spaces. Attorney Marcus then said they are still waiting for the City Traffic Engineer and the Engineering comments, but they anticipate no impact on the traffic or to the traffic signals. Carl Tirella spoke about the number of dispensaries permitted in Connecticut saying there are currently eighteen existing with no plans to add any more. He said once this new site is approved and operating, the Bethel location will be closed. Attorney Marcus said the rear parking area shown on the site plan as belonging to the church actually belongs to the Rizzo's'. He added that in 1982, approximately 4,700 sq.ft. of the church parcel was conveyed to the Rizzo's'. He said he submitted copies of the deeds today by email. Mrs. Emminger then pointed out that this information needs to be referenced and shown on the site plan. She added that any parking that may exist on this area was never approved so now it must be brought into compliance with the current regulations. Attorney Marcus said this additional land was acquired after the site plan was approved in 1981 and so it was never addressed or included in the site plan.

Mrs. Emminger then said they are still waiting for comments from the City Traffic Engineer especially regarding the odd internal circulation pattern and the proposed angled parking spaces. She added there also are concerns about left turns out onto Mill Plain Road. She said she needs to see the revised plans to review where the loading zone will be located as the one proposed on the submitted site plan must be changed. She said there are still questions regarding what type of vehicle will make the product deliveries and if it will be able to get out of the site because of the canopy. There also is the question of if the access to the site is to be one way in/one way out. Chairman Finaldi suggested they wait for Mr. Mohamed's comments before discussing these issues any further. Mr. Chiochio asked for a description of the daily operations, including how many employees, if there is a peak time of day, how the customers enter the business, and if there are any other activities proposed to take place on the premises. Attorney Marcus asked Mr. Tirella to answer these. Mr. Tirella said the number one priority is the safety of the customers and the employees. A customer comes up to the security area and presents their identification. Once their ID is confirmed, they are admitted to a COVID safe waiting area. Since COVID, they are operating on a pre-order basis, the product and pre-orders are stored in the vault. Once the customer is admitted to the sales area, the pre-order is re-checked and verified. The customer pays for their order and leaves the building. He said there are approximately 15-20 employees total and they have about 250-300 patients. They are open six days a week with specific hours of operation and they intend to maintain this same schedule at the new location. Lastly Mr. Tirella said they would like to use the second floor to hold training and support group sessions once COVID allows it, but at the present time they do not have any other activities besides the dispensary. He again reiterated that their primary concern is the well-being of the patients and their employees. Mr. Salvagne said he has some concerns but will wait for Mr. Mohamed's comments. Chairman Finaldi said if there are no other concerns, they should make a motion to continue the hearing.

Mr. Chiochio made a motion to continue the public hearing. Mr. Salvagne seconded the motion. Before they could vote on the motion, Mr. Urice then asked (1) if the number of patients triggers a traffic analysis, and (2) why the employees are referred to as pharmacists since this cannot be operated as a pharmacy?

Mr. Tirella said the Department of Consumer Protection requires them to have registered pharmacists on the staff and also on the premises during operations in addition to the certified pharmacy technicians. Mrs. Emminger said the City Traffic Engineer is looking at the circulation on the property, but she will mention the trip generation to him since this use does not require a traffic study.

At this point Chairman Finaldi called for a vote on the motion to continue the public hearing and it was passed unanimously by roll call vote with four ayes.

At 8:40 PM, Chairman Finaldi said they would take a five minute recess. At 8:45 PM, he called the meeting back to order and noted that all of the Commission members and staff had returned.

Danbury Mall, LLC – Application for Revised Special Exception/Revised Site Plan Approval to amend previous approval for Trip Generation over 500 Vehicle Trips Per Day and add Fast Food Restaurant with Drive Thru Use to previously approved Restaurant (Shake Shack) in the CG-20 Zone - 7 Backus Ave. (F17002, F16014, F16015, F17014, & F17015) – SE #771.

Chairman Finaldi read the legal notice of this hearing into the record. Speaking in favor of this application was Attorney Thomas Beecher. Attorney Beecher said with him are project engineer Paul Vitaliano, and traffic engineer Joe Balskus, both from VHB (Vanasse Hangen Brustlin, Inc.), Maura Ruby, Tawney Farmer, and Justin Garrison representing the property owner (Danbury Mall LLC), and Samantha Goodman from Bergmeyer Architects and Alison Palmadesso from Shake Shack.

