



PLANNING AND ZONING COMMISSION

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MINUTES PLANNING & ZONING COMMISSION THURSDAY OCT. 3, 2019 REGULAR MEETING 7:00 P.M. BRANFORD FIRE HEADQUARTERS 45 NORTH MAIN STREET

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

Commissioners Absent: M. Palluzzi, D. Dyer

Staff Present: H. Smith-Town Planner, R. Stoecker- Asst. Town Planner, Atty.
Danielle Bercury, M. Martin- Clerk

Chairperson Andres introduced the Commission and the Staff present.
P. Higgins read the Public Hearing notice into the record.

Chairperson Andres said the applicant for the second Public Hearing on the agenda has requested that they be heard first because they may not need a lot of time.

Attorney Hollister agreed that they would wait and allow the applicant for the second Public Hearing to be heard first and the Commission agreed.

PUBLIC HEARINGS:

1. Beacon Communities Development LLC,
c/o Attorney Timothy Hollister-Applicant
Town of Branford Housing Authority- Owner
Application for a Site Plan Modification under CGS Section 8-30g Affordable
Housing Land Use for property located at 115 South Montowese Street
(Parkside Village I).
Application #19-8.11
A/R 9/5/19, PH continued from 9/19/19

This was the second item heard.

Chairperson Andres reminded everyone that this was a continuation of the Public Hearing begun on 9/19/19 and that this application was filed under the Affordable Housing Appeals Statute (C.G.S. Section 8-30g) which makes it different than a normal application. Under this statute, if the Commission were to deny it or approve it with conditions and the applicant thought the denial or conditions were unreasonable and submitted a court appeal it would be up to the Commission to demonstrate the reasons for denial are based on substantial public interest, public health, safety or other matters and that those interests clearly outweigh the need for affordable housing and that those public interests cannot be addressed by reasonable changes in the plan or conditions on an approval. He also noted that this proposal has been before

the commission previously for a number of years, it's had a history including court appeals but this issue concerns conditions of a prior approval regarding the emergency access. He said this hearing was continued to allow the Fire Marshal to attend.

Attorney Hollister distributed copies of a letter dated September 30, 2019 letter that he had emailed H.Smith (Town Planner); as well as a diagram that he referred to in his remarks. He said also present was Attorney Jay Pottenger and Joe Versteeg (Fire Safety Consultant) as well as David Golebiewski (TPA Design Group).

Attorney Hollister then reviewed the September 30th letter. He noted the application presents three options:

1. Leave the emergency pullover where it was shown on the 5-20-19 version of the plans and revise conditions 5c and 5d to accept it as a Site Plan condition and they have provided the specific proposed revised language and combining that in the 8-26 cover letter.
2. Make the pullover onto the Parkside property entirely and that's shown on the plan that was submitted on 9-19-19. It was the original 8-26 plan and the Fire Marshal said he didn't like the dimensions of the reconfigured plan so Mr. Sacco completed further revisions that did comply with the Fire Marshals requests. He reviewed option 2 with the wording above and said they are also asking for the revision of 5c and 5d.
3. Eliminate the pullover entirely. This is possible because the pullover is not required by the applicable Fire Code as Mr. Versteeg will explain. And they also recognize it is contrary to the recommendations of the Fire Marshal dating back to the end of 2017. It's on the plan because they were attempting to accommodate the Fire Marshal's request.

He stated he thinks option one is sufficient but they have been discussing whether an easement or deed restriction is necessary from the town. Option 2 has the advantage of limiting that issue by moving the pullover entirely onto the Parkside property. Adopting the revised site plan and the revisions to 5c and 5d will guarantee that then pullover will be maintained permanently he maintained. As he noted in his letter the Applicant will stripe and install signage within the pullover.

