



PLANNING AND ZONING COMMISSION

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MINUTES PLANNING & ZONING COMMISSION THURSDAY, DECEMBER 07, 2017 REGULAR MEETING 7:00 P.M. BRANFORD FIRE HEADQUARTERS 45 NORTH MAIN STREET

Commissioners Present: J. Lust, C. Andres, J. Chadwick, J. Vaiuso, F. Russo,
M. Palluzzi, P. Higgins

Commissioners Absent: C. Kelly

Staff Present: H. Smith-Town Planner, R. Stoecker-Assistant Town Planner, Attorney
Danielle Bercury, Attorney William Aniskovich

Chairperson Andres introduced the Commissioners and the Staff Present. He reviewed the Public Hearing procedures.

Secretary M. Palluzzi read the Public Hearing notice into the record.

Chairperson Andres briefly reviewed the Beacon Communities Housing Application and asked the public to direct any comments they wish to make be directed to matters of public health and safety and noted there is no need to repeat previous comments made at prior meetings.

REGULAR MEETING 7:00 P.M.

PUBLIC HEARINGS:

1. Beacon Communities-Applicant
Branford Housing Authority-Owner
115 South Montowese Street (Parkside Village I)
Zoning Regulation Amendment under CGS Section 8-30g (Affordable Housing Land Use Appeals)
Application #17-9.4
A/R 10/5/17, PH opened 10/19/17 & PH continued from 11/16/17

Commissioner J. Chadwick recused himself from the application.

Attorney Tim Hollister (representing the applicant) spoke briefly and noted that Doug Dennes and Ms. Covell were also present as well as Dave Sacco and Dave Golebiewski from TPA Design Group. He said the 4th supplemental materials dated November 30 were submitted and the Commissioners should have received them.

He briefly addressed a few topics that were addressed in the latest materials. The first was an alternative emergency access if Melrose Emergency access is not approved or if approved an agreement with the town can't be reached. He stated the Housing Authority can use Sliney Road as an alternative emergency access and they can if necessary do the construction staging and phasing on Housing Authority property. This hasn't been designed or engineered yet, they have submitted a simple conceptual plan. This will be more difficult and have greater impacts on the neighborhood. It will cause more tree clearing and excavations and other negative impacts than using the Melrose access. It would be easier if they could work out temporary staging rights on town land. There are many possibilities but the bottom line is that there is an alternative, although not the preferred alternative. They are still asking that the Melrose Ave access be approved as a condition and then they would work with the Town to work out an agreement because the Melrose access is responsive to the Fire Marshals' concerns and has many benefits for the Town of Branford.

Another item he addressed was the Protest Petition. He explained what a protest petition is; saying that more than 20 percent of landowners within a 500 ft. perimeter of the land that is to be rezoned must sign the petition. In a normal circumstance the protest petition a super majority (2/3) vote. H. Smith has determined that the 20 percent acreage limit has been met and they aren't going to challenge that conclusion. But, it remains the Applicants position that as a matter of law, this is an 830G Application and a protest petition is inapplicable to an 830 G Application. He provided a state Supreme Court case (Quarry Knoll) that they think answers the question if it's applicable or not, indirectly but clearly. Attorney Hollister stated he would put a few additional remarks on the record in the event that the Town Counsel advises that the Protest petition does apply.

The first is to recognize that this is a four part application; a Regulation change, a Zoning Map change, a Coastal Site Plan and a Site Plan. The protest petition only applies to the zone change. If the Commission creates a super majority requirement just for the zone change only if will create an unusual situation, one which is without precedence in his experience. He then noted, technically speaking; the Applicant can within the 830G context proceed without a zone change by applying for a site plan and a coastal site plan only. He said he mentioned at the first public hearing they introduce a regulation because it spells out what the standards are and what the rules are for the benefit of both the Applicant and the town and the public.

Attorney Hollister then spoke of the voting. He informed the Commission that on the zone change vote; if there is a vote and if it's a majority but not a super majority and it comes to a court appeal, it will be the Applicants position that the majority vote was an approval. So, if the Commission is going to determine that a majority, not a super majority vote is a denial of the application then they will be well advised to list all the reasons (both pro & con) into the resolution explaining their action. He didn't want the Commission to assume if there was a majority but not a super majority vote, there will be a court process to resolve the legality or propriety of the voting and they will have to come back in the future and re apply. The applicant is going to resist that, they think that is unfair and not efficient or what's legally required. Attorney Hollister continued saying if there was a majority but not a super majority vote, they will ask the court to order that part of the application to be approved.

