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ENFIELD PLANNING AND ZONING COMMISSION
SPECIAL MEETING
MINUTES

THURSDAY, JANUARY 16, 2020 – 7:00 p.m.
ENFIELD TOWN HALL - COUNCIL CHAMBERS
820 ENFIELD STREET - ENFIELD, CT

Call to Order

Chairman Ken Nelson called the meeting to order at 7:08.

Roll Call

Secretary Szewczak took the roll and present were Commissioners Charles Ladd, Mary Scutt, Richard Szewczak, Virginia Higley, Ken Nelson, Linda DeGray and Alternate Commissioners John Petronella and Vinnie Grillo. Absent were Commissioner Frank Alaimo and Alternate Commissioner Dane Thorogood.

Also present were Laurie Whitten, Director of Development Services; Jennifer Pacacha, Assistant Town Planner; and Elizabeth Bouley, Recording Secretary.

Chairman Nelson seated Alternate Commissioner Petronella for the absent Commissioner.

Approval of Minutes – January 9, 2020 Regular Meeting

Motion: Commissioner DeGray made a motion, seconded by Commissioner Ladd, to approve the minutes of January 9, 2020.

The motion passed with a 7-0-0 vote.

Votes: 7-0-0

Old Business

Public Hearing(s)

- a. **PH# 2960** – 90 Elm Street – Application for a re-subdivision; Enfield Square Realty LLC+Enfield, CH LLC + Enfield Nassim, LLC., owners/applicants; Map 42/Lot 29; Map 45/Lot 11; Map 43/Lot 16; Map 45/Lot 75; Map 45/Lot 6; Map 45/Lot 1; Map 57/Lot 325; Map 57/Lot 323; Business Regional Zone. (DoR: 12/12/2019; MCPH: 1/16/2020)

Glen Chalder of Planometrics addressed the Commission along with Cory Garro of Close, Jensen & Miller, P.C. in Wethersfield. Mr. Chalder stated that the hearing was continued in order to give the Commission a chance to review the Easements, Covenants, Conditions & Restrictions (ECCR).

Commissioner Petronella asked if the ECCR is a document created by Planometrics, to which Mr. Chalder replied that he is not an attorney and is working for the applicant. He showed the Commission a map submitted at the last meeting, stating that there have been easements on the parcel which have been in effect since the 80s and 90s, affecting all of the parcels. Mr. Chalder utilized the map to illustrate which parcels are subject to the ECCR.

Commissioner Petronella stated that all of the covenants and easements currently in place include the Macy's lot. Mr. Chalder confirmed this to be true, explaining that all of the parcels including Macys are subject to these cross easements for utilities, access, parking and other aspects of the normal operation of the mall. Mr. Petronella asked if all of the current tenants have to abide by that, to which Mr. Chalder replied that they do.

Commissioner Petronella asked if the existing eight parcels are currently owned by the applicant, to which Mr. Garro replied that they are.

Mr. Garro stated that there are no physical changes associated with this subdivision and only the lot lines are changing.

Commissioner Higley asked if the service entrances need to be accepted as streets if the parcels are not landlocked. She asked if a variance is needed since the proposed lot lines and frontages do not comply with Business Regional. Commissioner Higley asked when the flood plain would be taken care of, and also if every single one that comes in to build something needs to provide the Commission with information on drainage and flood plains when they are making drainage improvements.

Commissioner Higley stated that the ECCR talks about five parcels, A through E, but it is her understanding that there are eight parcels.

Commissioner Higley went over some other notes she had made about the ECCR regarding changes to grading in the parking surfaces, parking spaces, outparcel building heights and compliance with zoning regulations

Mr. Chalder stated that the ECCR is an agreement between the owners of the property and the other properties that will hopefully be created there. He stated that the landlord has the right to say that these uses are not in keeping with a first-class mall. He explained that the ECCR gives the landlord greater restrictions or limitations than allowed in the regulations. Commissioner Higley asked if the tenant can get approval from the landlord for something that is not allowed in the zoning regulations, to which Mr. Chalder replied that anything like that will have to come back before the Commission. He stated that approvals will be needed first from the landlord and then from the Commission with the intent of creating a first-class mall.

Commissioner Szewczak stated that the original approval for the mall was under Special Permit. He stated that he is not against this re-subdivision but would like to point out that the criteria it was originally approved under states that it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the development of adjacent properties. Commissioner Szewczak stated that when it was originally approved, everybody was looking at a Business District and retail requirements so a mall was in perfect harmony with the original concept at the time. He stated that with this new concept, these criteria need to be reviewed again to ensure that they are consistent with the development they are envisioning for this area. Commissioner Szewczak concluded that they need to look at the Plan of Conservation and Development (POCD) to see if it appropriate for what is being proposed.

