



CITY OF DANBURY
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ZONING COMMISSION
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MINUTES (REVISED)
JULY 27, 2021

The web-based meeting (hosted on Zoom) was called to order by Chairman Theodore Haddad Jr. at 7:30 PM.

Present were Sidney Almeida, Candace Fay, Ryan Hawley, Angela Hylenski, Rick P. Jowdy, James Kelly, Michael Masi, Robert Melillo, Theodore Haddad Jr., and Alternates Jason Eriquez and Nelson Merchan. Also present was Planning Director Sharon Calitro, Mayor Joe Cavo, and Assistant Corporation Counsels Robin Edwards and Daniel Casagrande.

Absent was Alternate Thomas Nejame.

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

Mrs. Fay made a motion to accept the June 22, 2021 minutes. Mr. Kelly seconded the motion and it was passed by voice vote with nine ayes.

Mr. Kelly made a motion to deviate from the order of tonight's agenda to vote on the Old Business. Mrs. Hylenski seconded the motion and it was passed unanimously by voice vote with nine ayes.

OLD BUSINESS:

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

Chairman Haddad said all of the members present this evening are eligible to vote on this matter. He added that although Mr. Kelly, Mr. Masi, and Mr. Merchan were not present at the May 25, 2021 public hearing, they have all watched the video and reviewed all of the documents. Mr. Melillo made a motion to deny this petition for the following reasons:

- This petition conflicts with the Plan of Conservation and Development since the POCD Land Use Map designates this as a single-family zone.
- Approval of this petition would result in a commercial encroachment into a residential neighborhood.

- Whitney Avenue is not suitable for all of the uses permitted in a CG-20 zone.
- This area of Newtown Road has not seen significant enough changes since the original 1988 denial to rezone this parcel of land.

Mr. Masi seconded the motion. Mr. Melillo added the Commission understands the applicants concern since the proposed use is permitted in the RA zones, but they cannot condition an approval for a specific use and there are so many other uses permitted in the CG-20 zone that would not be compatible with a residential neighborhood.

Chairman Haddad took a roll call vote and the motion to deny was passed unanimously with nine ayes (from Mr. Almeida, Mrs. Fay, Mr. Hawley, Mrs. Hylenski, Mr. Jowdy, Mr. Kelly, Mr. Masi, Mr. Melillo, and Chairman Haddad).

At this point, Mr. Almeida excused himself and left the meeting. Chairman Haddad asked Mr. Eriquez to take Mr. Almeida's place for the rest of the evening.

PUBLIC HEARING:

Petition of Sharon B. Calitro, Planning Director to Amend Sections 2.B and 10.J. of the Zoning Regulations. (Moratorium on the Acceptance of Applications, Amendments, Petitions or Issuance of Zoning Permits for or related to Cannabis Establishments; and new Definitions.)

Chairman Haddad read the legal notice into the record. Mrs. Calitro spoke in favor of the petition. She said Senate Bill 1201 which legalizes the recreational, adult use of cannabis was signed into law by Governor Lamont on June 22, 2021 and becomes effective on July 1, 2021. She said now we need to decide how we as a City will handle this. She said this legislation is quite voluminous, about three hundred pages, and it kept changing right up to when they approved it. She said there are basically three choices, the first is that we do nothing and just treat it like a retail product. The second option is to prohibit the sale entirely, and the last one is permit the sale subject to specific regulations. There also is another option, because this is an election year, if ten percent of the registered voters submit a very specifically worded petition, this could become a referendum item to be voted on during the general election. She said at this point all of the 169 towns in Connecticut are scrambling to decide how to handle this. She said she has been in contact with many towns/cities and also the CT Conference of Municipalities, as well as the regional planning agency WestCOG. She said the Department is proposing this moratorium so we can take the time to determine what to do. She said this petition includes all of the definitions that the State included in the legislation as well as the proposal for a one-year moratorium; hopefully it will take less time, but a maximum of one year.

Mr. Melillo then said that in the past we have imposed moratoriums for the same reason. He said when the Commission cleaned up the residential zones, we had one, and when medical marijuana was legalized, we had a moratorium to give us time to determine what we wanted to do. Mrs. Fay asked if this petition will affect the medical marijuana

dispensary that is approved on Mill Plain Road. Mrs. Calitro said it will not affect that; but it would prohibit a second one from coming in during this time period.

