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Office of the Town Clerk

Special Planning & Zoning Commission Meeting
7:00 p.m., Wednesday, March 16, 2016
Meeting Room, Durham Fire House

Minutes – Revised #2

1. Call to order

Frank DeFelice called the meeting to order at 7:00 p.m.

2. Roll call

In attendance: Alana Adams (7:20), Campbell Barrett, Lisa Davenport, Frank DeFelice, Richard Eriksen, Chris Flanagan, Dave Foley, Daniel Melnik, Jan Melnik, Joseph Pasquale

Absent: Ed Fronc, Will Spooner

Others in attendance: Geoff Colegrove, Attorney John Corona, Richard Gurczynski, Nurul Alam, and about 100 members of the public

3. Seating of alternates

Campbell Barrett was seated for Alana Adams until 7:30 p.m.

4. Approval of the agenda

MOTION BY DAVE FOLEY, SECONDED BY LISA DAVENPORT, TO APPROVE THE AGENDA AS PRESENTED. ALL AYE

5. Dick's Citgo, Informal Discussion, Change of Use, 22 New Haven Road

Joe Pasquale recused himself; abutting property owner.

Attorney John Corona representing Richard Gurczynski of Rick's Enterprise, LLC and Nurul Alam of Samantha's Petroleum addressed the commission. He stated that Mr. Alam is planning to purchase the building and has proposed the following; a) blocking the doors and windows of the current vehicle repairs bays to convert into a convenience store, b) will leave the pump island as is, c) leave the lighting the same, d) parking the same; with the addition of spaces due to the available space where doors will be blocked, e) curb cuts will remain the same, and f) the garbage dumpster would be to the right on the building. He also noted that they may have an outside vending machine for ice or wood and there was no intention of alcohol sales. The hours of operation will be 7 days a week, 6:00 a.m. to 11:00 p.m. Attorney Corona stated that he did not feel this would be a change in use and no need for a special permit.

F. DeFelice asked if there was intent to abandon the repair aspect of the business. Attorney Corona replied yes; the predominant use will be put into retailing of packaged goods, no prepared foods.

L. Davenport asked if the entire area of bays would become retail. J. Corona responded yes, and will also include some office space. L. Davenport questioned the anticipated amount of patrons. Attorney Corona stated that they would expect patrons to visit the site as they travel through town at peak rush hours.

Dan Melnik asked how many employees were anticipated. Attorney Corona responded that there would be less employees than there are on site now; one to two.

Campbell Barrett asked if the current signage would change. Attorney Corona stated that it would remain the same besides new text.

Dick Eriksen asked if they would be putting up additional outside lighting. Attorney Corona responded no, not at this time, but may convert to LED in the future.

Jan Melnik noted that square footage of the building was a little over 1700 square feet and town regulations currently allow (1) space for each 200 square feet of gross floor area, noting there will be plenty of space for parking.

Geoff Colegrove stated that they were expanding retail, not changing the physical building. There is no increase in septic or expansion for parking and felt the use was the same. Dave Foley took issue with the determination of nothing changing. He spoke about traffic going by the site now that doesn't stop; traffic from a convenience store will be much more and does feel that this will create more in/outlets at the intersection that could cause backups on Route 79 and 77. *Response from John Corona that there will be more ins and outs associated with a convenience store as opposed with a gas station.

J. Melnik stated she felt the site was currently being underutilized, but it was not being abandon.

D. Eriksen stated that he personally did not think that the proposed use was much different than what is currently in use.

MOTION BY DICK ERIKSEN, SECONDED BY JAN MELNIK THAT A PERMIT IS NOT NEEDED FOR PROPOSED ACTIVITY AT 22 NEW HAVEN ROAD. DAVENPORT, DEFELICE, ERIKSEN, DAN MELNIK, JAN MELNIK; AYE. BARRETT, FLANAGAN, FOLEY; OPPOSED. MOTION CARRIED.

