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BY: 

MINUTES
JANUARY 11, 2022

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

Present were Michael Coelho, Milan David, Candace Fay, Ryan Hawley, Angela Hylenski, Rick P. Jowdy, Robert Melillo, Theodore Haddad Jr., Joseph Raya, and Alternate Bruce Bennett. Also present was Planning Director Sharon Calitro.

Absent were Alternate members Edwin Duran and Olga Mejia.

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

Mr. Melillo made a motion to rescind the nomination and election of Chairman that took place at the December 14, 2021 meeting. Mr. Coelho seconded the motion. Chairman Haddad took a roll call vote and the motion was denied with four ayes (from Mr. Coelho, Mrs. Fay, Mrs. Hylenski, & Mr. Melillo) and five nays (from Mr. David, Mr. Hawley, Mr. Jowdy, Mr. Raya, & Chairman Haddad).

Mr. Melillo made a motion to accept the November 23, 2021 minutes. Mrs. Fay seconded the motion and it was passed unanimously by voice vote. Mr. Raya then made a motion to accept the December 14, 2021 minutes. Mr. Hawley seconded the motion and it was passed unanimously by voice vote.

ORGANIZATIONAL BUSINESS:

Nomination & Election of Vice-Chairman.

Chairman Haddad said the vote at the December meeting was tied four-four, so they put it off until tonight's meeting. He continued saying that since they do have an additional regular member present this evening, they should be able to break the tie. He asked if anyone wanted to re-open the nominations and no one did. Mr. Melillo then made a motion that they vote on the same two candidates. Mr. Coelho seconded the motion. Chairman Haddad then said the two nominations were Candace Fay and Rick Jowdy, so he would take a roll call vote. Voting in favor of Mrs. Fay were Mr. Coelho, Mr. David, Mrs. Hylenski, Mr. Melillo, Mr. Raya, and Mrs. Fay. Voting in favor of Mr. Jowdy were Mr. Hawley, Chairman Haddad, and Mr. Jowdy. The final vote was six votes for Mrs. Fay and three votes

for Mr. Jowdy. Candace Fay was elected Vice-Chairman.

Appointment of ZBA Subcommittee - three members.

Chairman Haddad said they had tabled this matter at the previous meeting in order to give Mrs. Hylenski the option of being on this subcommittee again. Mrs. Hylenski said she would like to be on this subcommittee again, but she has some family obligations which may interfere. Mr. Melillo suggested they make this a four-person subcommittee instead of just three people. Chairman Haddad asked Mr. Melillo if he would be on the subcommittee and he said yes. Chairman Haddad then asked for two more volunteers and Mr. David and Mr. Jowdy both said they would do it. Chairman Haddad said the ZBA Subcommittee would consist of Mr. David, Mrs. Hylenski, Mr. Jowdy, and Mr. Melillo.

Chairman Haddad read the legal notice for all three public hearings.

PUBLIC HEARINGS:

Petition of the City of Danbury by Sharon B. Calitro, Planning Director to Amend Sections 3.C., 10.B.2. & 10.C.4.(a)(2) of the Zoning Regulations. (Amendments pursuant to Public Act 21-29: Opt out of Parking Requirements, Amend Zoning Permit Fee Schedule to Add Provision Authorizing Charging of Fee for Expert Consultant, and Amend Language in Additional Requirements for Approval of Special Exceptions and Special Permits relative to use of the word “character”).

Chairman Haddad read the Planning Commission recommendation which was positive and the WestCOG recommendation which said their standard language: *“this 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”*. Mrs. Calitro read her staff report dated November 9, 2021 into the record. She then spoke in favor of this petition. She said explained that Public Act 21-29 (“PA 21-29”) was approved on June 10, 2021. This Act provides for revisions to the State Zoning Enabling Act that affect various aspects of municipal land use regulation. This petition focuses on three aspects of PA 21-29 that are effective as of October 1, 2021.

