

**MINUTES OF SPECIAL MEETING
COMMISSION ON THE CITY PLAN
SEPTEMBER 27, 2018
100 BROADWAY, NORWICH CONNECTICUT
CITY COUNCIL CHAMBERS**

A. CALL TO ORDER: Art Sharron, Chairman, called the meeting to order at 7:00 P.M.

B. ROLL CALL AND SEATING OF ALTERNATES:

Present: Art Sharon, Chairman, Frank Manfredi, Vice Chairman, Kathy Warzecha, and Dan Daniska, alternate. A quorum was present, with all members seated.

Absent: Michael Lahan, Les King, alternates Swarnjit Singh Bhatia, & Jason Arndt.

Others Present: Deanna Rhodes, City Planner, and Debra Delaporta, recording secretary

C. APPROVAL OF MINUTES: Frank Manfredi made a motion to accept the minutes for the August 21st, 2018, seconded by Kathy Warzecha. Dan Daniska abstained from the vote, as he was not in attendance at the August meeting. The vote was 3-0 to accept the minutes.

D. COMMUNICATIONS: None

E. NEW BUSINESS: None

F. OLD BUSINESS: CONTINUED PUBLIC HEARING AND CLOSING OF PUBLIC HEARING

1. **SP #18-07: 61, 63 & 65 Town Street.** Special Permit request for a drive-thru window as an accessory use to a proposed restaurant. Application of Amaral Revite Corporation. Property of Allstate BK Real Estate Holdings, LTD. Assessor's Map 67, Block 3, Lots 56, 57 & 58, Zone NC.

Mr. Sharron asked the public to try and limit testimony to approximately 10 minutes, and requested anyone from the public who spoke at the August meeting only address the Commission on new information being heard at this meeting.

Mr. Sharron then called on Attorney Bill Sweeney, representing Amaral Revite Corp, to speak in response to the issues that were raised last month during the public hearing. Mr. Sweeney introduced Jeff Benevides for Amaral Revite Corp, and Chief Engineer Guy Hesketh of F.A. Hesketh & Associates, Inc. He reminded the people in attendance that the restaurant and parking lot would be located in a commercial zone, which is permitted by a zoning permit, and the application was strictly for the drive-thru as an accessory use to the restaurant. Attorney Sweeney said the continuation of the public hearing from August was to allow Commission members to do a site walk, and also to receive new information submitted about the trash receptacles and sound levels of the drive thru speakers, as requested by one of the Commission members. He passed out handouts to the Commission regarding both of these items and discussed each, including information about the location of the trash receptacles, their maintenance by staff, and how the sound level of the drive-thru speakers fluctuates based on the surrounding outside noise levels. Mr. Sweeney addressed several misconceptions about the project, including the fact that there would be no blasting, and no topographic changes or activity within the burial ground. His client has agreed to do a phase 1B archeological assessment of the property before beginning construction and they have already hired an archaeologist.

Attorney Sweeney went on to share that he had spoken with Attorney Kepple, who represents the Norwich Historical Society (NHS), and described potential adjustments that his client was willing to make in response to their proposal after their discussion. These included replacing the proposed decorative fencing in the buffer with a solid stockade fence if agreeable to the Commission and recommended by the Planner; removal of several mature trees on the proposed Burger King site which are located in close proximity to the property line; and providing trees to be installed along the rear of their property on the burial ground side of the wall. He then added that that the City has specifically requested that the mature trees be saved on their

property and that they would be willing to hire an arborist to determine the condition of the trees and whether they needed to be just trimmed or removed. A request by Attorney Kepple that Burger King install an evergreen buffer along the whole length of the burial ground was not acceptable, as the non-existent buffer along other properties was not related to their project. Furthermore, his client, although willing to buy evergreen trees and donate them for planting along the shared boundary line, would not agree to plant them due to the potential for disturbance of buried remains and headstones.

Mr. Sweeney stated that Attorney Kepple requested that they move the building forward by removing parking in the front of the building. Attorney Sweeney stated that his client looked at this and determined it was not possible due to the number of parking spaces required by the regulations and because the change could also impact the traffic pattern of patrons entering and exiting the property.

