



CITY OF DANBURY
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ZONING COMMISSION
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MINUTES
FEBRUARY 23, 2021

The web based meeting (hosted on Zoom) was called to order by Chairman Theodore Haddad Jr. at 7:33 PM.

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

Absent was Alternate Thomas Nejame. Chairman Haddad said they do not need to seat anyone because all of regular members are present. He then noted that Alternate member Michael Henry has not yet been replaced since resigning from the Commission to take a seat on the City Council. He said we expect a replacement to be appointed at next month's Council meeting.

Chairman Haddad said the next regular virtual meeting is scheduled for March 9, 2021. 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. He said the Zoom meetings run at a slower pace than the meetings held in City Hall. And based on the number of people participating in this meeting, they will move very slowly, so everyone who wants to say something gets a chance to speak.

Mr. Masi made a motion to accept the February 9, 2021 minutes. Mr. Jowdy seconded the motion and it was passed unanimously by voice vote.

Chairman Haddad said he wanted to take care of some things before they open the public hearing. He asked for a motion to deviate from the order of the agenda.

Mr. Melillo made a motion to deviate from the order of tonight's agenda and take care of the New Business before they start the Public Hearing. Mrs. Hylenski seconded the motion and it was passed unanimously by voice vote.

NEW BUSINESS:

Application of E.W. Batista Family LP/Collector Car Services LLC, 39 Miry Brook Road (F19009) for a Certificate of Location Approval for a Motor Vehicle General Repairer's

License in the IL-40 Zone. Public hearing scheduled for March 9, 2021. THIS DATE IS SUBJECT TO CHANGE DEPENDING ON CIRCUMSTANCES RELATED TO COVID-19.

Chairman Haddad said this type of application does not need a motion because it does not require any referrals. He added that it will be on file in the Planning & Zoning Office.

Petition of Berkley Insurance Company/Encompass Health CT Real Estate LLC to Amend the Master Plan of The Reserve. (Amend Phase 9B, Non-Residential Uses Not Serving the Immediate Needs of the Residential Development, from 100,000 SF of commercial use to 100,000 SF as a Physical Medical Facility-In-Patient Use.)

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. Mr. Kelly seconded the motion and it was passed unanimously by voice vote. Mrs. Calitro said the public hearing date for this petition will be April 27, 2021. She added that this date is subject to change depending on circumstances related to COVID 19.

Mr. Kelly then made a motion to add the following item to the agenda under the New Business. Mrs. Hylenski seconded the motion and it was passed unanimously by voice vote.

Petition of Newtown Road LLC/Maria & Manuel Andre, Manuel Marques, & Antonio Marques, Whitney Avenue (K12254) for Change of Zone from RA-8 to CG-20.

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. Mr. Masi seconded the motion and it was passed unanimously by voice vote. Mrs. Calitro said the public hearing date for this petition will be April 27, 2021. She added that this date is subject to change depending on circumstances related to COVID 19.

Chairman Haddad then said on the previous agenda there was petition of Chipotle on Newtown Rd. for a special permit to serve liquor, but it has been withdrawn. He asked Mrs. Calitro to clarify why it was withdrawn. Mrs. Calitro said they were approved as a fast food restaurant and the Regulations prohibit the serving of liquor in fast food restaurants, so their attorney was notified and the petition was returned to him.

PUBLIC HEARING:

Petition of BRT Sconset LLC to Amend Section 4.A.6. of the Zoning Regulations. (Add Cluster Active Adult Development to the RA-20 & RA-40 Zones.)

Chairman Haddad read the legal notice and the Planning Commission recommendation, which was negative. He also read the WestCOG recommendation which said "*the proposal is of local interest and with minimal intermunicipal impact, therefore it is not being forwarded to adjacent municipalities and the regional staff is making no comment*". Chairman Haddad noted that staff sent this petition to all five of the surrounding towns with no response. Mr. Melillo read the Planning Department Staff Report dated February 11, 2021. Chairman Haddad noted that the staff report from the previous petition was attached and is part of the record for this evening.

