The meeting was called to order by Chairman Theodore Haddad Jr. at 7:30 PM.

Present were Milan David, Michael Coelho, Candace Fay, Ryan Hawley, Angela Hylenski, Rick P. Jowdy, Robert Melillo, Joseph Raya, Theodore Haddad Jr., and Alternate Olga Mejia. Also present were Planning Director Sharon Calitro, and Assistant Corporation Counsels Daniel Casagrande and Robin Edwards.

Absent were Alternates Bruce Bennett and Edwin Duran.

Chairman Haddad led the Commission in the Pledge of Allegiance.

Mrs. Fay made a motion to accept the July 26, 2022 minutes. Mr. Coelho seconded the motion and it was passed unanimously by voice vote with seven ayes.

Mr. David made a motion to deviate from the order of the agenda and talk about the Old Business first before the public hearings. Mr. Hawley seconded the motion and it was passed unanimously by voice vote with nine ayes.

OLD BUSINESS FOR DISCUSSION AND POSSIBLE ACTION:


Mrs. Hylenski, Mr. David, and Mr. Raya all confirmed that they had watched the video and reviewed all of the documents from the July 26, 2022 meeting so they are eligible to vote on this petition. Ms. Mejia said she had watched the video and reviewed the documents from the July 12, 2022 meeting. Chairman Haddad said since all of the regular members present are eligible to vote on this, he did not need to seat an alternate.
Mr. David made a motion to approve this petition for the following reasons: Approval of these regulations is in the best interest of the City and the included restrictions will protect the health and welfare of the citizens of Danbury. Mr. Hawley seconded the motion. Chairman Haddad asked if any of the Commission members had comments on the motion.

Mr. Melillo said that he would be voting against this petition because despite what Corporation Counsel told them at the previous meeting, he is not comfortable approving a use that is illegal on the Federal level. Mr. David said that people are going to use marijuana whether it is permitted or not, and since the City will benefit from the sales, he thinks they should approve this. Mr. Coelho asked if they don’t vote on this tonight would people still be able to order the product and have it delivered to their home. Attorney Casagrande said yes they would. Mrs. Fay said in response to Mr. Melillo’s comment, it is not up to this Commission to determine if marijuana should be legal, the state has made that determination. She added that the fact that the federal government has not legalized it, is not a reason to vote down this petition. Chairman Haddad asked Mrs. Calitro if the reasons given for the motion are adequate. Mrs. Calitro asked that Mr. David amend the reasons to include the following: this use is highly regulated at the local level and the limited number of establishments, as well as the included definitions and location requirements will further restrict this use. Attorney Casagrande asked that they also amend the reasons to include that this is consistent with the Plan of Conservation & Development. Mr. David and Mr. Hawley agreed to adding these reasons to their motion. Mrs. Hylenski asked if any of the surrounding towns had changed their regulations on this since this was discussed at the July 26th meeting. Mrs. Calitro said none of the surrounding towns have made any changes since the previous meeting. Mr. Melillo said as a point of order, that they could not consider that anyway because the public hearing was closed at the July 26th meeting. Chairman Haddad took a roll call vote and the motion to approve with the reasons as stated was passed with six ayes (from Mr. Coelho, Mr. David, Mrs. Fay, Mr. Hawley, Mr. Jowdy, and Mr. Raya) and three nays (from Mrs. Hylenski, Mr. Melillo, and Chairman Haddad).

Chairman Haddad read the legal notice for both public hearings.

PUBLIC HEARINGS

Petition of Maria Lema Tacuri & Isabel Lema to Amend Section 3.F.2.d.(1)(a) of the Zoning Regulations (Reduce Distance Requirement between Package Stores from 2,000 ft. to 1,000 ft.)

