

**TOWN OF CROMWELL
PLANNING AND ZONING COMMISSION
REGULAR MEETING
7:00 PM TUESDAY SEPTEMBER 19, 2017
CROMWELL TOWN HALL GYMNASIUM, 41 WEST STREET
MINUTES AND RECORD OF VOTES**

Present: Chairman Alice Kelly, Michael Cannata, Chris Cambareri, Jeremy Floryan, Paul Cordone, Richard Waters, Brian Dufresne, Ken Rozich, David Fitzgerald (alternate) and Nicholas Demetriades (alternate)

Absent: Kenneth Slade

Also Present: Director of Planning and Development Stuart Popper

1. Call To Order

The meeting was called to order by Chairman Kelly at 7:08 p.m.

2. Roll Call

The presence of the above members was noted.

3. Seating of Alternates

A motion to seat Alternate David Fitzgerald was made by Michael Cannata; Seconded by Richard Waters. *All in favor; motion passed.*

4. Approval of Agenda

A motion to approve the agenda was made by Michael Cannata and Seconded by Richard Waters. *All in favor; motion passed.*

5. Public Comments

There were no public comments at this time.

6. Development Compliance Officer Report

Mr. Curtin was not present. Mr. Popper said if there were any questions or comments from the Commission, he would pass them along to Mr. Curtin. There were no questions or comments.

7. Town Planner Report

Mr. Popper stated that the north side of Frisbee Park, near Route 9, would be subject to some grading and re-seeding. There would be no activity in the wetlands or flood plain, but the Upland Review Area would be affected. There would be an application to the Inland Wetlands and Watercourses Agency regarding the activity.

9. New Business Accept and Schedule New Applications:

- a. Application #17-42: Request for a Special Permit to install a new Digital Sign Pricing at 164 West Street. National Sign Corp is the Applicant and AN Patel LLC is the Owner.

Michael Cannata made a motion to accept the application and schedule it to be heard on November 9, 2017; Seconded by Richard Waters. *All in favor; motion passed.*

- b. Application #17-45: Request to Amend the Zoning Map to Change the Zone District from Residence 25 to Planned Residential Development at property located at 150 Country Squire Drive, also known as the Nike Site. Cromwell Village Associates, LLC is the Applicant and Country Squire Site LLC is the Owner.

Chris Cambareri recused himself from acting upon this item.

Michael Cannata made a motion to accept the application and schedule it to be heard on November 9, 2017; Seconded by Brian Dufresne. *All in favor; motion passed* (Chris Cambareri abstained from the vote).

- c. Application #17-46: Request to modify the Site Plan at 6 Kirby Road to add additional parking for a coffee shop. Lisa DiMichele is the Applicant and Luca & Sons Landscaping LLC is the Owner.

Michael Cannata made a motion to accept the application and schedule it to be heard on October 3, 2017; Seconded by Paul Cordone. *All in favor; motion passed.*

10. Public Hearing:

- a. Application #17-22: Request for Site Plan Approval for Center Point Apartments (an Affordable Housing Application) at 186 Shunpike Road. JPG Partners, Inc. is the Applicant and the Estate of Helen M. Ewald c/o Sybil C. Martin, Executrix, is the Owner.

Michael Cannata made a motion to re-open the public hearing; Seconded by Paul Cordone. *All in favor, motion passed.*

Mr. Popper began by stating that a revised site plan, revised traffic study and revised Affordability and Fair Housing Marketing Plan had been received by the Commission tonight. Because the Commission had not had a chance to review the materials, they would not be discussing those items at tonight's meeting. He stated that the public hearing would be continued to October 17, 2017, to be held in the Town Hall gymnasium. The town attorney had not yet responded to the Commission's questions. Mr. Popper stated that the public hearing would be closed on October 17, 2017, unless the applicant agreed to an extension. Once closed, the Commission has sixty-five days to either approve or deny the application.

