



CITY OF DANBURY
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ZONING COMMISSION
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MINUTES
SEPTEMBER 8, 2020

The web based meeting (hosted on Zoom) was called to order by Chairman Theodore Haddad Jr. at 7:37 PM

Present were Candace Fay, Chairman Theodore Haddad Jr., Angela Hylenski, Rick P. Jowdy, Michael Masi, Robert Melillo, and Alternates Michael Henry, and Thomas Nejame. Also present was Planning Director Sharon Calitro.

Absent were Sidney Almeida, Ryan Hawley, James Kelly, and Alternate Nelson Merchan Jr.

Chairman Haddad asked Mr. Henry to take Mr. Hawley's place and Mr. Nejame to take Mr. Kelly's place for the items on tonight's agenda.

Chairman Haddad said the next regular virtual meeting is scheduled for September 22, 2020.

Mrs. Fay made a motion to accept the August 25, 2020 minutes. Mrs. Hylenski seconded the motion and it was passed unanimously by voice vote.

Chairman Haddad said the agenda for tonight's meeting was posted on the City website and contained links to access this meeting. He said this virtual meeting is run the same way as a live meeting and if people want to speak, they just need to call in. Also the meeting is being streamed live on the Planning & Zoning YouTube channel. Lastly he said that all votes taken at this meeting will be done by roll call.

PUBLIC HEARING:

Petition of Sugar Hollow Land Development LLC to Amend Sections 6.A.2.b. & 6.A.5. of the Zoning Regulations. (Add Sale, and Rental ~~and Repair~~ of Automobiles and Trucks to the IL-40 Zone as a Special Exception Use) JULY SUBMISSION.

Chairman Haddad read the legal notice and the Planning Commission recommendation, which was negative. Mrs. Calitro read the Planning Department staff report dated August 13, 2020, and said that there was a typo in the description of the petition as the word "repair" had been removed because it is already a permitted use in the IL-40 zone. Chairman Haddad noted that the standard response had been received from

WestCOG: *"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"*.

Mrs. Calitro also read two letters from City Department heads in favor of this amendment. One from Airport Administrator Michael Safranek, and the other from the Director of Business Advocacy & Economic Development Roger Palanzo.

Attorney Neil Marcus spoke in favor of this petition. He spoke extensively about the history of this area of the City, specifically noting the property on the corner of Sugar Hollow and Miry Brook Rds. He described how it had been used for years by Carl Sayers as a dumping ground (and became an eyesore) under the premise of being a garden nursery business. He said this was a terrible entranceway into the City for people traveling on Route 7 and onto Sugar Hollow Rd. He mentioned various businesses that had operated (under IL-40 zoning) on Sugar Hollow Rd. through the years: Danbury Centerless Grinding, Castro Convertibles, and Marcus Dairy, which included a truck terminal and distribution facility, as well as a restaurant. He said some of the City Airport property fronts on this stretch of Sugar Hollow Rd. and there are properties located on the beginning of Miry Brook which also contain airport related businesses. He said, years ago, when he approached former Planning Director Dennis Elpern about rezoning the Danbury Centerless Grinding and Castro Convertible properties to CG-20, they discussed rezoning the entire Sugar Hollow Road but the Airport property stopped them. They did not want to make the Airport non-conforming as it is zoned IL-40. He continued saying that the Airport is the main issue preventing them from proposing a rezoning. It really is not an industrial use but a transportation hub, in the same way as a train station. He said it would be a mistake to say the Airport influences the zoning pattern on Sugar Hollow Rd. as most of Sugar Hollow Rd has been rezoned and now contains commercial uses. He listed the current uses from the Backus Ave. intersection, starting with Pier One, the Shops at Marcus, the former Sports Authority/Bed, Bath, & Beyond property, and the car dealerships. All of these businesses are located on properties zoned CG-20. He then spoke about two recent "groundbreaking" approvals on Miry Brook Rd., saying the character of that road has become predominantly automotive in nature. He said the former Macton building (located on property abutting the Airport) has been approved for a high-end Italian sports car manufacturing facility who will only sell their cars from a existing high-end repair facility located on Miry Brook Rd. And the former Cooper Mulch site has been approved for a high end restoration/repair/storage business which will house some of the finest car collections in the country. He said automotive repair and storage are permitted uses in the IL-40 zone. The Planning Department staff report notes that retail sales is not permitted in the IL-40 zone, but actually that is not correct. He explained that in any car dealership, the sales use is accessory to the repair end of the business. He cited the Ingersoll dealership on Federal Rd. as an example saying that 80% of the dealership traffic is from repair and maintenance which is permitted in the IL-40 zone. He said the proposed amendment will allow a dealership as an accessory use to the repair and maintenance of autos. He then reiterated that the bulk of a car dealership business is not the showroom and sales, it is the repair and maintenance of the vehicles. He said the Planning Commission recommendation did not give thought to the specifics of this use being more industrial in nature. He then pointed out that