Attorney Beecher said this application was approved at the end of last year, but shortly after the approval, COVID hit and forced businesses to look at their options. It was then that Shake Shack decided they wanted to offer a mobile drive-thru pick-up lane. This is different from the drive-up window as we know it. This window will only be used to pick up orders that have been placed and paid via a phone or computer application (a.k.a "app"). He said how this works is the customer places the order through the "app" and then they wait to receive a notification that the order is ready. They can either pick it up inside the restaurant or at the pick-up window. He said there is adequate parking in the lot for waiting to receive the notification. Attorney Beecher said it is the same drive-thru concept as the recently approved Chipotle on Newtown Road is going to offer. There is a significantly shorter queuing time because there is no menu board and the food is paid for through the "app" which is called "shack trax" There are no changes proposed to the Longhorn restaurant, but it is part of this application because the two restaurants together are trip generators.

Project Engineer Paul Vitaliano referred to an aerial map of this area pointing out the ring road and the two structures as previously approved. He said the Shake Shack building is now 127 sq.ft. larger with slightly different architecture and four additional seats. He said the parking spaces have been eliminated on the east side of the building and the dumpster and loading zone have been moved further north on the site. He said the number of parking spaces have been reduced from 127 to 112 and the HART bus stop has been redesigned. Mr. Vitaliano said the City Engineering Department has no objection to the changes and they made changes to the plans today based on staff comments. They also had to resubmit to the FAA (Federal Aviation Administration) so they are still waiting for that response, although since the building is shorter they expect them to approve the plans. He added that the drainage report was also updated.

Traffic Engineer Joe Balskus said the small increase in the building size only results in a minor change to the traffic. He said this new pick-up lane concept is unique so they assume regular drive-thru conditions to assess the impact. This pick-up lane differs from the McDonalds type of drive-thru and results in no significant increase in the traffic. He said there are miniscule changes but nothing that says the traffic counts need to be re-evaluated. He said everything they agreed upon for the previous approval still is true for this minor change. He the State Traffic Commission (OSTA) also still has to approve this revision

The next speaker was Samantha Goodman from Bergmeyer, the architects for Shake Shack. She showed a rendering of the previously approved building and compared it to a rendering for this revised proposal. She said the re-design incorporates a more simplified, modern design with a timeless color palette that allows for lots of natural light. She said they wanted to keep an open airy look to the inside and outside of the restaurant.

At this point, Attorney Beecher said that covers all of the changes between last year's application and proposal before them this evening.

Chairman Finaldi asked if there was anyone to speak in opposition to this application and there was no one.

Mr. Chiochio expressed concerns about queuing in the pick-up lane extending into the parking area. Mr. Balskus said the pick-up lane can accommodate 4-8 cars and the parking lot area and the ring road gives the waiting customers a lot of options. He said there are not a lot of these pick-up windows to use as examples but the concept is designed to operate efficiently. He added that for the grand opening, it may attract a crowd but like every new concept, it will level off. Ms. Palmadesso from Shake Shack interjected that the way the "app" is built, you can select fifteen minute increments, so there is some control built into it.

Mrs. Emminger said they are still waiting for comments from the City Traffic Engineer, so they need to keep the hearing open. She added that the applicant was hoping all comments would be in by tonight, so the Commission could give her guidance to prepare a draft resolution for the first meeting in January. Chairman Finaldi said based on this information, they definitely need to hold the special meeting on December 16th.

Mr. Salvagne made a motion to continue the public hearing. Mr. Urice seconded the motion and it was passed unanimously by roll call vote with four ayes.

NEW BUSINESS:

8-3a Referral - Petition of BRT Sconset LLC to Amend Section 4.A.6. of the Zoning Regulations. (Add Active Adult Cluster Development to the RA-20 & RA-40 Zones.)
Public hearing scheduled for February 23, 2021. THIS DATE IS SUBJECT TO CHANGE DEPENDING ON CIRCUMSTANCES RELATED TO COVID-19. This will be discussed at a future meeting.

Chairman Finaldi noted that this petition had been received and is on file in both the Town Clerk and the Planning & Zoning Office. He added that they would discuss it and make a recommendation at a meeting in the new year.

Chairman Finaldi noted that the 2021 meeting schedule was again listed under Correspondence and had been sent to all of the Commission members. He then asked if there was anything to discuss under Other Matters and there was nothing. He then said there were four floodplain permits listed under For Reference Only.

At 9:25 PM, Mr. Chiochio made a motion to adjourn. Mr. Urice seconded the motion and it was passed unanimously by roll call vote with four ayes.

Respectfully submitted,

JoAnne V. Read
Planning Assistant