Also speaking in favor of this petition was Mayor Joe Cavo. He said the State legislation is a large document and he agrees that we need time to thoroughly review it. He said this moratorium will give staff and legal counsel time to study the legislation and come up with a plan so we can move forward on this matter.

Paul Rotello, 13 Linden Place, said he is a City Councilman for the sixth ward and he agrees we need time to analyze this before making a decision about what to do with this. He said there are many unknowns and we need to look at the possible revenue this could bring. He referenced some statistics and suggested we need to do a monetary study to determine how much this is worth.

Lynn Waller, 83 Highland Avenue, said she agrees with the moratorium. She suggested that we look at some other states which have already legalized this. She said she is familiar with what has happened in Colorado where this has caused a boatload of new problems. She said there is much to look at besides sales, such as how we can tell if someone is messed up. She said this is a complicated issue.

Duane Perkins, 22 Main Street, also a City Councilman for the fifth ward, said he supports the moratorium because the citizens of Danbury will be best served if City staff takes the time to vet this large legal document. He said it is not a simple thing, there is layer upon layer of complexity including law enforcement issues in addition to how and where it will be sold.. He said the moratorium will give us the time to tread lightly and keep the City on track for this issue.

Chairman Haddad asked if there was anyone else to speak in favor and there was no one else. He then asked if there were people to speak in opposition and several people indicated that they wanted to speak.

Mike Deary, 49 Benson Drive, said there is no need for this moratorium because no one has attempted to file an application to sell recreational marijuana. He said he understands there are biases against cannabis use but all of the surrounding states are selling recreational marijuana, so it can be obtained by just crossing the state line. He said there are only about twenty pages of the legislation that the City needs to be concerned with; the police and dollar values are not important. He said there is no need for this holdup when all that has to be understood is twenty pages.

Carl Tirella from Acreage Holdings, the company that owns the existing medical marijuana dispensary (Compassionate Care) located in Bethel, spoke next. He said they have been approved to relocate from Bethel to Danbury and Compassionate Care will be moving into the Mill Plain Road site by the end of August. He said there will be recreational marijuana in Danbury whether it is sold in Danbury or another town. He added that the legislation allows people to purchase it in any town and have it delivered to them. He said he would like to work with the staff on the regulations. He asked that they consider a six-month moratorium instead of a year. He said their legal counsel had submitted a letter stating their position. Mr. Melillo asked if it was the letter from Attorney Ward Mazzucco and Mr. Tirella said that is it. Mr. Melillo suggested the letter be labeled Exhibit A, but Chairman Haddad pointed out that a link for this letter was listed on the agenda for tonight. Mr. Tirella then said since we already have medical

marijuana regulations in place, the sale of retail marijuana should have similar regulations. He added that since both liquor and medical marijuana fall under the purview of the State Department of Consumer Protection, the regulations for recreational marijuana should control it in the same manner as both of them.

Hector Girardo & Liz Guerra, 2 Deal Drive, said they won't reiterate points that have already been made. Ms. Guerra said it is nobody's business who uses this substance. She said they do need to look at other states to determine the financial end of this. She said many of the State reps and legislators are in favor of this because it will benefit our state rather than residents crossing borders to purchase it. She said specifically that Senator Julie Kushner worked tirelessly on this issue. Mr. Girardo then spoke saying that black and brown people in Danbury are targeted tenaciously for smoking weed. He said people who have been prosecuted for possession should be given the chance to make money. He said cannabis is not a drug and has been studied by many politicians because it can help the community. He said the ACLU (American Civil Liberties Union) has done studies. He again said that black and brown people should be allowed to make money since they have been singled out for possessing marijuana.

The last person to speak in opposition was Emily Sabo. She said she represents the UFCW, which is the United Food & Cannabis Workers union. She said this union represents tens of thousands of cannabis workers across the United States in dispensaries, labs, manufacturing, processing, and grow facilities. She added that these are all good hard-working people and a moratorium will hold up the licensing of the recreational sales. She said there should be an easier way to write regulations that will control the sale of recreational cannabis. She asked that they consider a town ordinance to control this rather than the moratorium.

Chairman Haddad asked if there was anyone else to speak in opposition and there was no one. He offered Mrs. Calitro the chance to speak in rebuttal to the opposition's comments.