many of the uses permitted in IL-40 are not specifically industrial in nature, but are compatible with the zone; citing banking and business or professional offices as examples. He said this site is quite unique and the proposed amendment is very restrictive as the proposed conditions really limit how many sites in the City would be eligible to do this. Their intent is not to open up IL-40 to retail sales, but since high end automotive businesses are being done in this area, this is consistent with the neighborhood. He said the staff report does not take into consideration what a dealership actually does on a day to day basis. He cited a personal example of taking his car in for service and suggesting to the owner of the dealership that he could get it serviced closer to home. The owner told him that he makes most of his money on repairs and maintenance versus sales. Attorney Marcus then said they are looking at putting a Jaguar dealership on this site and that would be a much more inviting site than the existing sand and gravel bank. He then said manufacturing is not coming back ever and the character of this neighborhood has become high-end automotive businesses. Mr. Melillo asked if he is suggesting that this type of business could serve as a buffer and Attorney Marcus said that was the intent.

Chairman Haddad asked if there was anyone else to speak in favor of this petition.

Mayor Mark Boughton then said he supports this petition not necessarily for all of the reasons Attorney Marcus gave. He suggested we take a common sense approach and consider the context as well as why this petition is being brought forth at this time. He continued saying that for at least twenty years, this site has been problematic. During that time, a series of automotive related industries have developed on properties around the Airport. This proposal fits in with the area, gets rid of the problem site, and creates new jobs. He added that in this post COVID time, we have to think differently. There no longer is a need for office buildings and only a handful of sites in the City could meet the requirements being proposed as part of this amendment. He said we need to be visionary and move forward regardless of what dealership goes in there. He continued saying that the high-end SCG (Scuderia Cameron Glickenhaus) manufacturing facility on Miry Brook Road proves that we can attract an automotive use for this site. He mentioned the letters from Mr. Safranek and Mr. Palanzo and said this makes sense in this economy. In closing, he said this is a great project, and we need to make it happen.

Mr. Nejame asked Attorney Marcus why the grandfathered gravel bank use is not being done on this site any longer. Attorney Marcus said Mr. Sayers use of the site is historically a pre-existing non-conforming use which can continue to operate until it is changed to another use. Mr. Nejame asked if they don't approve this amendment, that means the mining use can continue. Attorney Marcus said other uses could be put on the site, but for effective re-use, it has to be a use that is still active in this economy. He said that without this amendment, the use of the property will stay as it is.

Mrs. Calitro then said the historical use of this site is NOT grandfathered, there have been lawsuits between the City and the previous owner to continue that use. Since the new owner took over the property, he has been attempting to clean up the site. Mayor Boughton then said the only time in the past twenty years that anyone has been

interested in developing this site was a Saturn dealership, but they backed out because the site was not large enough.

Chairman Haddad asked if there were any other questions and there were none. He then asked if there was anyone to speak in opposition to this petition and there was no one.

Mr. Melillo made a motion to close the public hearing. Mrs. Fay seconded the motion and it was passed unanimously by voice vote. Mr. Melillo then made a motion to move this matter to item #1 under the Old Business on tonight's agenda. Mrs. Hylenski seconded the motion and it was passed unanimously by voice vote.

OLD BUSINESS:

Petition of Sugar Hollow Land Development LLC to Amend Sections 6.A.2.b. & 6.A.5. of the Zoning Regulations. (Add Sale and Rental of Automobiles and Trucks to the IL-40 Zone as a Special Exception Use) JULY SUBMISSION.

Mr. Melillo made a motion to approve this petition for the following reasons: (1) it is consistent with the Plan of Conservation & Development (POCD), (2) the petition meets the purpose and intent of the district to which it is proposed to allowed and is compatible with the other IL-40 zoning district uses as they are evolving to reflect the needs of the current economic conditions, and it will be consistent with the adjacent uses in bordering commercial zones which allow the sale and rental of automobiles, and (3) it will not negatively impact the health, safety, and welfare of the general public. Mr. Nejame seconded the motion and Chairman Haddad asked if anyone had any additional comments. Mr. Melillo then said the legislative intent of this amendment, with regard to the 1,000 ft. distance requirement, was a significant factor in his support of this petition. There were no other comments from the Commission. Chairman Haddad then took a roll call vote and the motion was passed with eight ayes (from Mrs. Fay, Mrs. Hylenski, Mr. Jowdy, Mr. Masi, Mr. Melillo, Mr. Henry, Mr. Nejame, and Chairman Haddad) and one member not voting (due to absence).

NEW BUSINESS:

Petition of Fairway Asset Management II, LLC, Reserve Road (C16046) for Change of Zone from PND to IL-40. Public hearing scheduled for October 13, 2020. THIS DATE IS SUBJECT TO CHANGE DEPENDING ON CIRCUMSTANCES RELATED TO COVID-19.

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. Fay 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 and one public hearing scheduled for October 13, 2020 listed under For Reference Only. He added that since there is nothing scheduled for the September 22, 2020 meeting, it would be cancelled. He said the secretary will post notice of the cancellation.

At 8:36 PM, Mr. Masi made a motion to adjourn. Mr. Jowdy seconded the motion and it was passed unanimously by voice vote.

Respectfully submitted,

JoAnne V. Read
Planning Assistant