He said the one remaining question from Sept. 19 was: what if someone tried to build a fence or a wall on the small sliver of land between the pullover and where Sliney Road ends and would cross over into the Parkside property? Is an easement necessary to ensure that a fire truck can drive over the hill? The answer is no, and the reasons are: 1. Fire trucks or emergency vehicles can drive wherever they need to; they are not limited or directed by easements. 2. It is complete speculation that someone would propose to block off that area, it is a decade's long access to a public park. A fence or wall there would disrupt the current use of the park. 3. A fence or wall would interfere with the public access easement over Sliney Road that the Commission has requested and the Applicant has agreed to grant under condition 2e of the June 2019 action. 4. A fence or wall would violate Section 6.2.A of the Zoning Regulations, although he understood that H. Smith disagreed with that position. He

said any fence, wall, or obstruction would require the Fire Marshall approval but that would contradict the reason they are here before the Commission, that the Fire Marshall dating back to 2017, said he wanted a pullover on the northwest side of the redevelopment. In terms of C.G.S. Section 8-30g, he said there is no legal or factual basis to deny option 2. He then said he received a memo from H. Smith dated today (10-3-19) in which he believes H. Smith is saying the applicant is proposing to use someone else's property in support of their own redevelopment. Attorney Hollister stated they are not proposing to use town land as part of the redevelopment. They are recognizing that Parkside abuts a town park which is an area in which an emergency vehicle might drive to get to a fire on the Parkside property; that is not a use of town land, it's just a recognition that the fire trucks can drive wherever they want. Attorney Hollister then said that H. Smith made the assertion that the Town of Branford has not consented to the application. He noted the Town of Branford has been on notice of what the applicant has been doing since 2016 and has never raised an issue. He said the only input from the town other than accepting the property line adjustment has been the Fire Marshall's demand that there be a pullover on the northwest side. The final answer is if the town objects to the use of that land then the answer is to eliminate the pullover entirely. He said they don't support that, and neither does the Fire Marshal but if needed, that would be the disagreeable way they would deal with it.

Joe Versteeg (Fire Safety Consultant) spoke next. He noted a few points:

1. The emergency pullover was not required by code or statute. It was provided per the request of the Fire Marshall.
2. The emergency vehicle turn around area allows the fire truck to turn around or even back out onto Sliney Road.
3. He said the most important thing to note is there are a number of state statutes stating the emergency vehicles don't need any consent or easement. Emergency vehicles are allowed to go wherever they want, whenever they want.

Attorney Hollister then spoke and said the applicant is asking the Commission to act tonight and he requested 3 things:

1. To approve the relocation of the pullover onto the Parkside property as shown on the 9-19-19 plan.
2. Modify conditions 5c and 5d as requested in the 8-26 letter.
3. Add to the 6-13-19 approval the clarification letter from Attorney Bercury dated 8-14-19.

H. Smith then spoke and formally entered into the record of this application all the materials of the previous applications filed under the CGS Section 8-30g (Affordable Housing Appeal Statute). He then referred the Commission to his memorandum dated 10/3/19 and reviewed a few key issues; the first being whether the town has consented to the application. He stated it is his understanding that there is no documentation that the town is a co-applicant or has consented to this application or has agreed to be bound by it or any decisions made regarding it. Consequently, it is his understanding that an application for a site plan or site plan modification cannot create an obligation for any abutting property not subject to any such application to accommodate or continue to accommodate the needs of the property subject to the application. In other words, the development proposed on the Branford Housing

Authority property, in his opinion as staff, is proposing access across town owned property to an emergency vehicle pullover. Because the town has not consented to the application and not a co applicant, this proposed use of the Town's property was previously addressed by the Commission, as required by C.G.S. Section 8-30g, through conditions (5.c and 5.d of the 6-13-19 Site Plan approval). He also said that as has been stated previously at the Public Hearing (Sept. 19TH portion) that since there is no agreement on the town's part to provide or continue to provide such access, even if the condition of the driveway is open now, there would be no obligation to continue to leave it open. He then stated it is also his understanding that even though there was a statement by Attorney Hollister that there is presumptive, or informal right-of-way, the fact is there is no right-of-way for the driveway, the so-called Sliney Field access road and it is actually a driveway on private property. It is not a street, there is no right-of-way associated with it. In fact, H. Smith said previous applications of this proposed development included provisions to discontinue the use of Sliney Field Road, so-called, to motorized vehicles. It was to be converted and limited to pedestrian and bike access when there was going to be a vehicular connection from Melrose Avenue to the emergency pullover.