MOTION BY JAN MELNIK, SECONED BY DAVE FOLEY, TO RECESS SPECIAL MEETING AT 7:40 P.M. AND ENTER INTO PUBLIC HEARING. ALL AYE

PUBLIC HEARING

Proposed Activity: Inclusion of language into section 04. General Requirements, of the Durham Zoning Regulations. 04.08: All applications submitted to the commission shall include a certification that all the information provided is accurate and complete to the best of the applicant's and the owner's knowledge. The submission

of false information or misleading information to the commission in either the applications or any presentation before the commission regarding the application may result in a reversal of the approval. By signing the application, the applicant and the owner grant the commission and/or its agent's permission to enter the property for purposes relevant to the application, for which an application has been made, provided the commission gives 72 hours advance notice to the applicant and owner. This permission shall be valid for a period of 180 days following the statutory date of receipt by the commission.

In attendance: Alana Adams, Campbell Barrett, Lisa Davenport, Frank DeFelice, Richard Eriksen, Chris Flanagan, Dave Foley, Daniel Melnik, Jan Melnik, Joseph Pasquale

Absent: Ed Fronc, Will Spooner

Others in attendance: Geoff Colegrove, Attorney John Corona, Richard Gurczynski, Nurul Alam, and about 100 members of the public

Seating of Alternates: None

Jan Melnik read the public notice into the record.

Jan Melnik read a letter addressed to the Planning & Zoning Commission from David Goduti, Goduti Waste & Recycling. Copy of letter following minutes.

James McLaughlin stated he felt the remedy to this would be to take the person who misrepresented themselves should be taken to court.

Kati Forlini asked for clarification as to what was actually being done at the meeting. G. Colegrove responded that the commission, with town counsel advice, developed new language into Section 04, regarding the submission of false or misleading information on all applications.

Attorney Corona stated he was opposed to the inclusion of the language. He noted that pieces of information such as calculations or numbers could result in unintentional misinformation. To say that any element is inaccurate is a dangerous situation.

L. Davenport suggested the commission consult with town counsel on Attorney Corona's comments. J. Pasquale stated that he was not opposed to running comments through Attorney Byrne and make reference to the proposed language that states "to the best of applicants and owners knowledge" noting he felt this would allow for the commission to interpret.

C. Barrett stated he felt Attorney Corona had made some good points. He referenced proposed language "may result" noting this would be within the discretion of the commission.

MOTION BY DICK ERIKSEN, SECONDED BY DAVE FOLEY, TO ADJOURN PUBLIC HEARING AT 7:57 P.M. ALL AYE

MOTION BY JAN MELNIK, SECONDED BY DAVE FOLEY, TO RETURN TO SPECIAL MEETING AT 7:57 P.M. ALL AYE

In attendance: Alana Adams, Campbell Barrett, Lisa Davenport, Frank DeFelice, Richard Eriksen, Chris Flanagan, Dave Foley, Daniel Melnik, Jan Melnik, Joseph Pasquale

Absent: Ed Fronc, Will Spooner

Others in attendance: Geoff Colegrove, Attorney John Corona, Richard Gurczynski, Nurul Alam, and about 100 members of the public

Seating of Alternates: None

6. Inclusion of Language into Section 04. General Requirements, of the Durham Zoning Regulation

MOTION BY DAVE FOLEY, SECONDED BY DICK ERIKSEN, TO APPROVE THE INCLUSION OF LANGUAGE INTO SECTION 04, GENERAL REQUIREMENTS, OF THE DURHAM ZONING REGULATIONS 04.08 : ALL APPLICATIONS SUBMITTED TO THE COMMISSION SHALL INCLUDE A CERTIFICATION THAT ALL THE INFORMATION PROVIDED IS ACCURATE AND COMPLETE TO THE BEST OF THE APPLICANT'S AND THE OWNER'S KNOWLEDGE. THE SUBMISSION OF FALSE INFORMATION OR MISLEADING INFORMATION TO THE COMMISSION IN EITHER THE APPLICATIONS OR ANY PRESENTATION BEFORE THE COMMISSION REGARDING THE APPLICATION MAY RESULT IN A REVERSAL OF THE APPROVAL. BY SIGNING THE APPLICATION, THE APPLICANT AND THE OWNER GRANT THE COMMISSION AND/OR ITS AGENT'S PERMISSION TO ENTER THE PROPERTY FOR PURPOSES RELEVANT TO THE APPLICATION, FOR WHICH AN APPLICATION HAS BEEN MADE, PROVIDED THE COMMISSION GIVES 72 HOURS ADVANCE NOTICE TO THE APPLICANT AND OWNER. THIS PERMISSION SHALL BE VALID FOR A PERIOD OF 180 DAYS FOLLOWING THE STATUTORY DATE OF RECEIPT BY THE COMMISSION.

