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10/23 2017 at 9:03 AM
TOWN CLERK'S OFFICE
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**TOWN OF CROMWELL
PLANNING AND ZONING COMMISSION
REGULAR MEETING
7:00 PM TUESDAY OCTOBER 17, 2017
CROMWELL TOWN HALL GYMNASIUM, 41 WEST STREET
MINUTES AND RECORD OF VOTES**

Gloria Prendergast
TOWN CLERK

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

Absent: Kenneth Slade, Ken Rozich, Brian Dufresne

Also Present: Director of Planning and Development Stuart Popper

1. Call To Order

The meeting was called to order by Chairman Kelly at 7:05 p.m.

2. Roll Call

The presence of the above members was noted.

3. Seating of Alternates

A motion to seat Alternates David Fitzgerald and Nicholas Demetriades was made by Michael Cannata; Seconded by Paul Cordone. *All in favor; motion passed.*

4. Approval of Agenda

A motion to approve the agenda was made by Michael Cannata and Seconded by Jeremy Floryan. *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 and there was no report.

7. Town Planner Report

There was no report.

8. 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.*

Chairman Kelly began by reviewing the time limits and other rules for public comment and requested that the public not audibly react to comments by any of the speakers.

Mr. Popper reviewed his comments memo to the Commission and told the public that he would read any written comments that they wished to submit. He reviewed the numerous memos included in the Commission's packet, namely from himself, the town engineer, and town attorney. He said that he had received the revised bond estimate from Mr. Juliano, which was being reviewed by Mr. Harriman, and had received the updated peer review traffic study from Freeman Companies. He told the public that all of the plans and materials were available for inspection in the Town Planning office.

Chairman Kelly informed the audience that tonight was the last night for public comment as the public hearing will be closed in November. Attorney Landolina agreed to extend the public hearing until the November 21, 2017 meeting.

Richard Waters asked why the town attorney was not present and Chairman Kelly replied that she did not know the reason, only that Attorney Olsen would attend the November 21, 2017 meeting. Mr. Popper stated that Attorney Olsen had provided written responses to the Commission's questions so he had asked her to attend the next meeting to assist the Commission in their deliberations, rather than tonight's meeting. Richard Waters restated his concerns over the town attorney's absence.

Attorney Carl Landolina of Fahey and Landolina in South Windsor, Connecticut, began his presentation by introducing the applicant, the project engineer and the traffic engineer. He said that he submitted an affidavit regarding the posting of the required sign.

Chris Juliano, Juliano and Associates, LLC, began his presentation by reviewing his October 9, 2017 correspondence in which he noted the updates to the plans. He had revised the storm drainage calculations to use the NOAA Atlas 14 precipitation frequencies, despite their use not being required by the Town of Cromwell. In doing so, he also had to revise the heights of the underground galley drainage system and the low flow orifice. He reviewed the changes to the proposed fencing, which would be shortened on the easterly side and added along the boundary line at 190 Shunpike Road. He proposed a six foot vinyl privacy fence. He said that six feet is the maximum size allowed by the regulations but he would agree to a higher fence if required by the Commission. Any six foot fence could still be climbed and he did not think that the inclusion of barbed or razor wire was appropriate for this development. He had submitted the revised bond estimate to the town engineer. He believed that 98% of the runoff would be caught and not impact the neighbor's well, but he was proposing to provide an extension of the water main and an

easement, should the neighbor wish to utilize public water. He said that he had revised the dumpster and pad detail. Mr. Juliano stated that the transformers on the plans were there to show the likely locations and that Eversource does not conduct a final design until the project receives all required approvals. He also said that he had updated the title sheet and submitted a snow removal plan with modified curbs and designated storage areas.