Commissioner Szewczak stated that the Commission is revising their zoning regulations and the owners will have to abide by whatever new zoning regulations are in place.

Mr. Chalder stated that his client is working hard to attract new tenants. He stated that the original Special Permit granted in the 1960s and 1970s does not affect what they are doing today. Mr. Chalder read Footnote 9 to Table 5.10 for the record, stating that the issues of frontage are not an issue due to this footnote. Commissioner Szewczak stated that he is just concerned with the big vision for the site.

Mr. Chalder stated that the mall is not as occupied as they would like it to be, and they are going to take this step to reinvigorate the property. He stated that the first step is being able to configure the property in a way to make that work.

Commissioner DeGray asked if the easements and covenants in the ECCR still carry as the ECCR refers to a Class A mall and currently the mall is a Class C mall. Mr. Chalder stated that the term "Class A" is not used in the ECCR and rather the term first-class mall is used, which is a qualitative aspiration. He explained that the Commission can look to the ECCR for guidance when considering future applications.

Commissioner Petronella stated that he had gone through the ECCR and has no issues with it. He stated that if all of the parcels are sold off, the owner of Parcel 10 is the gatekeeper of the ECCR. Mr. Chalder stated that leasing is much more lucrative for the tenants, so they are trying to encourage more of that. He stated that they do want to keep the flexibility to allow owners to buy rather than leave altogether if it comes down to that.

Commissioner Petronella stated that it is contradictory to say the owners do not want to sell and only want to lease, and then say that they will be selling off many of the parcels. Mr. Chalder clarified that they would like to own the parcels and lease the buildings, but if they are not able to do so and a tenant is prepared to leave if they cannot buy, they want to be able to allow them to buy. He stated that both of those options are preferable to the property being dark.

Chairman Nelson stated that currently the property consists of eight lots but the town recognizes the entire parcel as two parcels, one with 19 acres and one with 23 acres. Chairman Nelson stated that the remaining lots are not taxed separately and do not have separate addresses. He stated that they can be divided up in any way but the town still recognizes it as two parcels: Macy's and the mall.

Chairman Nelson pointed out that under the regulation where footnote 9 is, the lot area is listed as five acres. He went on to state that in Section 5.30 the BR district requirements say that the parcel lot area is ten acres or more, so these are two contradicting statements within the regulations. Chairman Nelson stated that the regulations were attempting to protect the largest parcels from being broken up. He concluded that the regulation takes the place of footnote 9.

Mr. Chalder stated that they are not here with a zoning application, to which Chairman Nelson replied that they have to follow zoning regulations for a subdivision.

Mr. Chalder stated that if he was before the Commission requesting approval for a new regional mall shopping center, then section 5.30 would apply. He stated that the Commission has subdivided before with the creation of the lots currently there, citing the Home Depot parcel across the street which is its own separate lot without access or frontage. Mr. Chalder concluded that they are only asking the Commission to do the same thing that has been done at the mall site as well as other sites.

Chairman Nelson stated that it does not make sense for this section to be in the regulations at all if what Mr. Chalder is saying is accurate. Mr. Chalder stated that he does not know the history of footnote 9, but it was created for situations like this and the mall and property across the street have previously been subdivided using this language.

Mr. Chalder stated that the ECCR provides the unified control for how everything on the property is managed. He stated that it will be operated and configured as one harmonious property.

Chairman Nelson stated that currently Macy's and the mall have access to town roads, have unified ownership and both have ten or more acres and therefore it meets section 5.30. He stated that the difference with what the applicant is trying to do is that they are trying to eliminate everything that the mall is right now that is approved. He reiterated that the town recognizes the property as two lots.

Mr. Chalder stated that the lots shown on the existing lot layout map were legally created and do conform with the regulations, particularly with regards to footnote 9. Chairman Nelson stated that he keeps skipping over section 5.30, to which Mr. Chalder replied that those conditions apply after the original Special Permit is granted for a mall. Mr. Chalder and Chairman Nelson continued discussing footnote 9 and section 5.30 and which is applicable to this situation.

Commissioner Petronella asked for Mr. Garro's title, to which Mr. Garro replied that he is a Professional Engineer.

Commissioner Petronella asked if Mr. Garro had prepared the legal descriptions of the current lot layouts that are contained within the ECCR Exhibit A, to which Mr. Garro replied that he had not. Commissioner Petronella asked if the existing layout map is also on file with the town land records. Mr. Garro stated that the existing conditions are all on file, which is where they obtained the information. Commissioner Petronella asked if the town records say eight lots exist onsite currently, to which Mr. Garro replied that they do.

Chairman Nelson asked if anyone in the public would like to speak.

Patrick Thibodeau, 20 Cora Street, stated that he graduated from Enfield High School in 1972 and has been back in town for five years. He stated that Enfield's retail is doing really well, but faces competition including the Holyoke mall and the potential East Windsor casino. He suggested some ideas for what to do with the mall, including selling the town hall and moving it and the school departments into the redeveloped mall building.