Chairman Haddad read the Planning Commission recommendation which was negative and the WestCOG recommendation which said this was “of local interest and with minimal intermunicipal impact” and “therefore it is not being forwarded to adjacent municipalities and the regional staff is making no comment”. He then asked Mrs. Calitro to read her staff report into the record.
Attorney Ward Mazzucco spoke in favor of this petition. He referred to a PowerPoint presentation noting that this request is to reduce the distance requirement between package stores. He said the applicant is seeking to open a package store in a specific location that is less than 2,000 feet from two other package stores. He said the distance requirement serves no purpose and this is the only type of business that is subject to a separation distance. He said service stations do not have this, nor do power plants, or the processing of earth materials. He said even adult business uses do not have a mandatory separation distance. Mr. Jowdy asked if this would affect all of the existing 34 package store licenses or only the new ones that would open under this proposed regulation. Attorney Mazzucco said it would affect all package stores within the City both existing and any new ones that might open. Mr. Jowdy asked if that means that any existing package stores could seek to relocate closer to another package store. Attorney Mazzucco said that is correct.

Also speaking in favor of this petition was Attorney Neil Marcus. He said the 2,000-foot distance rule is an arbitrary number that most likely arose from the 1920’s and 1930’s, when White Street became a “red light” district containing a proliferation of bars and package stores. He said the 2,000-foot distance has no relationship to the health, safety, and welfare of the citizens of Danbury. He continued saying that they are bound by a rule with no understanding as to how the distance was chosen. In closing he said this Commission should approve this, so we can get some high-end package stores in the City.

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

State Representative Ken Gucker, 89 Padanaram Road, said he is opposed to this change because it will allow more competition to the existing package stores that are struggling to stay in business. He added that they do not need to do anything that will add more competition to an already competitive market.

Mrs. Calitro said she had received a note from City Councilman Paul Rotello who said he is in opposition to this for the same reason he was opposed when this was proposed in 2004.

Mr. Melillo said the decision to allow the package stores to stay open later and be open on Sundays was not a local decision, it came from Hartford. Chairman Haddad said many things are regulated and changed by Hartford and the City has to deal with any changes that they make. Mr. Jowdy said if they reduce the distance, the stores can be located closer to one another instead of being spread throughout the City.

Chairman Haddad offered Attorney Mazzucco the chance to rebut the opposition’s comments. Attorney Mazzucco said if the proximity of same kind of businesses in an area was detrimental, then all of the automobile dealerships on Federal Road would be out of business. He added that the concentration of stores makes the businesses more successful and that it is inappropriate for zoning to make decisions based on competition. He said forty years ago, this Commission eliminated the distance requirement between gas stations and they have survived. He suggested the Commission continue the hearing and ask the Fire Department and the Police Department for their
opinion on this. Lastly he said this petition is different than the previous one because this one seeks to reduce the distance between the package stores rather than eliminate it. He added that there are no other businesses that have mandatory distance requirement between them and it is time to eliminate this one.

Chairman Haddad asked Mrs. Calitro if she had any closing comments. She said she had nothing to add, the staff report says it all.

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

Petition of 3775, LLC & Robert Morsey, 1, 3, & unnumbered lot Pembroke Road (G08029, G08030, & G08098) For Change of Zone from RA-40 to RMF-10.

Chairman Haddad read the Planning Commission recommendation which was negative. He then asked Mrs. Calitro to read her staff report dated June 30, 2022 into the record.

Attorney Neil Marcus spoke in favor of this petition. He said Pembroke Road is the most inappropriately zoned part of the City. He cited various businesses and noted that their actual zoning designation does not match the actual use of the property. He said the subject properties are meant for multi-family development and there is a need for affordable housing in Danbury, not 8-30G but affordable. He said one-acre parcels with single-family homes are historic versus this proposal which is forward looking. He said in response to the Planning Department Staff Report, if these properties are rezoned, the other two will follow. He said there is no other property on Pembroke Road that is better suited to be in the RMF zone than the subject site. He continued saying that multi-family development is the predominant land use in this area. And that the existing zoning is a disaster, none of the properties contain single-family residences; they should all be re-zoned to match their use. Mr. Melillo asked what commercial uses are existing on the subject properties since the bulk of the site contains dwellings. Attorney Marcus said they are not the traditional one-acre single family homes, but leftover dwellings from older construction. He said the newer structures contain the commercial uses. He added that this site’s predominate neighbor is a huge restaurant and catering hall (the Amber Room), and to both the north and the south are a hodgepodge of commercial uses. Mr. David asked Attorney Marcus if he had any traffic information or studies to show the impact on the schools and the traffic. Attorney Marcus said he did not have that information at this time, but they will get one done before submitting the site plan for review. Chairman Haddad asked if the applicants have closed on all of the properties. Attorney Marcus said they own one of the lots and the other two are in tied up in probate court.