He then provided another example to the Commission of a circumstance in which an adjoining property owner was required to participate in an application. That was the Thimble Islands Brewery in which there was a proposal to use parking on an abutting property and the applicant was told that the property owner needed to be a co applicant in the application or they needed to provide an easement to allow the use of their property for circulation and parking. That application was withdrawn. He then distributed a copy of a 2018 staff memo to the Commission documenting the above.

He then commented on the few items that were mentioned in the 9-30-19 letter including referring to the wording of Section 6.2.E (8) referred to in Atty. Hollister's 9/30/19 letter and how in his opinion, since there is no right-of-way for any street, the restriction against the location of a fence or wall. He said that the remainder of this section documents that setback requirements do not apply to fences or free-standing walls less than six (6') feet in height so that such a wall of fence could be constructed along the property line by the Town or a future property owner.

The Commission then asked a few questions.

Assistant Fire Chief/Fire Marshal Shaun Heffernan spoke next. He said he had reviewed the application materials including the revised plans. He commented on Attorney Hollister's letter dated 9-30-19 (Item5) stating he does not have the legal authority to stop someone from doing something on their property as a result of a development on their neighbor's property. So, when the letter states that it would require his approval to build something on the town property adjacent to Parkside and that he would have to deny that as a result of the approval for Parkside that is wrong. He said he does not have the legal authority to do that. There is no provision in the Fire Code to allow him to do that. He would have to refer to the town attorney. He said he had received the revised plan showing the enlarged pullover that brings the vehicle completely onto the Parkside property and it works in the ideal world on paper. But he wanted to share the reality that he deals with in situations like this. He then

distributed materials to the Commission. He explained that the material showed a complex, very similar to the proposed Parkside village. The materials showed a three story 54-unit building, fully sprinklered, with sixty-six thousand square feet of floor area. Parkside is 4 stories and has 13 more units and 8,000 more square feet. The building shown in the materials was in Detroit and it burnt last week, resulting in injuries. He talked about the aerial photo of the building and how much access there was for the fire fighters to be able to fight the fire. He spoke of the need to get an aerial truck in the spaces around the building. In his last letter, he spoke of the need to have room for mutual aid assignments and mutual aid fire engines and aerial trucks. He noted the materials showed an area in Detroit and they have a larger Fire Dept. and much more staff than the Town of Branford. He spoke of a photo showing the units that responded to the fire. There were 8 fire engines, 4 ladder trucks and 3 squads, which took up a substantial amount of space. He noted there was a photo showing the burning building and a photo taken from a drone and you could see, to fight the fire and to evacuate the residents of the apartments, it took 4 aerial ladders. He said one could see the vast amount of area that's needed to operate in this type of situation. He pointed out the fire hose lines in the photos, noting he needs space to hook up the fire hoses. He noted that even a block away, areas were used for the additional apparatus needed to provide water needed to fight the fire. He stated that was a catastrophic fire in a building that's not much different to the building that is proposed. To create a small niche on this property to fit one fire truck, may work for minor fires. But to say that he doesn't need to access the surrounding property in the event of a significant or catastrophic fire is not realistic.

Fire Marshal Heffernan said he doesn't dispute Mr. Versteeg and Mr. Hollister's comments that they can drive a fire truck anywhere. But that's why they want this project to receive an easement; to guarantee that he can drive a fire truck anywhere we need to. But a future development in these spaces (Town property) could prevent that by building stationary objects that he can't drive over. He could push a passenger car out of the way or push a chain link fence but he can't move a building or a 6 ft. stone wall. He needs some type of assurance that he will be able to place the fire apparatus in a very similar position to that of the apparatus in the picture he just showed them (page5).