Chairman Haddad said based on the number of letters received from the public, he will be recommending that this hearing will be continued beyond tonight's meeting. He explained that the cutoff time for submitting letters is 6:30 PM, which is one hour before the meeting, some may have even come in since the meeting started, but they can deal with those at the next meeting. He said there also are some email threads which go back and forth between the petitioner and some of the letter writers which will be made a part of the record but will not be read this evening. Attorney Marcus said as a point of information, they not read these letters at all. He said they should print all the letters and that way everyone would have access to them. He suggested they could read the responses at the next meeting.

Mrs. Calitro said she had received several dozen letters by email and she had assured the senders that the letters would be read into the record. She added that she will not be reading the email threads where the petitioner responded to the opposition's letters. She said she really feels they need to read these letters into the record. Chairman Haddad said he agreed that they need to be read. Mr. Melillo then suggested they let Attorney Marcus make his presentation first and then Mrs. Calitro could read the letters, first in favor, then the ones in opposition. Attorney Marcus agreed that this would make more sense because if the letters are read before the presentation, then they would be hearing opposition before they hear the presentation. Mrs. Calitro said her thoughts were that Attorney Marcus could clarify some of the issues during his presentation. Attorney Marcus said they have already responded to most of the letters and those responses can be read into the record at the next meeting. Chairman Haddad said the reason he thought they should read them up front was so Attorney Marcus could correct some of inaccuracies that were in some of the letters. Mrs. Calitro said how this is done is at the discretion of the Chairman and the Commission to decide, but she intends to honor the letter writer's requests to read every letter into the record. Chairman Haddad said he wants all of the letters read into the record tonight. so they will let the petitioner make his presentation and after anyone else in favor has spoken, then Mrs. Calitro will read the letters. He said after the letters are read, he will then call for anyone who wants to speak in opposition.

Attorney Neil Marcus said with him this evening are the petitioner, Dan Bertram from BRT, and Civil Engineer Steven Sullivan from Carroccio-Covill Associates (CCA). Attorney Marcus spoke about the previous petition that had been submitted earlier this year. He said the purpose of that petition was to create a floating zone that would improve the stock of elderly housing in the City. He said they should incorporate the Planning Department Staff Report from that petition into the record for this petition, He said this proposal would lead to a low impact, low density project. He continued saying this is not for affordable housing, it is for active adults. It is not intended to lead to an

affordable housing project and he does not think the people who are opposed to this really understand this. He said he had submitted a written response to the staff report for this petition. He said that after he finishes speaking, Mr. Sullivan will show them on the Zoning map how few areas in the City actually would be eligible for this zone. He added that they had done research and many of the surrounding towns have regulations in place that are similar to this. He pointed out that LakePlace off of Kenosia Ave. which was the first high-end multi-family project in Danbury, was built in the RA-40 zone. He also mentioned Crow's Nest on Shelter Rock Rd. saying that it also was built in the RA-40 zone. He added that both of these projects had support from their respective neighborhoods. He said this proposal will serve a target market that is not necessarily looking for an affordable housing project, but housing at a reasonable cost. He added that this could provide housing stock which we don't presently have, but it does not have to be located in the urban core. He read from a letter in support of this proposal which was submitted by A. Peter Damia. He suggested the Commission weigh this proposal with consideration for how much it will benefit the citizens of Danbury.