Chairman Haddad asked if there was anyone else to speak in favor of this petition and there was no one. He then asked if there was anyone to speak in opposition. Mrs. Calitro then read e-mails she had received in opposition to this petition from the following people: Alice Trotta, 42 Stetson Place, Rosanne Schepis, 61 Stetson Place, and Fred Huber, 45 Stetson Place.
State Rep Ken Gucker, 89 Padanaram Road, said he has lived at this location for 31 years and he grew up in New Fairfield, so he has driven on this road his entire life. He pointed out that new single-family homes have been built within the last 25 years, citing the house at #63B. He said Stetson Place got in under the 8-30g statute and would have been even bigger but they hit so much rock during the blasting that they decided to cut down on the number of units. He spoke about a traffic study done by WestCOG which went all the way to New Fairfield and also pointed out some of the more dangerous curves on the roadway. All of the towns north of Danbury use Route 37 and they are all growing towns with increasing traffic. He noted that the residents of Stetson Place did not receive notice of this proposal because it was sent to the management company instead of the condo association. He said the people who bought these properties knew what they were getting and once they are re-zoned, they will be developed as multi-family based on the new zone. They have not yet said exactly what they are proposing but they will need to blast the side of the hill in order to develop the land. He said this is not a positive change, the people who develop this site will not be living there. Lastly he said that he is concerned for the public safety because what it will take to develop this site as they are proposing, will require extensive blasting which will destroy the surrounding neighborhoods.

Deborah Kennedy, 71A Padanaram Road, said they built there home thirty years ago and she takes her life into her hands every time she pulls out of her driveway. She added that everyone drives too fast on this road and this proposal will only make it more dangerous. She said she is concerned about the potential damage that the blasting will do to her home. She said multi-family development just does not belong on this site. Lastly she said she is completely opposed to this proposal and does not see any benefits for anyone except the developer. Shawn Kennedy then spoke saying when Stetson Place was built, it caused his foundation to crack, and his well got filled with sediment. He said he is concerned about more damage to both his well and septic system. He said he is strongly opposed to this proposal because of safety concerns.

Lauren Brower, 60 Stetson Place, said she also is strongly opposed to this because of safety issues. She said since they put the traffic light in at Stacy Road, it has gotten even more difficult to pull out of the development onto the roadway. She said she also is worried about the constant volume of traffic causing air pollution.

Claudia Bernal, 73 Padanaram Road, said this already is a very dangerous section of the road and she does not want to see any more traffic. She said she and her father live at this address and he is totally opposed to this proposal.

Chairman Haddad asked if there was anyone else to speak in opposition and there was no one. He then offered Attorney Marcus a change to speak in rebuttal to the opposition’s comments.

Attorney Marcus said all of the opposition’s comments have to do with the existing traffic problem on this roadway. He added that is more reason to not build single-family homes and the opposition’s reasons are the reason they want to change the zone. He said multi-family development generates less school-age children than single-family
dwellings do. He said he does not dispute that this roadway is heavily traveled, but he does dispute the idea that this site should be developed as single-family homes. He said if they keep the public hearing open, he will provide information on school-age children and traffic counts.

Mrs. Fay made a motion to close the public hearing. Mr. Coelho seconded the motion.