Attorney Hollister stated he wanted to reserve the right to close the hearing with a summary of remarks.

Chairperson Andres then talked about the timeframes the Commission has to make a decision and the applications have different timeframes. It was the Chairpersons opinion that this is one package and the timeframe for the Zoning Regulation Text change and the Zoning Map change will apply as the decision timeframe for all four applications. He then asked Attorney Hollister if that was his understanding as well. Attorney Hollister said yes that is certainly understood and agreed to on the record. He thought he had submitted an email regarding that point to Harry Smith but he affirmed it on the record.

Attorney Danielle Bercury then spoke of the Protest Petition stating it only applies to the Zone change application and that it will require a super majority vote in order to grant the zone change. She referred to the Quarry Knoll case that Attorney Hollister provided noting that it doesn't specifically talk of a protest petition. She noted she hasn't seen any case law that says that for an 830G Application that protest petitions do not apply and as far as the law stands now; without some type of authority from the court she can't say that the protest petition doesn't apply. A judge has the right to say the petition doesn't apply.

H. Smith then asked the Commissioners who have not attended every Public Hearing to state on the record if they have had the opportunity to listen to the audio recording of the meeting they missed. Commissioners J. Lust and J. Viauso each stated they were absent for one meeting and had listened to the audio recording of the meeting.

H. Smith read aloud the December 7, 2017 letter from the Fire Marshal into the record.

H. Smith then entered several exhibits into the record, briefly summarizing them.

PUBLIC INPUT:

1. **Damien Platosh**---133 South Montowese St. --He said he recently attended the Transit Orient District meeting and the first item mentioned was the need for senior housing. He referred to the zoning regulations and listed several negative factors of this project. He stated is the wrong location to build this project. He asked the Commission to do the right thing and deny this project.

2. **Dawn Jackson**- She read her email that she sent to H. Smith aloud. She said speeding is a major problem in the area and that several incidents have occurred. The road curves and people drive too fast. She also said traffic from Sliney field will be a problem as well. She gave statistics of accidents in the area. She asked the commission to think of that as a safety issue when considering this application.

3. **Josephine Golia**- 54 Indian Neck Ave.- She said she is a Registered Nurse and has cared for elderly, disabled and veterans for many years. She had an article from the Sound Newspaper which she read from. She also asked where are the current residents of Parkside going to go. No one is addressing the current residents. Some of the residents are afraid to come forward. She said some of the residents have been asked if they have family they can stay with while this project is being built? She said if the residents leave the state, they would not qualify to come back. She asked the Commission to consider this when they are making their decision.

4. **Caroline Sires**- She submitted many items into the record. She also thanked the commission for their time and all the work they put in for this application. She stressed that she cares about the seniors and the town. She received an email from Brian Jones (State Archeologist) and read from it. She spoke of the Indian artifacts on the site. She read from several documents regarding agreements with the Housing Authority and the fact that Parkside was intended for seniors. She has searched for a revision to the document but so far has found none. She will continue to look. She again thanked the Commission.

5. **Sandra Estereta**- She has lived in Branford for several years, previous to that she lived in New Haven. She said her mother lived in elderly housing and then the 40 year window to keep it elderly ended. Now it's unsafe. She mentioned the many problems that have occurred by mixing the age groups. This decision about Parkside Village will affect the future of Branford and it will affect the seniors. She noted that Parkside currently blends in the neighborhood just as the nearby condos do. She mentioned the loss of property value as well as the many safety issues involved by mixing the elderly with families with children. It's safer for seniors to be with seniors only. She asked to rebuild Parkside with local money. She said for the safety and the health of the seniors, she asked the Commission to deny this application.

The Commission had a discussion regarding some of the public comments made.

Attorney Hollister thanked the Town Staff as well as the Commission for their assistance. He reminded the Commission that the rules are different for 830G applications.

He noted the basic standard here is where the applicant has agreed to construct the units using government funding intended for low and moderate income households and it's called "assisted housing" then the rule is the Commission can only deny the application if the evidence in the record shows that there is a substantial threat to public health and safety, not from the residents, but from the construction and that there is identification of a specific harm and its probability, not just "oh, there could be a safety issue". There has to be a specific identification of what the issue is and what its probability is. The third issue is that the harm has to clearly outweigh the need for lower cost housing in the town and in the region and the fourth factor is that the health or safety concern cannot be addressed by a reasonable change to the development plan.

In closing, Attorney Hollister then gave the Commission three categories of remarks regarding the application in the 830G context and the zoning considerations.