Steven Sullivan PE, spoke next, first showing a listing of some other Connecticut towns who have active adult community regulations in place already. He also presented a rendering of Middlebury Commons, a senior residential development. He then referred to a Zoning Map on which he had highlighted the areas in the City that meet the criteria in the proposed amendment. He said there were only three sites, one being located by the Amber Room, another off of Great Plain Rd., and lastly, the Clapboard Ridge Rd. site. He said the Clapboard Ridge Rd. site was approved for twelve single-family homes with a pool and clubhouse on site. He said with the proposed amendment, they would add two and three family units to some of the un-built structures, making the buildings taller, which would bring the total number of units to twenty-eight. He pointed out that the footprint of the buildings would not change, only the height. The last exhibit Mr. Sullivan presented was a traffic summary prepared by Traffic Engineer Joe Balskus from VHB Engineering. Mr. Sullivan said he would submit all of his exhibits for the file. Mr. Melillo asked if the traffic report took into consideration the reduction in traffic due to COVID. Mr. Bertram then spoke up saying he would bring the Traffic Engineer to the next meeting to address that issue. Mrs. Hylenski asked if he is saying that the twenty-eight units will not create any more traffic than the twelve single-family homes. Mr. Sullivan said age-restricted units create less traffic than single-family dwellings. Mr. Melillo then suggested since this is not a site specific application; they should look at the overall impact this could have on the entire City. Mr. Almeida then asked if the traffic information took into consideration the fact that seniors often have medical caregivers that visit them on a regular basis. Mr. Sullivan said they will have the traffic engineer address that although he believes that the statistical analysis includes all kinds of vehicle trips.

Chairman Haddad asked Attorney Marcus if they had any other people to speak in favor of this. Attorney Marcus said they are done for tonight. Mr. Melillo then asked Attorney Marcus if he intends to make any significant tweaks to the petition. Attorney Marcus said he had identified the four corrections in his written response to the staff report, but they are not substantive. He added that unless the Commission thinks they need a better definition of active adult community, he did not intend to do any more tonight unless they ask for it. Chairman Haddad asked Mr. Sullivan to submit his exhibits to make them part of the file and Attorney Marcus to submit the written response to the staff report. Attorney Marcus said he had emailed it to the Planning office this afternoon

Mrs. Calitro then read letters in support of this petition from Shakir Qureshi and Andrea Gartner. She said they had also received a letter from A. Peter Damia in favor, but Attorney Marcus had read most of that one into the record already. Chairman Haddad asked if there was anyone else to speak in favor of this petition and there was no one. He then added that before he calls for anyone in opposition, Mrs. Calitro will read the letters into the record.

Mrs. Calitro said the letters in opposition include letters that were received up until 6:00 PM tonight. She said there are three groupings; the first letters were listed on the agenda, then after more letters were received, a revised agenda with them attached was issued; and lastly the letters that were received since the revised agenda was issued which includes until 6:00 PM this evening. Mrs. Calitro read the following letters in opposition: Jane & Herbert Herschlag, 47 Saddle Rock Rd., and Brenda O'Shea, 20 Ledgemere Dr. At this point, Mr. Bertram interrupted to tell the Chairman that he received a text from Rob Kovalesky, who wants to speak in favor of the petition, but cannot get into the meeting. Mr. Bertram said it may have been a technical problem but he asked if they would let him speak in favor now. Chairman Haddad said Mr. Kovalesky should wait and after the opposition portion is finished but before Attorney Marcus's rebuttal, he will call on him. Mr. Melillo then said as a point of order, he would feel more comfortable letting him speak now rather than setting a precedent by having something come up in rebuttal that was not addressed during the meeting. Chairman Haddad asked Mrs. Calitro how she felt about letting him speak. Mrs. Calitro said she would rather let him speak now.

Speaking in favor was Rob Kovalesky, 2 Damia Dr. He said 14 yrs ago, he and his wife moved to Sconset Park which is a wonderful development. He suggested that maybe it is time to be more innovative in order for this project be completed. They feel this proposal will not create any dramatic change to the appearance or environment of the area. He added that they do not believe the additional units will flood the area with traffic and they would love to see this development completed. Chairman Haddad asked if the Commission members had any questions for Mr. Kovalesky and there were none.

Chairman Haddad then called on Mrs. Calitro to continue reading the letters in opposition that were attached to the revised agenda. Mrs. Calitro again said she would read the letters in the order which they were received:

Andre Havasi, 108B Clapboard Ridge Rd.