A request was also made by Attorney Kepple, on behalf of NHS, that the Burger King and drive-thru not be allowed to operate 24 hours. He stated that while the business may not be open 24 hours, they did not want to give up their right to do so.

Attorney Sweeney then discussed the Standard of Review with the Commission, and handed out sheets outlining the 13 criteria needed for a Special Permit, and highlighted some of the more prominent areas they have met. Mr. Sweeney then concluded and stated he reserved the right to respond to any new testimony, as needed.

Art Sharron then invited Attorney Mark Kepple to come forward. Mr. Kepple then introduced himself, stating he was there representing the Norwich Historical Society and some of the neighbors who were in opposition to the proposed plan. He asked to enter into the record a copy of the City of Norwich Zoning Regulations, and the 2013 and 2004 Plans of Conservation and Development. Attorney Kepple referred to a court case in the State of Connecticut-St. Joseph's High School vs. the Planning and Zoning Board of the Town of Trumbull, CT which he handed a copy of to Ms. Rhodes for the record. He then discussed requirements for granting a special permit and the difference between a principal use and an accessory use.

Attorney Kepple then presented a board showing locations of other Burger Kings in the area, pointing out the parking locations in relation to the building and stated that none were perpendicular like the spaces being proposed for this location. He stated that he believed the parking area in the front could be removed to increase the buffer in the rear of the property and that the new parking area to be established for UCSF/People's Bank site could be shared parking for employees of Burger King. Mr. Kepple pointed out that the hours of the drive-thru windows at all Burger King locations in Connecticut were 6:00 am to 12:00 am, and that he did not believe they should be allowed to be open 24 hours.

Attorney Kepple discussed the letter from the State of Connecticut Archeologist, Dr. Jones. A discussion ensued about the information that was sent out to Dr. Jones, which Attorney Kepple believes was not sufficient and he questioned whether or not Dr. Jones was familiar with the zoning regulations relative to the 50 foot buffer.

Art Sharron questioned Mr. Kepple about his understanding of the letter and Dr. Jones' comments. City planner Deanna Rhodes then spoke up to state that Dr. Jones was sent a copy of the complete Application and the site plan of the project. He was aware of the proposed project's location in relation to the burial grounds.

Attorney Kepple then presented a map from 1833 which showed the burial grounds appearing to be larger and extending further than the existing boundaries. He then passed out an enlarged copy of that section of the map to Commission members.

Frank Manfredi asked, in response to his testimony, whether any remains had ever been found during construction of other surrounding businesses. Attorney Kepple stated that he did not know and that those other businesses had not been required to do the archeological assessment.

Attorney Kepple stated that he believed property values, and the historic value of the area will be affected by this proposal. He briefly discussed the restoration of the burial site of Mr. and Mrs. Samuel Huntington which Attorney Kepple believes enhances the value of the burial site.

At this point, Attorney Sweeney spoke up and asked about a video presentation that was referenced in Mr. Kepple's report. Mr. Kepple stated he had a thumb drive to give to the Commission, and he eluded to not

being provided a means to present it to which the City Planner responded. Deanna Rhodes stated that she had told him in advance that technology equipment is not customarily provided at CCP meetings, but that if she is told ahead of time she can get the MIS Department involved to set up the required equipment. She stated that he did not contact her again to confirm any intentions for a visual presentation. Chairman Sharron then stated that the thumb drive would not be received, or entered into the public hearing record, as the presentation wasn't made and the contents of the drive would be unknown.

Mr. Kepple went on to continue the discussion regarding the request by Burger King for a reduction of the buffer area, historic preservation referenced in the POCD, and the special permit criteria. He then read an extensive list of recommended conditions that should be considered by the Commission.

After Mr. Kepple concluded his testimony, Attorney Sweeney then spoke. He rejected the claim that the proposal did not meet eligibility requirements for a special permit. He stated that the parking could not be shared with the abutter next door because they will only agree to the grading easement to assist them with alleviating an already problematic parking situation on their own site; and that the applicant wants the option of having a 24hr drive-thru. Furthermore, Mr. Sweeney then explained the process that occurs should human remains or other artifacts be discovered during construction, and that they agree have already agreed to perform a phase 1B archeological assessment of the area prior to initiating any land use disturbance activities.