Chairperson Andres asked Chief Heffernan how much area he would need of the town property to have access to. H. Smith provided Fire Marshal Heffernan with a copy of the diagram that was distributed by Atty. Hollister. He said that the highlighted area shown on that document was insufficient. Fire Marshal Hollister then referred to revised Sheet C1.07A which showed a maneuvering route for a fire vehicle to enter and leave the proposed emergency vehicle turn around area extending from the Sliney road at the proposed property line with the BHA property to the location of the concession stand near the playing fields in the Town property.

He noted that the current site plan there is not enough space to fit 8 fire engines and 4 aerial ladders. He said when the Castilon Bakery building burned they had 5 ladder trucks and about 10 fire engines. Much more area (on Town property) than the designated emergency vehicle pullover would be need for the number of vehicles and equipment to respond to a significant fire in the proposed building.

Attorney Hollister asked Fire Marshal Heffernan about South Montowese Street and the parking lot. The Fire Marshal talked of the 4 inch fire hoses saying once they are on the ground, you can't drive over them. He explained the procedure they follow for set up at a fire.

Attorney Hollister noted that the Chief approved the plan in 2017 and 2018.

Chairperson Andres referred to Fire Marshal Heffernan's letter of 3-29-19 and read from it. It is his understanding that the Commission referred to that letter when crafting the condition of the 6-13-19 approval.

Chief noted there are changes in the grade on this property and areas that were easily traversed by foot are now proposed to be at a much steeper grade. He now sees a version proposing retaining walls as well. He said that access to the back side of the building is now solely thru that one set of stairs on the outside. He said access to this property for personal carrying ladders is limited.

Chief Heffernan said the intent has always been that the current parking lot needs to remain accessible as a whole.

Chairperson Andres then discussed the land swap proposed. This issue hasn't really come to light till this application regarding how much space the fire dept. actually needs.

PUBLIC INPUT:

1. Caroline Sires- (Linden Shores) she said after the last meeting she called the Police Dept. for the number of Parkside calls for service. She was concerned about the number of vehicles that were dispatched from 911 calls from Jan 1, 2018 to Sept 19, 2019. She then gave the numbers- 73 calls since 2018. Which warranted the following response of emergency vehicles :52 % were handled by the Branford Fire Dept. which includes EMS. She stated, on average of 3 emergency vehicles are dispatched for Fire Dept. calls. Also, 48% of calls are handled by the Branford Police Dept. and on that average, 2 vehicles are dispatched. She said these are not catastrophic calls. She spoke of the number of vehicles that would need to access the property from a call.
2. Clarice -(41 Highland Ave) Said it seems that this has been a moving target for Beacon. She has attended the last two hearing regarding the way they have tried to make this work with what the Commission has given them. There is a property that's owned by the Housing Authority and there is property owned by the Town of Branford. If they wanted to work together and get the project approved, it's doable. It's disheartening to see a process like this. She supports the development, there are people who need this housing. She wishes there were a solution.

Attorney Hollister then responded to H. Smith additional comments saying that H. Smith said the applicant should get consent from the town and Attorney Hollister

asked; consent to what? You don't need to ask for consent for an emergency vehicle to drive over private or public property - that doesn't make sense. Attorney Hollister said H. Smith stated there is no right-of-way in the existing driveway, and Attorney Hollister noted, there is a right-of-way, because people use it to get to the park but even if there isn't one there now, there will be because the applicant has agreed to condition 2e, (which is a public access easement). Attorney Hollister stated that H. Smith said there is no vehicle access. Attorney Hollister replied that it's a fire lane and fire trucks are specifically going to be designated to use that Parkside portion of Sliney Road for access to the park or wherever they need to go. So, there will be a right of way there. He asked why would anyone build a fence or wall in that location. He noted no one has come up with a realistic reason why anyone would completely disrupt the park and build a fence or wall in that location.

Attorney Hollister then spoke of the Fire Marshal's comments; if someone proposed to build a wall or fence or obstruction anywhere in the town of Branford that would obstruct fire access, that's his responsibility to object to that and make sure it doesn't happen. He said he was disappointed because this plan has been reviewed for 2 years now we are discussing fire access and things that they never heard before that are not on the table. The purpose of this application is not to revise the fire safety routes and accesses, it is to amend or clarify the conditions.