Mr. Thibodeau stated that the planned train station is not an economic development backstop for this community due to competition from other towns.

Mr. Thibodeau stated that there are many people working from home in Enfield and they would like amenities that meet their needs. He stated that a mall-based library could be a regional draw.

Mr. Thibodeau stated that Thompsonville is not the heart of Enfield and never was. He stated that his major concern with the proposal is losing Cinemark, and if this proposal keeps Cinemark in and renovates it, then he supports it.

Marie Pyznar, 25 Roy Street, stated that the Enfield mall is a hub and she would like for it to be what it once was. She stated that the applicant is not telling what the plan is and how they are going to attract businesses, and she is worried that they will not maintain the mall. Ms. Pyznar stated that she understands the applicant cannot divulge names of businesses, but they should at least give people an idea of what types of businesses are going in. She stated that if the owners want something approved, they should tell the people what they are going to do.

Chairman Nelson asked three times if anyone in the public would like to speak; no one came forward.

Chairman Nelson stated that what is going to be done with the mall is of great concern, and the lack of information is bothering and frustrating people.

Mr. Chalder stated that someone has stepped up to bring the mall back, and the first step is to establish strong tenancy. He stated that they understand the town's aspirations for the mall and the regulations allow this re-subdivision.

Chairman Nelson asked if anyone else in the public would like to speak.

MaryAnn Turner, 7 Meadow Road, addressed the Commission, stating that the presenters are speaking in a calmer and more understanding way. She stated that there is a part of her that says they need to take the risk. She stated that she looked the company up on the internet and had trouble finding positive things; however, they may need to take the risk and put their faith in the applicant.

Joan Lawson, 18 Mountain View Avenue, stated that she loves the mall and it is the heart of the community. Ms. Lawson stated that she does not feel good about the question marks and she hopes the Commission will think hard about the decision.

Angelica Massetti, 87 West Street, Windsor Locks addressed the Commission. She stated that she and her husband worked at Freshwater Pond Apartments for nearly six years and the mall was the first place they came when they got here. Ms. Massetti stated that there were things that were spoken behind closed doors that the public does not know. She stated that she feels very uncomfortable with making this decision when they only have a small piece of the information.

Chairman Nelson asked three times if anyone else in the public would like to speak; no one came forward.

Commissioner Ladd asked if the applicant can give any general information regarding what types of businesses will be coming in, without providing company names. Mr. Chalder stated that there is

an anchor tenant being courted to occupy an existing anchor space in the mall as well as a new building that will be added at the site. He stated that the company is working very hard to make the mall a success for themselves and for the community, and the first step is to turn the corner.

Chairman Nelson asked if anyone in the public would like to speak.

Dottie (Dorothy) Smith, Brainerd Road, stated that the person buying the property said that it is not worth the money it is written on, which made her feel like what is happening here is for money and not for people.

Lori Valle, 10 Pomeroy Road, stated that when the mall was purchased there was a long period of time where the buyer was not disclosed, which was suspicious. She stated that they do not have much more information now except for the name of the new owner and the fact that they do not live around here.

Chairman Nelson asked three times if anyone else in the public would like to speak; no one came forward.

Ms. Whitten read through a number of answers she had to questions that came up during the course of the meeting. She stated that this is an application for re-subdivision of a commercial subdivision and any changes to the uses will need to come back before the Commission. Ms. Whitten stated that it is not the applicant's responsibility to say what the uses are going to be, and if a use is currently permitted then they can do it.

Ms. Whitten pointed out that none of the current tenants of the mall, such as Target, are here to speak against the application.

Ms. Whitten explained that according to footnote 9, none of the dimensions for frontages, setbacks or acreage are required except for the overall outside area and within the mall they do not have to be met. She stated that she agrees with Mr. Chalder that section 5.30 is for when the mall is originally created and that footnote 9 is to follow after that. She stated that the text says unified ownership or control, so it can have many owners as long as there is something unified similar to a homeowner's association.

Ms. Whitten stated that there are no physical changes so they are not concerned about flood plain or wetlands. She explained that the ECCR is a proposed document that is not yet signed or filed and will only be created once the subdivision occurs. She stated that until that happens, the current ECCRs stay in place.

Ms. Whitten stated that Namdar has stated that they try to lease their tenants but the main tenants, especially the large ones, get better financing if they can own their land.

Ms. Whitten stated that drainage improvements, elevation changes and anything of this nature will have to come back before the Commission. She stated that this application is not changing the Special Permit or the uses, but rather is only changing the parcel sizes.

Ms. Whitten stated that she and Town Manager Bromson spoke on the telephone with one of the three partners of Namdar, and that they are excited to be here. She stated that they have two national tenants that are ready to sign on the dotted line as soon as they can own the properties. She stated that one of the tenants is recreational in nature.