Attorney Carl Landolina of Fahey and Landolina in South Windsor, Connecticut, began his presentation by introducing the members of JPG Partners, LLC, and

stating that he was submitting an affidavit regarding the posting of the required sign. He clarified that the subject property was still owned by the estate. Attorney Landolina stated that he had used Attorney Kari Olsen's template to revise the Affordability and Fair Housing Marketing Plan and summarized the exhibits located at the end of the plan. He discussed the sequencing of the construction, namely that the thirty percent (30%) ratio of affordable units to market rate units had to be maintained at all times. Therefore, Building 2 would be built first, with all 28 of the affordable units rented out before Building 1 could obtain a Certificate of Occupancy. The sequencing would be changed on the plans and new plans delivered to the Commission. There was some discussion regarding the sequencing of the site work. Attorney Landolina stated that site work would begin at the same time as the construction of Building 2. Michael Cannata expressed some concerns over site work not being complete and having Building 2, which is furthest from Court Street, being occupied, because residents of Building 2 would be passing through an active construction zone. He believed that such a sequence was detrimental to the health and safety of the residents.

Attorney Landolina next reviewed the rental price worksheets to explain how they were calculated. There was some discussion regarding the impact of the utility allowances and it was clarified that these allowances are not credits to the tenants, but act to lower the lease amount that could be charged. The heating utility is calculated for natural gas. Attorney Landolina explained the "next unit rule". He stated that residents must qualify annually and if their income exceeded the threshold, they must either vacate or pay market rate. The next unit of that type that becomes available would then be offered as affordable. The lease term for the affordable units is therefore one year and the likely lease term for the market rate rentals would also be one year.

Nicholas Demetriades questioned the appearance of the construction entrance and sequencing. Chris Juliano, P.E. and L.S., of Juliano & Associates, stated that the sequencing had to be revised on the plans. He said that all construction activity would enter/exit off of Court Street and that utilities and a binder course of pavement would be completed during construction of Building 2.

Attorney Landolina next began to address the comments and concerns raised during the August 15, 2017 meeting by the Commission members and public. He said that the Cromwell Zoning Regulations did not allow for density bonuses when affordable units are offered at other sites by a developer. He stated that the industrial zone exemption was not applicable because this was not an industrial zone. He said that public welfare is not a stated part of the criteria for considering the application. He acknowledged that the buffer area did not comply with the zoning regulations but that was not sufficient reason to deny the application. Fencing had been added to the plans around the residential perimeter. He said that the density does not impact health and safety as higher densities are allowed by the PRD zone and he referenced the upcoming application for the Nike Site. He stated that the 148 parking spaces were greater than the required amount. The proposed

four story height was also allowed in the PRD zone. Chairman Kelly objected to the comparison of this application to that of PRD zone development.

Attorney Landolina referenced the two handouts submitted to the Commission at tonight's meeting regarding Affordable Housing and its perceived impacts on property values and public schools. He stated that no species of concern had been identified during the wetlands review. The developer was being named as the administrator for the purposes of the application but he was discussing hiring a professional management company with the applicant to act as administrator. Ken Rozich asked about penalties if the program was not administered properly. Attorney Landolina stated that it would be treated as a zoning violation. The issue of stiffer penalties would have to be directed to the town's attorney. Chairman Kelly asked about the date of the studies being submitted regarding property values and the impact on schools.

Next, Attorney Landolina stated that a new traffic study / count was completed last week and a new report submitted. The revised document incorporated the concerns raised by peer review. He said that no events (such as foreclosure) ever serve to void the Affordable Housing designation. To give Cromwell residents preferential treatment in renting the units, equal preferential weight would need to be given to those races and ethnicities least likely to rent the units. He read the pertinent statute to the Commission.

Chris Juliano, Juliano and Associates, LLC, presented next and summarized the twelve changes contained in his memo dated September 18, 2017. The zoning designation had been changed, internal sidewalks added, parking spaces numbered 148, a six foot vinyl fence and bus stop added, photometric and landscaping plans added, title sheets updated to show revision dates, and a phasing plan and narrative added. The plans could be updated again to address the Fire Chief's request regarding the number and placement of hydrants. Snow removal would be conducted according to best management practices and snow storage would remain on site. The two larger buildings would have sprinklers.

Stephen R. Ulman of Alfred Benesch & Company of Glastonbury, reviewed his memo dated September 19, 2017. The new traffic count was conducted on Friday, September 8, 2017, both in the morning and afternoon. He incorporated some of the comments provided by the peer review, Freeman Company, in its memo dated September 11, 2017. He stated that the main conclusions were the same with all intersections operating at a level of service of "C" or better.