ERIKSEN, FLANAGAN, JAN MELNIK, PASQAULE; AYE. ADAMS, DAVENPORT, DAN MELNIK; OPPOSED. MOTION CARRIED.

7. Presentation and informational workshop on mixed-use

Campbell Barrett recused himself and was seated in the audience.

Frank DeFelice presented a Powerpoint Presentation entitled Consideration of Mixed Uses in the Main Street Residential (MR) Zone. Copy of presentation following minutes. Below are some highlights of the presentation:

- Map that showed current zoning and inventory of properties on Main Street.
- What a mixed-use zone; concept, characteristics, vision, and purpose could look like.
- Other benefits; Livable Communities and Complete Streets Initiatives.
- Options for a mixed-use zone; occupancy requirements, what type of structures could be permitted, types of uses, and percentage of total living area.

George Eames III presented a presentation he prepared entitled Consideration of Mixed Uses in the Main Street Residential (MR) Zone. Copy of presentation following minutes. Below are some highlights of the presentation:

- Disclosure and disqualification; Conflict of Interest
 - Town of Durham, Code of Ethics
 - C.G.S. §70148t, Conflict of Interest members of land use, purchasing commissions and boards
- C.G.S. §8-23(e) (1) such plan of conservation and development shall; sections (c) identify areas where it is feasible and prudent and (i) to have compact, transit accessible, pedestrian-oriented mixed use development patterns.
- General welfare and prosperity of its people; John William Matthews study of the effect of mixed use zoning on residential property values.
- Conservation and restoration of the natural environment, cultural and historical resources and existing farmlands.
- Buildings under consideration are wrong; today's building use code upgrades.
- Contradiction that mixed use zoning language is not in the current PoCD.
- Traffic issues, geometry and geology are wrong.

8. Public comment

Marilyn Keurajian, 63 Main Street, asked if the State of Connecticut mandated mixed use in the Plan of Conservation and Development.

Frank DeFelice responded by stating that the PoCD is required to be updated every ten years and the language states that the town "shall" identify areas of mixed use and this was why we are here tonight, to get input from citizens.

Gregory Johnson, 267 Main Street talked about the financial investment he has made in his home. He noted that he agreed with the presentation by G. Eames; the investment to entertain a business would be too much. He suggested the commission invest in areas that would attract others.

Philip Fostini, 57 Middlefield Road stated that he recently purchased the Willett home and is also a business owner in the commercial area of Durham. He expressed his concern about the potential of ruining Main Street. He asked the commission to consider mixed use carefully, and questioned who would police it?

Betty Wakeman Long stated that she moved to Durham in 1959. Main Street was lovely then and is now. She urged the commission to keep Main Street intact.

Duncan Milne, 253 Main Street, stated that Main Street residents have heavily invested financially and emotionally. He feels betrayed by what is going on and has made numerous attempts to get the draft of the historic chapter of the PoCD.

Ona McLaughlin, 308 Main Street noted that she was appealing to the selfish side. She asked if the commission really wanted to do the work for mixed use noting that the town already has it. She questioned if members want to go through re-inventing the wheel before they approve, or forget about it and not do it. She stated the commission's job is to protect investments of both business and residential homes.

Brenda Eddy stated that she owns a home and business on Main Street. She noted that many small businesses have gone out of town and disagrees with thoughts of Historic District being in mixed use zone.

Rick Parmelee stated that he is proud to be a resident of Durham and intends to stay in Durham. He felt that no one wants to destroy Main Street and he supports business. He spoke about the many businesses on Main Street in past years, noting as long as businesses are here they are an asset.

Trevor Hanson stated that Walter Herzig was his grandfather and he was present to represent his generation. He felt mixed use did not belong on Main Street and he asked the committee if this is the legacy they want to leave.

Jim McLaughlin stated that he has lived in Durham for forty-eight years and noted that there are many new families with children living on Main Street. He took issue with part of the State regulation built for Urban Communities and noted that in days gone by there were many small businesses on Main Street. He felt putting retail on Main Street now would not be a good thing but stated that home occupation would be fine with him.