At this point a woman, who identified herself as the president of the Stetson Place homeowners association, came forward and asked to speak in opposition. She said the association did not receive notice of this hearing as it went to the management company who did not pass it on to the homeowners. Chairman Haddad politely explained that since they had a motion and a second, they were past the point where people could speak. He said the Commission hears this remark often at public hearings, and the association needs to let the management company know of their dissatisfaction by not renewing their contract with them.

Chairman Haddad called for a vote on the motion to close the hearing and it was passed unanimously by voice vote with nine ayes.

Petition of 40-44 MPR, LLC (property owner)/Robert Campisi for a Special Permit for Café Liquor License for “Revolution”, 40 Mill Plain Road (E15110) in the CA-80 Zone.

Chairman Haddad asked if there was anything to be read into the record. Mrs. Calitro said there is no staff report, although the site approval for this use was included in the packet. PE Benjamin Doto spoke in favor of this petition. He said as the project engineer for this site, he has handled most of the approvals for the property owner, Tony Ramadani. He said this space was formerly part of the space used as a package store, but it closed before COVID. He said currently in this building are two restaurants and a CrossFit gym. He said they received approval of a site plan waiver for this restaurant which will consist of approximately 5,300 sq.ft. with seventy seats including the bar area. He said both of the other restaurants in this building have liquor licenses, and the property owner tried to find a use that would not conflict with the on-site parking requirements. All of the uses require a total of 116 spaces, and the most recent site plan shows 126 spaces are available.

Robert Campisi then spoke briefly saying that he is partners with the property owner in this venture. They intend this to be a live music and entertainment venue which will be complimentary to the two restaurants. Mr. Melillo asked the proposed hours of operation. Mr. Campisi said they will probably be open only four days a week, with an opening time of eight PM because the gym closes and the dinner business for the restaurants has slowed down by that time. He said they have made an alternative arrangement for overflow parking, so that will not be an issue. Mr. Doto noted that they will only need to do an interior fit-up of this space, there are no site changes proposed.

Chairman Haddad asked if there was anyone to speak in opposition to this and there was no one.
Mr. Melillo asked if an “Entertainment License” will be required for this business. Mrs. Calitro said those are only required in the downtown area. She then reminded the Commission of the criteria in Section 3.F.2. of the Zoning Regulations and said the floor plan submitted with this petition will become a part of any approval that may be granted.

Mr. Melillo made a motion to close the public hearing. Mr. Raya seconded the motion and it was passed unanimously by voice vote with nine ayes. Mr. Melillo then made a motion to move this matter to item number 2 under the Old Business on tonight’s agenda. Mr. Coelho seconded the motion and it was passed unanimously by voice vote with nine ayes.

OLD BUSINESS FOR DISCUSSION AND POSSIBLE ACTION:

Petition of 40-44 MPR, LLC (property owner)/Robert Campisi for a Special Permit for Café Licor License for “Revolution”, 40 Mill Plain Road (E15110) in the CA-80 Zone.

Mr. Melillo made a motion to approve this petition for the following reasons; the proximity of these premises will not have a detrimental effect upon any adjacent school, church or other place of worship; or upon the immediate area including adjacent residential neighborhoods including the impact of the use upon traffic congestion and safety. Mr. Coelho seconded the motion and it was passed unanimously by roll call vote 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 that there was nothing under New Business or Correspondence. He then asked if there was anything to discuss under Other Matters and Mr. Melillo asked when they would go back to in-person meetings. There was brief discussion regarding this issue and it was decided to hold the next meeting (August 23, 2022) on Zoom. Chairman Haddad then said listed under For Reference Only there was one petition scheduled for public hearing on August 23, 2022 and two petitions scheduled for public hearing on September 13, 2022. He noted that one of the September 13th hearings had been re-scheduled from August 23, 2022 at the request of the applicant.

At 10:55 PM with no further business to discuss, Mr. Raya made a motion to adjourn. Mr. Jowdy seconded the motion and it was passed unanimously by voice vote with nine ayes.

Respectfully submitted,

[Signature]

JoAnne V. Read
Planning Assistant