Ms. Whitten stated that they are hiring a redevelopment specialist who will help work with Staff and the Commission on what they really want to see for the mall. She stated that they said they own the mall, but ultimately it is Enfield's mall and they want Enfield to be happy with it.

Ms. Whitten stated that Section 5.30 regarding the ten acres was in place in the regulations prior to the number 9. Ms. Pacacha stated that Roger O'Brien reduced the lot area requirements in table 5.10 but the requirements in Section 5.30 were not changed to match it. She explained that the two were meant to coincide as a cohesive regulation for the BR district. Ms. Pacacha stated that in 2017 the lot area for BR was reduced from ten acres to five acres only in the table, as they did not realize that the ten acres was also mentioned in the special requirements for the BR district so it was an oversight.

Chairman Nelson asked when the mall was split into eight parcels, or if eight parcels were merged to create the mall back in the 1970s. He went on to ask when the mall was split into the two lots recognized by the town. Chairman Nelson asked where the original subdivision is, since they keep saying re-subdivision. Ms. Whitten did not have an answer at this time.

Commissioner Higley stated that she had tried to find the maps of the land records online and there was not one map listed.

Commissioner Scutt stated that the eight parcels were surveyed in 1998 so perhaps that is a place to look for that information.

Commissioner Petronella stated that the application was presented as a re-subdivision of eight lots to thirteen, and asked if anyone on Staff verified that the property actually is eight lots currently. Ms. Whitten stated that Staff relied on the surveyor that presented the plans.

Mr. Garro stated that he is a Professional Engineer and the licensed surveyors at his company found that right now in the land records the property is eight lots.

Chairman Nelson asked if anyone in the public would like to speak.

Marie Pyznar, 25 Roy Street, stated that she feels better that this company wants to work with the town and they have no choice but to trust them. She stated that the residents are going to expect them to keep their promise.

Pamela Brown, 34 Southwood Rd, stated that it does not add up that there is no original document with documentation of the lots and how the land was divided. Ms. Brown stated that there needs to be a linear historical event of the changes that took place to the land.

Chairman Nelson asked three times if anyone in the public would like to speak; no one came forward.

Motion: Commissioner Higley made a motion, seconded by Commission Scutt, to close PH #2960.

The motion passed with a 7-0-0 vote.

Votes: 7-0-0

Commissioner DeGray stated that she has been struggling with this decision all week and has been doing research on malls. She stated that if this company can make the mall a destination, she is feeling better tonight about it than she did last week.

Commissioner Scutt stated that she is more comfortable tonight but wants to make sure it is clear that tonight there is a re-subdivision before the Commission. She stated that they own the property and the Commission has no choice as long as the application complies with the regulations. Commissioner Scutt stated that the applicant will need to come before the Commission for any uses going into the property.

Commissioner Szewczak stated that they have a vision for this property and he wants everyone to recognize this vision as outlined in the POCD. He stated that he is not against the re-subdivision but was hoping they would see a bigger plan of what is going to be developed. He stated that they have to have some confidence in the people who are developing the mall and they can work as a partnership with the same vision and ultimate goal.

Commissioner Petronella stated that this is the first step in development and they cannot proceed unless they get past this first step. He stated that the mall is currently being used as a parking lot, which is appalling. Commissioner Petronella stated that he can certainly support this re-subdivision.

Chairman Nelson stated that he agrees with a lot of what has been said, but he has nothing showing that the property is eight lots and no answers about when the lots were divided or merged. Chairman Nelson stated that they are not getting the information they are asking for and he is not ready to move forward with a vote tonight.

Ms. Whitten stated that the Public Hearing is closed so any additional information is not relevant. Chairman Nelson stated that he will do his own research.

Commissioner Higley stated that once things are done, they are very hard to undo, and the Commission only gets one shot. She stated that she would like to see everything coming forward automatically as a Special Use Permit which allows the citizens input and allows the Commission more authority. Ms. Whitten clarified that if it is permitted then it is a Site Plan.

Ms. Whitten reiterated that no more information can be researched as the Public Hearing is closed.

Motion: Commissioner Higley made a motion, seconded by Commissioner Ladd, to table action on PH#2960 until the next meeting on January 23, 2020.

The motion passed with a 4-3-0 vote with Commissioners Scutt, Szewczak and Petronella voting against.

Votes: 4-3-0

Adjournment

Motion: Commissioner Higley made a motion, seconded by Commissioner DeGray, to adjourn.

The motion passed with a 7-0-0 vote.

Votes: 7-0-0

Prepared by: Elizabeth Bouley

Respectfully Submitted,



Richard Szewczak, Secretary

Note: The next Regular Meeting is January 23, 2020. Information is available in the Planning Office.