The first item is to opt out of the reduced parking requirement in the public act which states that Zoning Regulations shall not “require more than one parking space for each studio or one-bedroom dwelling or more than two parking spaces for each dwelling unit with two or more bedrooms, unless the municipality opts out. Mrs. Calitro then said that based on the history of the amendments to the parking regulations, it is evident that the City recognizes the impact they have on economic development. She pointed out that the reductions and shared parking that currently exist in the Regulations have been used often and have helped decrease the costs of many developments. She said the City is best positioned to determine the required number of parking spaces for residential uses. She also said that the City is aware of its needs based on its growth patterns, proximity of land uses to public parking, and resident requirements, and would prefer to be able to adjust said parking standards in the future as needed and in a

sustainable manner. The act also required the City Council to opt out in the same manner as (in 2017) when the City opted out of allowing temporary health care structures.

The second item provides that that a municipality may require an applicant to any of the land use Commissions (Planning or Zoning Commission, Zoning Board of Appeals, or Inland Wetlands Commission aka EIC) to pay for the cost of hiring an outside consultant who has expertise in a specific field if the City does not have staff with that specific expertise. This has been done in a similar format, in the case of complicated floodplain reviews, and it has worked out well.

The last item requires an amendment to delete the word “character” and add new language to clarify that special exceptions and special permits must be found to be designed in a manner which is in conformity with the physical characteristics and structures of the neighborhood and district. The act states that Zoning Regulations shall not “be applied to deny any land use application, including for any site plan approval, special permit, special exception or other zoning approval, on the basis of a district’s character, unless such character is expressly articulated in such regulations by clear and explicit physical standards for site work and structures. She said replacing the phrase “compatible with the character”, with the phrase “in conformity with the physical characteristics and structures of the neighborhood and district” in Section 10.C.4.a. should remove any ambiguity.

Also speaking in favor was Benjamin Doto, PE, 248 Main Street, said he is in favor of the City opting out of the State mandated parking requirements because the City does their job when it comes to this issue.

Councilman Paul Rotello, 13 Linden Place, said he is also in favor this petition because these are issues that should be regulated locally and we as a city, have done a good job with this issue.

Chairman Haddad asked if there was anyone to speak in opposition to this petition and Mr. Doto said he is opposed to the removal of the work “character” as it takes away the Planning Commission’s power because character is an important component when judging physical uses. This led to a discussion on the issue of the term character. Mr. David asked if they have to change the Regulations because the State says so. Mrs. Calitro said yes, because it is a statutory change. Mr. Melillo asked what the potential impact would be if it was not removed. Mrs. Calitro said they can leave it in, but they cannot use it as a basis to deny an application. Mrs. Fay argued that characteristic is the same word as character. Mr. Hawley then asked if opting out of the parking requirements could have a potential impact on traffic. Mrs. Calitro said it should not impact the traffic but opting out would allow us to continue to amend the Zoning Regulations when we deem it necessary.

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

Petition of SC Ridge Owner LLC to Amend the Master Plan for the Summit Approved June 23, 2020 and Previously Amended May 11, 2021.

Chairman Haddad read the Planning Commission recommendation which was positive and the WestCOG recommendation which said their standard language: *“this 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”*. Mrs. Calitro read her staff report dated December 9, 2021 into the record. Attorney Thomas Beecher said he is here tonight to speak in favor of this petition. And with were Anthony Rizzo Jr. from Rizzo Construction, and Michael Basile from Summit Development.

Attorney Beecher said this consists of four amendments to the Master Plan which was approved and revised by this Commission over the past few years.

- (1) to allow up to approximately 82% of the full 85% of the non-residential square footage on site under the retrofit alternative pursuant to Section 4.H.2.b.(2)(a) of the Zoning Regulations;
- (2) to approve use of a portion of the site for the City’s secondary school (referred to as the “Danbury Career Academy”);
- (3) to approve a decrease from 404 residential units to a minimum of 180 residential units; and
- (4) without exceeding the new maximum non-residential building floor area (requested at 1,036,250 square feet), to amend the minimum and maximum square footage for the non-residential use categories to provide for flexibility in leasing space within the existing building.