Attorney Landolina presented the architectural materials to the Commission for their review. Chairman Kelly asked for a three dimensional rendering. Attorney Landolina stated that he would review the request with his client. He also consented to extending the public hearing to October 17, 2017 and said he would provide such consent in writing.

Upon the conclusion of the presentation, the Commissioners offered their comments.

Michael Cannata asked if a pedestrian traffic analysis would be conducted. He specifically wants to know about the placement of crosswalks and traffic controls for the health and safety of the residents. Attorney Landolina said that one had not been done and he would discuss the matter with his client.

Nicholas Demetriades expressed concern for the safety of the residents passing through the construction areas and asked about construction traffic entering and exiting Court Street. Mr. Juliano stated that he predicted a three year duration to the project. All infrastructure would be completed first, then the buildings, so smaller equipment and less frequent trips would be required once the first building was occupied. Nicholas Demetriades stated that he wanted to see how those safety risks to the residents would be mitigated.

Chris Cambareri said he was concerned about the Fire Chief's memo which raised the issue of the flammability of the materials used during construction and asked that a safety plan be provided.

David Fitzgerald asked how the bus stop location and the safety of the students at the bus stop would be addressed during construction.

Ken Rozich asked how the affordable units had been chosen and designated and why no three bedroom units would be designated as affordable.

Richard Waters stated that he did not want the construction entrance on Court Street. Mr. Juliano stated that traffic volumes dictate the use of Court Street, not Shunpike Road, for construction. He said that he would review the issue with DOT and the Chief of Police.

Alice Kelly asked the applicant, Patrick Snow, why he had not presented this apartment concept plan as affordable housing when he was first in front of the Commission and why was he doing it now. He stated that he had reviewed his options and this was one of the better options available to him at the present moment.

The public hearing was opened up to public comment.

Peter Hanson, 100 Court Street, stated that he believed that "other matters" referred to welfare, living conditions of the residents, and compatibility with the overall plan of development. He stated that he did not believe that comparisons to the PRD zone are relevant or accurate as the PRD zone regulations require open space and are subject to a Special Permit. He questioned the administration of the plan, what utilities were available to the site and whether the fence was non-climbable as requested.

Caroline Brunetto, 62 Washington Road, spoke against the application, saying that the plan was disorganized and she was concerned with the safety of the proposed residents.

Tommy Hyatt, 98 Court Street, stated that the plans were disorganized. He questioned why construction traffic would be on Court Street because Shunpike Road was too busy, but the applicant was still suggesting that there wouldn't be any significant impact on Shunpike Road when the complex was fully occupied. He did not feel that the traffic impact study was accurate. He was concerned with the lack of a snow removal plan and the possibility of overflow parking on Court Street.

Jackie Hayward, 15 Lancaster Road, spoke against the project, saying that she was concerned over the impact to the school system, especially in light of the state's budget problems. She wanted to focus on developing the vacant business properties in town.

Matt Ruske, 64 Evergreen Road, asked why there wasn't a privacy fence proposed for Shunpike Road.

Dilys McIntyre, 104 Court Street, asked if there was room to address a fire on the backside of the building since it was only thirteen feet from the property line, which was proposed to be fenced. She wanted a taller fence that could not be climbed. She was concerned about possible polluted runoff affecting her well and the lack of elevators in the buildings.

Ray Cioffi, 61 Court Street, said that he had calculated out approximately 240 to 265 residents at the apartments, with approximately 192 to 213 vehicles, since there were no public transportation options available. He did not think that the parking was sufficient. He raised concerns with the lack of recreational areas for children, the flammability of the proposed building materials, and the lack of an OSHA safety plan.

Ronald Bomengen, 5 Riverside Drive, was concerned about fire safety and truck access to the back of the buildings. He questioned the site plan details regarding the dumpster enclosure and said that he had reviewed the drainage report and found some errors. He also took issue with the footing drain connections, the sediment storage, the driveway proximity to the Learning Experience and the number of transformers proposed.