Alison Reisert, 11 Zinn Rd.

James Lukasik, 22 Eastwood Rd.

Jean Campbell, 94 Hillandale Rd.

Jay Mortara, 3 Coach Rd.

John Neumuller, 8 Coach Rd.

Judy Weiss, 40 Hillside Rd.

Kathleen Felix, 9 Zinn Rd.

Laureen Bubniak, 1 Coach Rd.

Lynne Hamilton & James Lukasik, 22 Eastwood Rd.

Lisa Patton, 117 Padanaram Rd.

Mary Comstock, 25 Ledgemere Dr. (included link for Wall St. Journal article)

Marilynn Gillotti, 3 Overlook Terr.

Paul Bubniak, 11 Coach Rd.

Raymond Bielizna, 14 Coach Rd.

Ray McGarrigal, 41 East Gate Rd.

Roger Snow, 20 East Gate Rd.
Susan Cesareo, 6 Coach Rd
Richard Cesareo, 6 Coach Rd.
Sheila D'Angelo, 9 Coach Rd.
Sheila DePalma-Robinson, 70 Clapboard Ridge Rd.
Suzanne Silverman, 29 East Gate Rd.
Thomas Pura, 43 East Gate Rd.
Victoria Beylouni, 81 Clapboard Ridge Rd.
William & Denise Weber, 113 Padanaram Rd.

Mrs. Calitro said this next group consists of the letters which were received today until approximately 6:00 PM this evening:

Glenn & Cathleen Andersen, 10 Golden Heights Rd.
Janice Geigler, 10 Old Hayrake Rd.
Char-Jian Hsu, 35 East Gate Rd.
Jay Mortara, 3 Coach Rd. (2nd letter)
John Neumuller, 8 Coach Rd. (2nd letter)
James O'Shea, 20 Ledgemere Dr.
James Root, 84 Lake Ave.
Lindsay & Michael Glorioso, 3 South Meadow Dr.
Lynn Waller, 84 Highland Ave.
Mary Comstock, 25 Ledgemere Dr. (2nd letter)
Mikel Dubois, *unable to locate address*
Maria Roth, 6 Zinn Rd.
Robert Botelho, 3 Ridgewood Dr.
Regi Matthews, 7 Golden Heights Rd.
Ronald Roth, 6 Zinn Rd.
Sonia Havasi, 108B Clapboard Ridge Rd.
Sharon & George O'Loughlin, 13 Maple Ridge Rd.
Thomas Hanna, 87A Driftway Rd.
Sheila & Brian D'Angelo, 9 Coach Rd. (2nd letter)
Cathy Andersen, 10 Golden Heights Rd. (2nd letter)
Regi Matthews, 7 Golden Heights Rd. (2nd letter)
Donna Hodge, 28 Ledgemere Dr.

Mrs. Calitro said she was copied on a couple of email threads in which Mr. Bertram responded to some of the opposition's comments, but she was not going to read these now. Chairman Haddad asked that the letters received after the revised agenda was posted be made available to the Commission members. Mrs. Calitro said all of these are scanned and will be made available for review.

Chairman Haddad then asked if there was anyone to speak in opposition to this petition.

Paul Rotello, 11 Linden Place said a good portion of the testimony from the applicant was site specific and is not relevant because this Commission is a legislative body and site approval would not fall under their purview. He said there are many residents who bought in single-family zones with the expectation that they would remain that way. This will change the parameters without allowing them to have any input. He suggested that this concept is something that should be addressed in the revised Plan of Conservation &

Development (POCD) which is being worked on now. He said he would have less of an issue with this if it was a site specific application.

John Neumuller, 8 Coach Rd., said unless you live in this part of the City and experience the traffic on a daily basis, you have no idea of how bad it really is. He said anything that adds traffic to this part of the City will make an already bad situation worse.