Mr. Juliano next reviewed the Construction Sequence Narrative dated October 2, 2017. He proposed a five phase sequence in which utilities, driveways and parking lots were constructed to a binder course, then Building 1 was constructed, then the Community Building and parking areas were constructed, then Apartment Building 2, and then finally the construction of Apartment Buildings 3 and 4. The sequence proposed installing construction barriers, such as Jersey barriers, across the construction entrance to separate the residents of the completed buildings from the continuing construction, in response to the Commission's concerns over the safety of the proposed residents. He said that the revised sequence addresses the affordability plan as well.

Jeremy Floryan asked Mr. Juliano why he felt that he was bound by the zoning regulations for the fencing and Mr. Juliano said that he was trying to comply where he could, but it was up to the Commission to establish the height of the fence. Jeremy Floryan then asked why not reduce the building heights to three stories and Mr. Juliano deferred that question to the applicant and/or his attorney.

Stephen R. Ulman of Alfred Benesch & Company of Glastonbury, reviewed his memo dated September 19, 2017, and the peer review response from Freeman Companies dated October 3, 2017. He referenced the finding from Freeman Companies that his report was found to adequately address the comments they had presented and reasonably evaluated the project's potential impacts. He stated that he could possibly fit in a one hundred foot turning lane fully within the right of way on Court Street.

Mr. Ulman stated that he did not have a template for conducting a pedestrian traffic study. He had taken a count during the morning and afternoon peak hours at Shunpike Road/Coles Road, 181 Shunpike Road and Shunpike Road/Court Street. He said that the paved shoulder along Route 3 and the traffic signals and pedestrian pushbuttons were sufficient in giving pedestrians time to cross the intersections. He did not believe that additional measures were necessary. He said that the sightlines in excess of 550 feet were adequate, that none of the crash data available involved pedestrians and because there was no mass transit available in the area, it was unlikely that there would be more pedestrians as a result of this development.

Michael Cannata objected to Mr. Ulman's findings by saying that he had analyzed the current conditions, not what was projected, when there could be an additional 200 to 300 potential pedestrians. He said that the surrounding areas offered numerous services which the apartments residents would likely walk to, such as

restaurants and bars. Those pedestrians would have to cross two to three lanes of traffic, including the turning/bypass lane along Route 3. He did not feel that Mr. Ulman's study addressed his concerns over the health and safety of those prospective pedestrians. Mr. Ulman disagreed on the projected number of pedestrians, saying that this project would not generate such large numbers and repeated his conclusions that the present traffic controls are sufficient. Michael Cannata stated that the plans did not include additional crosswalks or signaling.

Chairman Kelly said that the photographs included in the report do not accurately represent the traffic conditions along those roads and offered her own photographs for review. Mr. Ulman stated that the photographs were to show the road geometry only. He said that the development would generate far less traffic than the Commission was suggesting. His study uses peak times for measurements, as not all cars travel during those periods. Jeremy Floryan stated that there would be more pedestrians then, based on Mr. Ulman's conclusions of so few vehicle trips. Mr. Ulman stated that his study utilized current figures provided for low rise suburban developments, but there was no distinction between developments along bus routes and those not. Attorney Landolina asked Mr. Ulman if his study was done in accordance with all professional standards, to which he said yes.

Attorney Landolina reviewed the contents of his October 10, 2017, correspondence addressed to the Commission. He stated that he had submitted data showing that property values would not be affected, and that concern over property values wasn't a criterion that could be considered, nor were the aesthetics of the development, the impact on the schools, or "welfare". He stated that it was estimated that the development would bring an additional sixteen students to the school system and that the revised plans included an area for them to wait for the bus.

Attorney Landolina said that the traffic study concluded that the roadways could handle the additional load at an acceptable level of service, that the proposed buffers were adequate and not a reason for denial, that the higher density is not a sufficient reason for denial, and that only housing that is either deed or rent restricted is counted as affordable housing under Connecticut law. He stated that no species of special concern were found on the property, that the developer would comply with all codes and recommendations made by the Fire Chief regarding sprinklers, elevator sizes sufficient to accommodate a stretcher, and pressurized stairwells. He said that the Fire Chief's letter did not address the height of the building as being a concern. The distances around the building were sufficient to accommodate a ladder truck and the "wings" of the buildings had been redesigned. He said that he did not receive any negative correspondence from the Police Chief, that there would be 29 affordable units spread out among the apartments, that it was up to the Commission as to whether to allow for preferential treatment for Cromwell residents, and that the Town could enforce the affordability restrictions.