Dmytro Grebenyk was concerned about the lack of schedules, the lacking of planning for the bus stop and snow removal, how the construction sequence would affect marketing the apartments, the health and safety of the residents while construction was ongoing, the lack of a proposed deadline to complete the project, how the project would be supported financially during construction and the limited parking.

Andrea Shaw, 11 Riverpark Drive, was concerned over the developer's previous projects that were not fully completed, the developer's late submission of materials, and the partnership structure of the LLC. She said that even if the proposal was perfect in all elements, could the developer be trusted to properly execute those plans.

Sandra Tate, 6 Horse Run Hill, agreed with the previous speakers. She submitted her concerns in writing to the Planning and Zoning Commission via Mr. Popper. She was concerned with the volunteer fire department's ability to support this development, the project's burden on the taxpayers and the impact on the school system, especially transportation and special education.

Frank Mangene, 12 Sunset Drive, said he felt disrespected by this proposal as there were no clear answers being provided by the applicant.

Melissa Pine, 21 Cider Hill Drive, agreed with Ms. Tate, saying that no firefighters were available to respond to a recent fire call on Coles Road. She said that the schools were already short on classrooms, desks, and books.

Rob McIntyre, 102 Court Street, said that he was the Assistant Chief of EMS in Cromwell and a firefighter, and was speaking from that experience, but not as a representative of the Cromwell Fire Department. He was concerned over the lack of elevators and there being enough room for a ladder truck to park at the back of the buildings. He thought that fire suppression would be impacted by the lack of room on the property.

After all public comments had been heard, the Commissioners continued to discuss the application.

Chairman Kelly asked whether a performance bond spreadsheet had been completed. Attorney Landolina said no as there would be no public improvements and nothing owned or controlled by the Town of Cromwell. He had asked Mr. Popper for direction regarding this requirement. Chairman Kelly also asked about insuring the development against foreclosure. Attorney Landolina stated that he did not believe that to be relevant and was unaware of any court orders against the applicant.

Michael Cannata asked if a pedestrian traffic safety study would be performed, with information about crosswalks and traffic controls. He asked whether this project was a major traffic generator and if a special permit from DOT was needed. He wanted specifics about the elevator sizes and the number proposed for each building. He also wanted a legal definition and clarification as to what "other matters" encompasses.

Brian Dufresne asked how the outstanding concerns and questions could be compiled to ensure that all were answered.

Attorney Landolina stated that the issues of fire safety and drainage would be addressed at the next hearing. Paul Cordone asked if the plans could be reviewed by an independent third party at the applicant's expense. Attorney Landolina stated that the town's engineer, Mr. Jon Harriman, had already reviewed the plans. He was unaware of any town ordinance that would authorize Mr. Cordone's request and such a question should be directed to the town attorney. Mr. Popper said that he would review the town ordinances to see if any are applicable. Mr. Popper said that he would ask Attorney Olsen to be present at the next hearing.

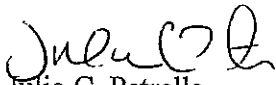
Chairman Kelly asked that all information be submitted to Mr. Popper at least one week in advance so that it could be distributed to the Commission members prior to the meeting. She felt it was inappropriate to receive documents and plans last minute.

Mr. Ulman said that this project was not a major traffic generator. If more than 200 parking spaces are required, then the project would be a major traffic generator. They will need an encroachment permit from DOT. Mr. Juliano read a portion of the Fire Chief's memo dated July 12, 2017, stating that the access around the building perimeter is adequate.

Michael Cannata made a motion to continue the public hearing; Seconded by Richard Waters. *All in favor; motion passed.*

11. **Commissioner's Comments:** Michael Cannata asked that a list of questions be compiled and addressed before the next hearing.
12. **Approval of Minutes:**
 - a. September 5, 2017: A motion to accept the minutes as presented was made by Michael Cannata; Seconded by Brian Dufresne. *All in favor; motion passed.*
13. **Adjourn:** A motion to adjourn was made by Michael Cannata; seconded by Chris Cambareri. *All in favor; motion passed.* Meeting adjourned at 10:08 p.m.

Respectfully Submitted,


Julie C. Petrella
Recording Clerk