Steve Liss stated that he has lived in Durham for fourteen years. He commutes to New York four days a week and appreciates coming home as Durham is a really special place.

Ona McLaughlin asked John Corona to thank Dick Gurczynski for providing a service to people who can't pump gas and allowing the Durham Garden Club to use his water supply for the plants in the triangle.

Molly Nolan cautioned members stating if the commission does something to change Main Street you only have one shot to get it back.

George Eames stated he felt it was a privilege to serve on the Planning & Zoning Commission and that he is against mixed use on Main Street. He noted that the prior P&Z Commission always strived to try to protect and enhance Main Street which is a focal point of Durham and attraction of families to come to Durham. He noted many shops and businesses have closed on Main Street over the years and felt that the north and south ends of Main Street commercial areas should be looked into. He asked the commission to consider some of these issues when doing the PoCD.

Norm Jason stated that he was in favor of mixed use zoning but not in the Historic District. He noted he spoke with an out of town, mutual friend about the possibility of mixed use on Main Street who stated she purposely travels through Durham to Hartford because of Main Street.

Rick Hanley stated that he was a prior Economic Development member when there was a proposal of a gift shop at the Grange. He stated he was trying hard to keep an open mind as to what is right. He noted serious issues with a few of the properties on Main Street and asked the residents in attendance to help the commission with these properties.

Mary Elizabeth Taylor asked for clarification of what “compact meant”; 12 to 16 residents per acre, and how the Grange building was zoned?

Geoff Colegrove stated that there are 13 non-residential buildings on Main Street of office type uses. Currently these buildings can come to Planning & Zoning for special use and be considered on a case to case basis. He stated the commission has had requests but at this point none were permitted.

Nancy Cuomo talked about some residents on Main Street that are struggling trying to sell their homes. She talked about the Grange building and her concern regarding the Curtis home. She questioned if mixed use was not what the residents of Durham want for Main Street, she urged the commission to continue to seek help for these properties.

Frank DeFelice noted that the commission would have to be careful about spot zoning.

Nancy Cuomo questioned what will happen to these properties if the commission can't look at them individually and felt there needed to be a broader scope. She asked the commission to stop ignoring these types of issues.

Norm Hicks talked about special use and how exceptions can be made.

Ona McLaughlin stated that the Grange building is unique as it was never a residence. She noted that the town will be facing this in the future with the ambulance building.

Geoff Colegrove noted the issue of parking and septic.

Frank DeFelice noted his pleasure with the amount of community members in attendance who came out to voice their opinions stating he felt that this is what it is all about. He stated he was grateful of the audience and comments heard and also with the commission work.

Jan Melnik expressed appreciation for the comments presented by the public. She stated her belief about the importance of remembering that the commission members are elected to serve all of the residents in town, not just those living on Main Street. She indicated that the commission would be carefully weighing the comments received during the hearings and from the charrette and making decisions that would serve the town not only in the next year or two but into the distant future, as is the planning responsibility of the commission.

With respect to 'why Main Street' was under consideration for mixed-use zoning, Jan Melnik referenced C.G.S. 8-23, that requires that the Plan of Conservation and Development "shall (A) be a statement of policies, goals and standards for the physical and economic development of the municipality, (B) provide for a system of principal thoroughfares, parkways, bridges, streets, sidewalks, multipurpose trails and other public ways as appropriate, (C) be designed to promote, with the greatest efficiency and economy, the coordinated development of the municipality and the general welfare and prosperity of its people and identify areas where it is feasible and prudent (i) to have compact, transit-accessible, pedestrian-oriented mixed-use development patterns and land reuse, and (ii) to promote such development patterns and land reuse. As such, she stated her opinion that the commission could very well be considering the Main Street area because of the applicability of this section of town for the incorporation of mixed use. She added that expanding the parameters of the home occupation permit to perhaps allow for greater than the 25% limitation of a dwelling could be appropriate.