He said that the staff report really provides all of the information regarding the proposed changes. The previously approved Amendment #1 allowed an increase in the maximum non-residential building floor area on the site from 75% to 85% of the existing building gross floor area. Amendment #2 includes a request to increase this non-residential building floor area from 950,390 square 2 feet (or 75%) to 1,036,250 square feet (or 81.8%). This Amendment #2 includes a request to designate three pods within the existing structure, identified as Pods P, Q, and R, as a secondary school. This is the portion of the building proposed for the Danbury Career Academy. These pods were previously designated for residential use. Amendment #2 includes a request to decrease the number of approved residential units within the PND from 404 units to a minimum of 180 units. A reduction in the minimum number of residential units required in a PND from 250 units to minimum of 175 units is only permissible if a portion of the structure to be retrofit is proposed to be occupied by a public school owned and operated by the City of Danbury. Lastly, Amendment #1 allowed for flexibility under the approved Master Plan to account for increases or decreases in tenant spaces within the retrofit building. Amendment #2 now seeks to revise the ranges within each category. City staff will continue to monitor square footages within each category and throughout the building as tenant spaces change by means of revised site plan reviews. He said both the Master Plan and Amendment #1 are in compliance with the requirements of the Planned Neighborhood Development (PND) zone and this proposed Amendment #2 has no impact on the Plan of Conservation & Development (POCD). These changes will provide the needed flexibility for leasing tenant spaces within this structure. He added that none of the proposed changes will affect the conformity of the site with the Zoning

Regulations. The retrofitting of a portion of the existing building for a Danbury public school is beneficial to the City. In closing, he said that any future site plan approvals would be required to comply with the Environmental Impact Regulations and the Zoning Regulations, so there really are no issues.

Also speaking in favor of this petition was Mayor Dean Esposito, 7 Hospital Avenue, who said this is a good thing for all involved and approval of the proposed changes would allow the City to build the Career Academy on this site.

Councilman Paul Rotello, 13 Linden Place, said he was opposed to the original application because he was concerned that the additional residential units had the potential to add to the school over-crowding issue, but he is much more comfortable with this revision because it will alleviate the school issue.

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

Attorney Beecher said this complies with all of the requirements and thanked Mayor Esposito and Councilman Rotello for speaking in favor of this. Chairman Haddad then asked Mrs. Calitro if she had additional staff comments and she said she had nothing to add as the staff report contains all of the departmental comments.

Mr. Melillo made a motion to close the public hearing and move this to number one under the Old Business on tonight's agenda. Mr. Coelho seconded the motion. Mr. David and Mr. Raya both noted that they wanted to do an on-site inspection before voting on this petition. Chairman Haddad said they would discuss that when this comes up under Old Business. He then called for a vote on the motion to close the hearing and move this to Old Business and it was passed unanimously by voice vote with nine ayes.

Petition of Kendrick & Patano LLC (property owners) & PV Brother's LLC for a Special Permit for a Café Liquor License for "Downtown Eleven Café & Bar", 11 Ives Street (114260) in the C-CBD Zone.

Chairman Haddad read the Waiver to Site Plan Requirements approval for this use on this site. Attorney Tom Beecher spoke in favor of this saying the applicants are brothers-in-law, Wilson Pelaez and Juan Vasquez. Mr. Pelaez had previously operated "Billy Beans" café which was on White Street. He sold the business when COVID hit and now wants to get back into the restaurant business. Mr. Vasquez currently operates the soccer store business located in the former Meeker's Hardware building, but he also had worked at Bill Beans when Mr. Pelaez ran it.

Attorney Beecher said the menu is not set yet, but they intend to offer Spanish, Peruvian, Ecuadorian fare as well as the traditional café items. There will be a sit-down bar and the proposed hours are 11 AM to 1 AM on Sunday through Thursday, and 11 AM to 2 AM on Friday and Saturday. Attorney Beecher said PJ Prunty, Executive Director of the Greater Danbury Chamber of Commerce, has said that the Ives Street area used to be the hub of the dining & entertainment district and hopefully it will be once again. He continued saying that there will be 99 indoor seats and 24 outdoor seats on the patio. There will be

a maximum of ten employees depending on the shift and there is parking available in the Patriot Garage for both staff and customers. He said there previously was a restaurant with a liquor license on this site and this use is compatible with the neighborhood. He said the applicants are aware that they need to apply for an entertainment license.

Also speaking in favor of this petition were Councilman Duane Perkins, and Councilman Ben Chianese, both saying this will be a good thing for the downtown. Tony Rizzo Jr., 64 Triangle Street, said this area was once a destination point for dining and entertainment and this will be a good addition. Mr. Jowdy said his family had a good run in this area when they operated Tuxedo Junction and this is another step in revitalizing the area.