First- There is no health or safety basis to deny the application. There is an Inland Wetlands permit, a traffic study, water and sewer exist at the site, and the applicants have worked with the Fire Marshal and Staff to identify the best emergency access which they believe is the Melrose access. They have a construction phasing plan, an environmental phase one study showing there are no environmental issues. He noted the Coastal site plan shows there is no impact on coastal resources. As a side note- Attorney Parisi talked about the Coastal Climate Change document. That document is not a zoning document but it doesn't say that people who live in an area that's potentially affected by coastal flooding should move. He noted it's important to remember it's a redevelopment of an existing site which is a better land use choice than to use a site that's never been developed before, and in doing so, they are going to elevate the first floor of one of the buildings so that it will not be below the flood elevation. That is a major safety improvement.

Finally, Branford does have some lower cost housing but by the states standard, Branford still has a way to go. The Applicant has submitted an affordability plan, a resident relocation plan, they explained why redevelopment after relocating the existing senior population should evolve eventually to a non-age restricted population, they accepted the request for a bike and pedestrian easement over Sliney Rd., and they provided adequate parking as well as a provision for a reserved parking area. The Applicant has given a draft regulation for the reasons he

just mentioned and it is styled to follow both the substance and style of the existing multi-family residential regulation. The adjustment they made was for the bulk and density to accommodate this particular building program and have blended the affordability rules so that the Commission and the town have a clear enforcement mechanism. They also offered maximum occupancy standards. He spoke of deliberate and thoughtful process of this application mentioning the numerous meetings and the redesign of the project in response to comments. He noted this application with the 67 units is far smaller than it could be and the lower density has many benefits. They have been responsive to the Fire Marshal's comments and had a cooperative process with the property line adjustment with the RTM. They have submitted approval conditions that will protect the town and if the conditions are not met, the project will have to go in a different direction. He then highlighted the benefits of this development; the demolition of units in disrepair with code violations, redevelopment instead of new construction, more parking, greater resident and building security, a substantial amount of the construction costs covered by government programs, and more appealing architecture. For all the reasons he mentioned, the Applicant believes they have given a legal basis and a legal obligation to approve the application. He said this project will provide benefits to the Town of Branford.

The Commission had a brief discussion.

Chairman Andres closed the Public Hearing. He then stated there will be no deliberations on this application at this meeting.

The Commission took a 10 minute break at 8:38 pm.

2. Beacon Communities-Applicant
Branford Housing Authority-Owner
115 South Montowese Street (Parkside Village I)
Zoning Map Amendment under CGS Section 8-30g (Affordable Housing Land Use Appeals)
Application #17-9.5
A/R 10/5/17, PH opened 10/19/17 & PH continued from 11/16/17
3. Tidal Basin LLC.-Attorney Gregg Burton, Agent-
Applicant & Owner
60 Maple St. & 2 & 5 Indian Neck Avenue &
4 & 6 Indian Neck Avenue
PDD Modification/Master Plan Amendment
Application #17-10.1
A/R 10/5/17, PH opened 11/16/17, PH continued from 11/16/17

Chairperson Andres asked the Commissioners if they were available for a Special Meeting to discuss this application on December 21. This is the only item on the agenda for that meeting.

It would be only item on agenda. The Commission then agreed to hold a Special Meeting on December 21 at 7pm at Fire Headquarters.

H. Smith noted the Applicant has offered a time extension thru 1/19/18 if needed. The Commission accepted the time extension.

4. William DaSilva- Applicant
DaSilva & Sons LLC-Owner
972 West Main Street
Special Exception- Automotive Service & Repair Facility
Application #17-11.2
A/R & PH set for 12/7/17

William Dasilva (Applicant) spoke and stated he wants to have Automotive Repair on this site and to do so require a Special Exception. It will be used by Town Fair Tire for a 3 bay garage used for automotive repairs. There will be no changes to the exterior of the site.

R. Stoecker reviewed the Staff Report.

PUBLIC INPUT:

No one spoke. Chairperson Andres closed the Public Hearing.

MINUTES: 11/16/2017

J. Viauso made a motion to approve the meeting minutes as written. J. Lust seconded the motion which passed unanimously.

CORRESPONDENCE:

No Correspondence was received.

RETURN TO TABLE:

1. William DaSilva- Applicant
DaSilva & Sons LLC-Owner
972 West Main Street
Special Exception- Automotive Service & Repair Facility
Application #17-11.2
A/R & PH set for 12/7/17

J. Chadwick made a motion to approve the application with the conditions listed and the amendment to condition 3. J. Lust seconded the motion which passed unanimously.