Jan Melnik also stated that there have been many suggestions by opponents of mixed-use zoning on Main Street that the commercial areas at either end of town be developed. She stated that when this commission was evaluating the Silver Eagle proposal for a Price Chopper grocery store at

the north end of town in 2008, in the commercially zoned area, there was a huge outcry against this small box store and what she felt was an appropriate village-like retail development. There was so much opposition and pressure, by many of the same people attending this meeting that the commission turned down that proposal. Yet residents have clearly indicated that a full-service grocery store is one of the greatest needs in town. There was pressure again by many of these same people opposing mixed use to vote down the municipal solar array project. Finally, in response to a comment presented by Ona McLaughlin about Durham's being a poster child, Jan Melnik stated her belief that these actions would serve to characterize Durham as a poster child for "resistance to change."

Lisa Davenport spoke to George Eames III presentation stating it should be noted that mixed use is in the current Plan of Conservation and Development Section 1.1.6. Recommendations; "provide greater opportunity for mixed use and adaptive reuse of buildings in the Main Street Residential Zone". She noted that this is not a new idea as this has been in the Plan for twelve years.

Joe Pasquale thanked all for coming out, for their opinions and thoughts and felt this was one of the benefits of living in this community.

9. Payment of bills

MOTION BY DAVE FOLEY, SECONDED BY LISA DAVENPORT, TO APPROVE THE FOLLOWING BILLS:

ALL AYE

- Byrne & Byrne, LLC., services 1/1-2/29/2016, \$435.00
- Byrne & Byrne, LLC., Kaike-Appeal of Goduti approval, 1/1-2/29/2016, \$2,235.00
- Byrne & Byrne, LLC., Merriam Manufacturing, 1/31-2/29/2016, \$1,590.00
- Midstate Planning Consultants, PoCD, 12/28-3/16/2016, \$6,020.00

MOTION BY DAVE FOLEY, SECONDED BY JAN MELNIK, TO APPROVE THE FOLLOWING BILLS: ALL

AYE

- CT Federation of Planning & Zoning Agencies, Membership Dues, \$110.00
- Jennifer Keogh, 2/29/2016 recording secretary, \$135.00
- Fitzgerald & Halliday, Inc., PoCD Visioning Charrette, \$8,000
- Fitzgerald & Halliday Inc., PoCD Presentations 3/2 and 3/9, \$1,000

10. Minutes of previous meeting(s)

MOTION BY DAVE FOLEY, SECONDED BY JAN MELNIK, TO APPROVE THE FEBRUARY 17, 2016 MEETING MINUTES AS AMENDED. ADAMS, DAVENPORT, DEFELICE, ERIKSEN, FLANAGAN, FOLEY, JAN MELNIK, PASQUALE; AYE. DAN MELNIK; ABSTAIN. MOTION CARRIED.

MOTION BY JAN MELNIK, SECONDED BY DAVE FOLEY, TO APPROVE THE FEBRUARY 18, 2016 MEETING MINUTES AS PRESENTED. ADAMS, DAVENPORT, DEFELICE ERIKSEN, FOLEY, JAN MELNIK; AYE. FLANAGAN, DAN MELNIK, PASQUALE; ABSTAIN. MOTION CARRIED.

MOTION BY DAVE FOLEY, SECONDED BY LISA DAVENPORT, TO APPROVE THE FEBRUARY 29, 2016 MEETING MINUTES AS PRESENTED. ADAMS, DAVENPORT, DEFELICE, ERIKSEN, FOLEY, JAN MELNIK, PASQUALE; AYE. FLANAGAN, DAN MELNIK; ABSTAIN. MOTION CARRIED.

MOTION BY LISA DAVENPORT, SECONDED BY DAVE FOLEY, TO APPROVE THE MARCH 2, 2016 MEETING MINUTES AS PRESENTED. ADAMS, DAVENPORT, DEFELICE, ERIKSEN, FOLEY, DAN MELNIK, PASQAULE; AYE. FLANAGAN, JAN MELNIK; ABSTAIN. MOTION CARRIED.

11. Zoning Enforcement Officer's Report

J. Pasquale asked that the Zoning Enforcement Officer visit 999 R New Haven Road, Kaika residence. G. Colegrove stated that he would review the photos noted in the letter from Mr. Goduti and would need to verify if they were current.

12. Town Planner's Report

No business

13. Miscellaneous

Members were reminded of Program being held on Saturday, March 26th in Haddam on Land Use and to let Jen Keogh know if they would be attending.

14. Adjournment

Meeting was adjourned at 10:15 p.m.

Respectfully submitted,

Beth Moncata