Chairman Haddad 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 and move this to number two under the Old Business on tonight's agenda. Mr. Raya seconded the motion and it was passed unanimously by voice vote with nine ayes.

OLD BUSINESS:

Petition of SC Ridge Owner LLC to Amend the Master Plan for the Summit Approved June 23, 2020 and Previously Amended May 11, 2021.

Mr. Melillo made a motion to approve this petition for the following reasons:

- (1) This meets the criteria for approval as noted in the PND Regulations.
- (2) These amendments do not present any use or condition that would render the site non-conforming.
- (3) These amendments will maintain a site that is compliant with the POCD and the purpose for which it was rezoned and the Master Plan was approved.
- (4) The retrofitting of a portion of the existing building for a Danbury Public School is beneficial to the City.
- (5) These amendments will provide flexibility while maintaining a mixed-use development.

Mrs. Hylenski seconded the motion. Mr. David said he still wants to do an on-site and is not prepared to vote this evening. Mr. Raya said he feels the same way. Mrs. Fay said it would be beneficial to do an on-site before they vote. Chairman Haddad said they always yield to member requests to make an on-site visit and if they vote on this motion now, the petition could be denied. Mrs. Fay then expressed concern over not being able to discuss what they see during the site visit because the hearing is closed. Mr. Hawley said he is prepared to vote tonight. Mrs. Calitro said if more than two members go together to do an on-site, it will be a public meeting and will have to be posted. Mrs. Fay asked if they could re-open the hearing in case they need to discuss this further after the on-site visit. Mr. Melillo then said under Roberts Rules, they can make a motion to reconsider the motion to close the hearing. He then withdrew his motion to approve the petition and Mrs. Hylenski withdrew her second on the motion.

Mr. Melillo then made a motion to reconsider the motion to close the public hearing on this matter. Mrs. Fay seconded the motion. Chairman Haddad took a roll call vote and the motion to reconsider was passed with eight ayes (from Mr. Coelho, Mr. David, Mrs. Fay, Mrs. Hylenski, Mr. Jowdy, Mr. Melillo, Mr. Raya, and Chairman Haddad) and one nay (from Mr. Hawley). Mr. Melillo said now they are back to before the motion to close was made and someone can make a motion to continue the hearing.

Mrs. Fay then made a motion to continue the public hearing to allow for comments after the on-site visit. Mr. David seconded the motion. Chairman Haddad took a roll call vote on the motion to continue and it was passed unanimously with nine ayes (from Mr. Coelho, Mr. David, Mrs. Fay, Mr. Hawley, Mrs. Hylenski, Mr. Jowdy, Mr. Melillo, Mr. Raya, and Chairman Haddad).

Chairman Haddad said the secretary would make the necessary arrangements for the on-site with the applicant and notify the Commission members as soon as it is set up. He added that a meeting notice would be issued and posted in the required places.

Petition of Kendrick & Patano LLC (property owners) & PV Brother's LLC for a Special Permit for a Café Liquor License for "Downtown Eleven Café & Bar", 11 Ives Street (114260) in the C-CBD Zone.

Mrs. Fay made a motion to approve this petition for the following reasons:

- (1) the location of such premises or buildings will not have a detrimental effect upon the immediate area with due consideration given to: (a) the compatibility and impact of the use on the surrounding area, including adjacent residential neighborhoods, and, (b) the impact of the use upon traffic congestion and safety.

Mr. Jowdy seconded the motion and it was passed unanimously by voice vote with nine ayes.

Chairman Haddad said there was nothing under Correspondence and one public hearing listed under For Reference Only. Under Other Matters, scheduling the training session with Corporation Counsel and distribution of the Zoning Regulations and Zoning Map were discussed. Lastly, there was discussion of the motion made by Mr. Melillo regarding the election of Chairman. Several members made comments that no one told them how to vote.

At 10:11 PM with no further business to discuss, Mr. David made a motion to adjourn. Mr. Raya seconded the motion and it was passed unanimously by voice vote with nine ayes.

Respectfully submitted,



JoAnne V. Read
Planning Assistant