OLD BUSINESS:

1. 110 North Main LLC-Applicant
110 North Main LLC & Elm City Mfg. Jewelers, Inc.-Owners
110 & 112 North Main Street
Site Plan- Retail Store
Application #17-8.3
A/R 9/7/17, Tabled from 11/16/17, Time Extension through 1/18/18 offered and accepted.

This item is Tabled to the 1/4/18 Meeting.

2. Raffaele Aschettino-Applicant
Raffaele & Lucia Aschettino-Owners
101 Sunset Beach Road
Coastal Site Plan
Application #17-9.3
A/R 10/5/17, Tabled from 11/16/17, ZBA Approved related variance on 11/21/17

Jim Pretti – (Criscuolo Engineering) represented the Applicant and highlighted the application. This application is for the demolition of the current house and the reconstruction of a FEMA compliant house. The necessary variances were obtained at the prior Zoning Board of Appeals Meeting.

R. Stoecker reviewed the Staff Report.

J. Lust made a motion to approve the application with the finding and the condition listed in the Staff Report. J. Chadwick seconded the motion which passed unanimously.

3. Beacon Communities- Applicant
Branford Housing Authority-Owner
115 South Montowese Street (Parkside Village I)
Site Plan & Coastal Site Plan under CGS Section 8-30g (Affordable Housing Land Use Appeals)
Application #17-9.6
A/R 10/5/17, Tabled from 11/16/17

H. Smith noted the Commission received and granted a time extension if needed.

4. Tidal Basin LLC.-Attorney Gregg Burton, Agent-
Applicant & Owner

60 Maple St. & 2 & 5 Indian Neck Avenue &
4 & 6 Indian Neck Avenue
Site Plan /Coastal Site Plan
Application #17-10.2
A/R 10/5/17, Tabled from 11/16/17

This will be discussed at the 12/21/17 meeting.

5. 755 East Main Street LLC, c/o
Victor Cassella (member)-Applicant & Owner
755 East Main Street
Site Plan-Industrial Building
Application #17-11.1
A/R 11/16/17, Tabled from 11/16/17

Jim Pretti (Criscuolo Engineering) represented the applicant. Also present was Victor Cassella (American Polyfil).J. Pretti explained that Mr. Cassella has leased the space for his business for several years and has recently purchased the property. He will continue operations and clean up and improve the site. He noted some of the improvements will be to the landscaping, parking area, drainage and improvements to the entrance.

R. Stoecker reviewed the Staff Report. The Commission had a brief discussion and asked questions. H. Smith noted that Condition 5 from the Staff Report should be removed.

M. Palluzzi made a motion to approve the application with the conditions listed in the Staff Report but omit Condition 5. J. Viaso seconded the motion which was unanimously approved.

6. Diane W. Whitney(Pullman & Comley)-
Agent for Owner
595 Corporate Circle- Owner
Zoning Regulation Amendment
Application #17-11.3
A/R 11/16/17& PH set for 01/04/18

NEW BUSINESS:

1. James Blackstone Memorial Library Association
c/o Karen Jensen (Library Director)-Applicant & Owner
Special Exception –Addition to existing Library
Application #17-12.1

H. Smith noted this item was received in the Planning & Zoning Dept. shortly after the Agenda was posted, so this item needs to be added to the agenda. He briefly reviewed it.

M. Palluzzi made a motion to add Application #17-12.1 to the agenda and set the PH for 1/4/18. J. Lust seconded the motion which passed unanimously.

OTHER BUSINESS:

1. Discussion-Possible amendments to Planned Development District requirements

H. Smith noted this item was briefly discussed at the last Planning & Zoning Meeting. The Amendment to the Regulation is basically the same language, just modified slightly. The current language that currently exists is difficult for a multi-phase,multi-year project. He then reviewed the current regulation. He said he would meet with Chairperson Andres to work on the wording modification and then forward it to the Commission for their review. If acceptable, the Application process can begin with the Commission sponsoring it. The Commission agreed to that.

2. Election of Planning & Zoning Officers

The Commission voted and elected Commissioner Andres as the Chairperson and Commissioner Palluzzi as the Secretary.

3. Planner's Report

1. H. Smith said he received a letter from the Stony Creek Association and would work with Chairperson Andres regarding it. The issue is the threshold for square footage of a project which would determine if the project should be heard by the Stony Creek Association Board.
2. He also said the Plan of Conservation and Development Meeting that was held recently at Walsh Intermediate School was well attended. He can provide the Commission with further information at a future meeting.

The Meeting adjourned at 9:36 pm