Attorney Sweeney then went on to respond to each of Attorney Kepple's recommended conditions which had been presented to the Commission for their consideration. He stated that his client has already agreed to have a phase 1B archeological assessment done; that no limit should be placed on the drive-thru hours; that an arborist would be hired to do an assessment of the existing trees on site; that the landscape buffer would be along the border of Burger King's property only; that the maximum fence height remain at 6 feet, not 8 feet as recommended by the Historical Society because it would not comply with the zoning regulations; that the ordering station/speaker location remain as located on the plan; that there would be zero spillage of lighting; that there was no need for an exterminator.

Art Sharron then asked that only people who had not spoken before address the Commission. Attorney Kepple objected and stated that it was unfair. Attorney Sweeney concurred with him and stated that anyone who had spoken previously could speak again if they had new material to present.

Randy Aey, of 240 Rogers Rd, spoke in opposition, stating just because there were several businesses there already doesn't mean a new one needs to be allowed, particularly in the flood plain.

Bill Champagne, president of the Norwich Historical Society addressed the Commission. He stated the NHS wanted to work closely with the neighbors and the applicant to work things out. Mr. Champagne stated the people of Norwich love and value the history of Norwich and the burial ground, and shared his concerns about the traffic study and issues with safety. He also believes the applicant has not met the 13 criteria, and the plan was not consistent with preserving historic resources.

Jonathan Webster, of 8 Elm Ave, handed out copies of a portion of the Burger King Site plan which showed the width of the buffer area and the retaining wall within it, located 12 feet from the property line. He spoke in opposition of reducing it.

Marvin Seruto, of 100 Starr St spoke in opposition, stating the City needs to protect the unique features of Norwich.

James Connor, of 363 Washington St, spoke in favor of the plan, stating that the site would be cleaned up and that development would be welcomed in that area.

Mark Benjamin, of 125 Hunters Ave, spoke in favor of the proposal. He stated that while he agreed that assets need to be protected, new development needs to be allowed.

With no other comments from the public in attendance, the City Planner then read a letter of support into the record that had been received from resident Ryan Thompson.

Commission member Kathy Warzecha addressed Attorney Sweeney and asked about the project elevation after excavation. Chief Engineer, Guy Hesketh of F.A. Hesketh & Associates, Inc. responded. A discussion then ensued between Commission members, Mr. Hesketh and Attorney Sweeney about the elevation level

relative to the Special Flood Hazard Area, the FEMA flood map amendment, and other items including the buffer width, concerns about plantings in the cemetery, the rear retaining wall within the buffer, and the existing trees which the Commission members seemed to agree should not be removed.

Mr. Sweeney and Mr. Hesketh also discussed traffic impacts in response to Kathy Warzecha's concerns.

Attorney Sweeney stated the architectural design for the building was done in the spirit of the new village district overlay zone, although it was not required.

With no further comments from Mr. Sweeney, Deanna Rhodes read the exhibit list into the record, adding handouts given out to the Commission by both parties and exhibits presented by Attorney Kepple at the meeting.

Ms. Rhodes then stated that since the cemetery is owned by the City, she had a conversation with both the City Attorney, Michael Driscoll and Public Works Director, Ryan Thompson about planting trees in the burial ground. Mr. Thompson was not comfortable with the City being responsible for the installation of any trees within the cemetery, to be donated by Burger King as suggested, due to the possible disturbance of grave sites. City Planner Rhodes stated that she does not advise the City to accept a donation of trees.

Ms. Rhodes further explained that maintenance or improvements, such as installation of plantings, in any burial ground over 100 yrs. old requires approval from the probate court per the CT General Statutes.

Frank Manfredi then made a motion to close the public hearing. It was seconded by Dan Daniska. The motion passed unanimously.

G. OTHER BUSINESS: None

H. ADJOURNMENT: A motion was made to adjourn at 9:26 by Frank Manfredi. It was seconded by Kathy Warzecha. The motion passed unanimously.

Respectfully submitted,



Debra Delaporta