Mrs. Calitro said just to be clear, there are two parts to this petition; one is to define the uses and the other is the moratorium. She said we had a previous moratorium in 2012 and when it ended, there were regulations that defined production and dispensing of medical marijuana. At that time, the regulations only permitted it to be dispensed from a pharmacy. Then Mr. Tirella's business brought in a petition to amend the regulations to allow a medical marijuana dispensary in Danbury. The regulations were amended to allow it as a special exception use and further clarify the use. The special exception was approved by the Planning Commission for the location on Mill Plain Road. She also said that the Mayor has established a working group to determine all aspects of how this could impact the City. She said the intent is to come back with a firm position, this is not about whether or not it can be smoked. We have to determine which uses we want and where to allow them. She mentioned that Waterbury, Prospect, Thomaston, Newtown, and New Fairfield are all prohibiting it entirely. She continued saying that we just want to take a step back to determine what we want in our City. We need to look at what our options are and since the licensure is not effective until May 2022, we have the time to do this now. She said there were constant changes in the bill, right up to the last minute. It was proposed in the January session but ended up getting carried over into a special session. Lastly, she said all 169 municipalities are in the same situation, looking at the same options as we are.

Mr. Melillo made a motion to close the public hearing. Mr. Jowdy seconded the motion and it was passed unanimously by voice vote.

Mr. Melillo made a motion to move this matter to number two under the Old Business on tonight's agenda. Mrs. Fay seconded the motion and it was passed unanimously by voice vote.

NEW BUSINESS:

Petition of 29 Federal Road LLC & Robert W. Schmus, 21, 29, 33-35, & 39 Federal Road (K11123, K11125, K11126, & K11127) for Change of Zone from IL-40 to CG-20. Public hearing is scheduled for August 24, 2021

Mrs. Hylenski 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 with nine ayes (Mr. Almeida, Mrs. Fay, Mr. Jowdy, Mr. Kelly, Mr. Masi, and Mr. Melillo, Mr. Eriquez, Mr. Merchan, and Chairman Haddad).

OLD BUSINESS:

Petition of Sharon B. Calitro, Planning Director to Amend Sections 2.B and 10.J. of the Zoning Regulations. (Moratorium on the Acceptance of Applications, Amendments, Petitions or Issuance of Zoning Permits for or related to Cannabis Establishments; and new Definitions.)

Mr. Melillo made a motion to approve this petition and have it become effective upon publication in the News-Times. He gave the following reasons for the motion:

- The recently approved legislation regarding recreational marijuana could impair the health, safety, and welfare of the residents of Danbury and a temporary moratorium would give the City adequate time needed to address any potential impacts or concerns that this legislation may have on our residents. Additionally, this petition also includes the definitions from the legislation so we will be adding them to the Regulations now instead of after the moratorium

Mr. Masi seconded the motion. Mr. Melillo then said that there was concern expressed by some people regarding the length of the moratorium but historically it is typical to do a one-year moratorium. If Staff and Corporation Counsel get into the legislation and find that it is straightforward, they will put something before us in a timelier manner. Chairman Haddad then took a roll call vote and the motion to approve the amendments as presented was passed unanimously with nine ayes (from Mr. Eriquez, Mrs. Fay, Mr. Hawley, Mrs. Hylenski, Mr. Jowdy, Mr. Kelly, Mr. Masi, Mr. Melillo, and Chairman Haddad).

OTHER MATTERS:

Discussion of procedure for future meetings.

Chairman Haddad said the latest public act authorizes municipal meetings to be held on the Zoom platform until April 2022 and Corporation Counsel has requested that the Commission consider the following three options: continuing to hold meetings on the Zoom platform, returning to in-person meetings held in the Chambers, or possibly a hybrid of both methods. After some discussion about masks and vaccinations, it was decided that the next meeting on August 24th would be held on Zoom. Chairman Haddad said this is not a decision that has to be made tonight, so they could discuss it again at the August 24th meeting. He added that they also could decide on a case-by-case basis.

Chairman Haddad said there was nothing under Correspondence or For Reference Only. He then said there was no business for the August 10, 2021 meeting so it would be cancelled. He asked the secretary to post notice of the cancellation.

At 9:11 PM with no further business to discuss, Mr. Masi made a motion to adjourn. Mr. Kelly seconded the motion and it was passed unanimously by voice vote with nine ayes.

Respectfully submitted,

JoAnne V. Read
Planning Assistant