Chairman Haddad thanked Mrs. Calitro for reading all of the letters

Ken Gucker, 89 Padanaram Rd., also thanked Mrs. Calitro for all she does and for her thoroughness in providing information to the residents. He said this is supposed to be an amendment that could affect the entire city but their presentation focused on a specific site. He said the "Cottswald" property also meets the criteria for the kind of development that this amendment proposes. He said despite what they say, the amount of people using the roads and the impact on the sewer and water does matter. And even when they say there will not be any kids living there, it will affect the schools. He said in most senior housing, only one person living there has to be a senior citizen. He said they always say traffic is not an issue, but it always is an issue. He said a lot of his opposition comments were covered in the letters which were read by the Planning Director so he is done for now.

Benjamin Chianese, 5 Briar Ridge Rd., apologized because his camera is not working, so he is not visible. He then said the staff report contained a lot of good points, but this is an issue which should be a part of the POCD because it affects the entire city. They should take the time and determine how this need is best served. He added that older people need to be closer to other people not farther apart. He suggested they look at this from a global standpoint.

Duane Perkins, 22 Main St., said he agreed with a lot of what has been said and that his concern is the impact that sweeping zone changes like this could have on the City.

Chairman Haddad offered Attorney Marcus the chance to rebut the opposition's comments.

Attorney Marcus said although it is tempting to get the last word in, it is late. He added that it is interesting that out of the any letters, one common issue is traffic concerns on Clapboard Ridge Rd. He said they did not create the traffic problem and all of the opposition letters were written and submitted before they even made their presentation tonight. He said they are creating open space although single family zoning does not deal with open space. He added that older people don't run out like young people do so it will not impact the number of vehicle trips. He said they should look at LakePlace and imagine single-family homes on that site. That development was thinking ahead of the game like they are doing here. Lastly he said they would have their traffic engineer Joe Balskus from VHB at the next meeting to discuss the traffic.

Mr. Almeida made a motion to continue the public hearing until the March 9, 2021 meeting. 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. Mrs. Hylenski said she would like to start saying the Pledge of Allegiance again like they did when their meetings were held in the City Council Chambers. Chairman Haddad asked the secretary to add the Pledge to the agenda for the next meeting.

At 11:15 PM, Mr. Jowdy made a motion to adjourn. Mrs. Hylenski seconded the motion and it was passed unanimously by voice vote

During the meeting, some people took advantage of the chat function on Zoom. The comments that were made are within the box below. The time stamp (military) is on the left, and the actual comment is italicized.

20:16:02 - From Regi Mathews to Everyone: *Is Neil an attorney for BRT?*
20:16:21 - From Joanne Read to Everyone: *Yes he is.*
20:16:58 - From Regi Mathews to Everyone: *Could we make this public?*
20:18:24 - From Regi Mathews to Everyone: *Neil is a paid attorney and hence we should discount his objections!*
20:19:15 - From Regi Mathews to Everyone: *This guy will be an attorney for the devil!*
20:20:04 - From Chairman Theodore Haddad Jr. to Everyone: *This is public.*
20:20:12 - From Chairman Theodore Haddad Jr. to Everyone: *The letters will be read in.*
20:20:23 - From Chairman Theodore Haddad Jr. to Everyone: *Public will be able to speak.*
20:56:57 - From Regi Mathews to Everyone: *Apples and Oranges comparisons!*
21:12:08 - From Regi Mathews to Everyone: *Not true on traffic - with the elderly living on the property we will have aides/caregivers' going in for the help of the elderly!*
21:18:56 - From Regi Mathews to Everyone: *Based on recent experience - 30% of elderly living will need aides for help, This includes live-in aides! We have to get the recent studies on this tranche!*
22:48:11 - From Regi Mathews to Everyone: *Well said Ken Gucker - he has my vote!*
23:06:10 - From Samantha Andersen-Treasurer-Division 30 to Everyone : *False!*

Respectfully submitted,

JoAnne V. Read
Planning Assistant