Joe Versteeg (Fire Safety Consultant) made a final comment saying the fire safety code only requires that a fire truck be able to drive within 50 feet of an exterior door that provides access inside the building. The other requirement is that from that point or from other multiple points, that firefighters on foot have access around the building and travel not more than 450 feet. That has been achieved and the fire safety code is satisfied. He also noted that in the packet of materials that the Fire Marshal mentioned you will notice that none of the fire trucks are effecting rescue, that they are all back at a great distance squirting water on this building. He said he will research thru the Detroit Fire Dept. whether this was a sprinklered building. Also, the reports from CNN and the internet (which was probably where the photos came) state that the fire started outside and then chairs were thrown at the front lobby. He said no one was killed, 6 people were injured as well as one fire fighter and 2 police officers. He then noted that no one required rescue and there were no indication that the egress was impeded. J. Versteeg said he suspected the building burned to the ground and it was not a sprinklered building.

Fire Marshal responded to J. Versteeg's comments by stating he had multiple conversations with the Fire Chief from the Detroit Fire Dept. and he was the person who provided the photos that he distributed. He then said the building was sprinklered and there were rescues made from the building. The apparatus was holding the fire at bay while they evacuated the unburned part of the building.

Attorney Hollister's final comments stated that whatever happens, this application is not dead and gone away. He repeated that the specific request is that the Commission approve the relocation of the pullover onto Parkside property, he requested that the deed restriction issue is eliminated for that pullover. Second; modify condition 5c and

5d as requested in their 8-26 letter and third; make Attorney Bercury's 8-14 clarification letter part of the approval.

Chairperson Andres closed the public hearing. The Commission will deliberate at the next meeting.

The Commission took recessed the meeting at 803 p.m., reconvening at 8:11 p.m.

Commissioner Russo left at 8:04 p.m.

2. 1064 Main Street LLC, c/o Alex Vigliotti –Applicant & Owner
1032-1064 Main Street.
Special Exception – Convert 2nd floor Office Space to Residential Apartments
Application #19-8.12
A/R 9/5/19, PH set for 10/3/19

Jim Pretti (Criscuolo Engineering) and Joe Sepot (Joe Sepot Architects) represented the applicant. Jim reviewed the application explaining the proposal is to convert the office space on the second floor to residential apartments. The first floor is currently retail space with a restaurant .The only change to the exterior of the building is the addition of a secondary stair access in the back of the building.

Joe Sepot- (Joe Sepot Architects) reviewed the plans for the apartments which will consist of 5 one bedroom units and 3 studio apartments.

R.Stoecker reviewed the staff report. The Town Engineer noted this requires WPCA approval.

PUBLIC INPUT:

No one spoke.

Chairperson Andres closed the Public Hearing.

RETURN TO TABLE:

1. 1064 Main Street LLC, c/o Alex Vigliotti –Applicant & Owner
1032-1064 Main Street.
Special Exception – Convert 2nd floor Office Space to Residential Apartments
Application #19-8.12
A/R 9/5/19, PH set for 10/3/19

J. Vaiuso made a motion to approve the application with the conditions below:

- 1) Prior to the issuance of a Certificate of Zoning Compliance for the issuance of a Certificate of Occupancy the following shall be addressed to the satisfaction of the Zoning Enforcement Officer or other indicated staff:

- a) Applicant shall provide the cut sheets or other information documenting that any existing outdoor lighting complies with Sect. 6.7 Outdoor Lighting and Lighting Appendix or replace outdoor lighting with compliant fixtures approved by the Town Planner.
 - b) All proposed new or replacement lighting must be compliant with requirements for full cut off fixtures which would require either International Dark-Sky Association (IDA) Dark Sky Approved certification, IES full-cut-off designation, or "BUG" ratings that demonstrate an equivalent performance for the fixtures provided. Cut sheets for the fixtures shall be submitted for approval by Town Planner or designee. If an LED light source is proposed it shall have a correlated color temperature CCT of no more than 3,000 degrees. Adjustable mounting brackets on all lighting fixtures are prohibited.
 - c) A Landscape Plan shall be submitted and reviewed and approved by the Town Planner for landscape planting areas in front of the two story house fronting on Hillside detailing type of species, spacing, and size.
 - d) Documentation that the new use has been reviewed and approved by the WPCA with respect to any increased flow into the sanitary storm it may generate.
 - e) Specification for the dumpster enclosure in the rear parking area for review and approval.
- 2) To ensure continued compliance with the Zoning Regulations, landscaping must be maintained as an on-going requirement of this approval to ensure survival of all required landscaping shown. If the landscaping element does not survive or is irreparably damaged, it must be replaced in kind.
 - 3) No additional signage or new or replacement lighting shall be installed without Planning or Zoning Commission approval, or that of its staff whichever may be appropriate, for compliance of the proposed signage or lighting with the Zoning Regulations.
 - 4) All conditions of previous approvals regarding this property shall remain in full force and effect as they may still apply.
 - 5) On street parking on Main Street and Hillside Avenue is limited to two hour durations. The owner shall inform the residential tenants that on-street parking may not exceed two (2) hour intervals. Off street parking is available on site (18 parking spaces) along with nearby public parking opportunities.

J. Chadwick seconded the motion which passed unanimously.

MINUTES: 9/19/2019 meeting

H. Smith noted the minutes sent in the packet was a draft version and the final version will be sent to the Commission shortly for their review.

CORRESPONDENCE:

1. Correspondence regarding an antenna swap at 10 Sylvia Street.

OLD BUSINESS:

1. The Peter Hentschel Revocable Trust, c/o
Peter Hentschel (Trustee)-Applicant & Owner
30 School Street
Special Exception-Excavation/grading within 100 feet of a wetland
(accessory structure)
Application #19-8.4
A/R 9/5/19,PH set for 10/17/19
2. Kris Shapiro- Applicant
49 Commercial Pkwy, LLC, Hamilton Branford LLC, Branford Property Development,
Rita Ann Sachs – Owners
49,81-111,131 Commercial Pkwy & 102 North Main Street
Zoning Map Amendment- BL to BL-HR
Application #19-9.1
A/R 9/5/19 & PH set for 10/17/19
3. Kris Shapiro- Applicant
49 Commercial Pkwy, LLC, Hamilton Branford LLC, Branford Property Development,
Rita Ann Sachs – Owners
49,81-111,131 Commercial Pkwy & 102 North Main Street
Zoning Regulation Amendment- BL to BL-HR
Application #19-9.2
A/R 9/5/19 & PH set for 10/17/19
4. Peter S. Kusterer-Applicant & Owner
3 Three Elms Road
Special Exception- Accessory Structure
Application #19-9.3
A/R 9/19/19 and PH set for 10/17/19
5. 339 West Main St. LLC, c/o Jeffrey Brandfon-Applicant & Owner
339 West Main Street
Special Exception-Installation of a parking lot
Application #19-9.4
A/R 9/19/19 and PH set for 10/17/19

NEW BUSINESS:

1. 65-99 Burban Associates LLC-Applicant & Owner
65-99 Burban Drive
Zoning Map Amendment- R-4 to R-1
Application #19-10.1
To be A/R and PH to be set

The Commission A/R and set the PH for 11/21/19

2. SP Development LLC-Applicant & Owner
21 Summit Place
Special Exception- Incentive Housing Overlay District Apartments
Application # 19-10.2
To be A/R and PH to be set

The Commission A/R and set the PH for 11/21/19

3. SP Development LLC- Applicant & Owner
21 Summit Place
Zoning Map Amendment –CP to IHOD
Application # 19-10.3
To be A/R and PH to be set

The Commission A/R and set the PH for 11/21/19

OTHER BUSINESS:

1. Planner's Report

H. Smith noted the Main Street Overlay District became effective on 10/1/19. He also noted that the new Zoning Regulation books as well as copies of the POCD and revised zoning map will be arriving shortly.

Meeting adjourned at 8:20 p.m.