Attorney Landolina said that the developer's history was irrelevant and that he would agree to bond all improvements as required. The requested pedestrian

accommodations could only be installed on Court Street as a town road and not on Shunpike Road. Mr. Ulman stated that this project was not required to go to the Office of the State Traffic Administration but would be reviewed by the district regarding the encroachment permit. Attorney Landolina repeated that they would install a fence of a height requested by the Commission. He said that the community building would be for the apartment residents, that sidewalks had been included on the plans, a bond estimate spreadsheet had been submitted and that building samples had been submitted for the Commission's review. Language terminating the affordability restrictions had been deleted, the construction sequence revised, and a snow removal plan submitted.

Attorney Landolina said that compliance with Section 6.8 of the Zoning Regulations was not required and that the buildings would remain at four stories to keep the project economically viable. He deferred to the town attorney to advise what "other matters" could be considered, said that one three bedroom apartment was now affordable, that the construction entrance had been moved to Shunpike Road, that foreclosure would not terminate the affordability restriction, and that this project was not a major traffic generator. He said that the time limits necessitated an end to further peer review studies, that the parking outlay was per the existing Zoning Regulations for a PRD zone, that the issue of the neighbor's well had been addressed, that no additional recreational areas were proposed beyond the two lawn areas, that all contractors would comply with OSHA safety standards, that the LLC structure was irrelevant, that the tax impact was not a criterion to be considered, and that he believed that the applicant had been fully transparent in his presentations at these hearings.

The public hearing was opened up to public comment.

Tommy Hyatt, 98 Court Street, stated that the applicant had said earlier that there was too much traffic on Shunpike Road to use it as the construction entrance, but now had revised his plans to do just that. He did not think that the traffic study was sufficient in its duration, nor did he believe it to be accurate. He felt that the history of the developer put the public safety at risk and that the attendance at these meetings demonstrates an overwhelming negative response and that this project is of substantial public interest.

Peter Hanson, 100 Court Street, stated that the Commission had more discretionary power than the applicant's attorney was suggesting. He stated that he did not believe that comparisons to the PRD zone are relevant or accurate as the PRD zone regulations are subject to a Special Permit. He said that if the application was accepted, that contingencies regarding pedestrian safety, overflow parking, and sidewalks should be put into place. He was concerned over the possibility of the developer abandoning the project prior to completion. He also questioned the use of the affordable housing laws when the developer was already concerned about making sure that this project was economically viable. He felt that the developer was just trying to avoid having to comply with the requirements of a special permit.

Dilys McIntyre, 104 Court Street, agreed with the previous two speakers. She said that she had spoken with State Senator Paul Doyle regarding the project. She expressed safety concerns over the proximity to the wetlands and ravine and said that she wanted a ten foot fence along her property line.

Beth Johnson, 65 Court Street, asked if there would other places where this project could be located. She was concerned over the public safety, especially that of children, because of the traffic on Court Street.

Diane Uccello, 21 Reiman Drive, asked what benefit this project brings to Cromwell. She expressed concerns over the developer's reputation and history and said that he had previously negatively impacted the lives of Cromwell residents. She felt that the town does its share and cited the number of students at or below the poverty level. She wanted the developer to acknowledge the people whose lives he was impacting.

Ronald Bomengen, 5 Riverside Drive, said that he did not believe the latest drainage calculations to be accurate. He was concerned over the apartment complex being used as a cut through if traffic backed up along Court Street and Shunpike Road. He also pointed out that the driveway wasn't aligned with the driveway across from it and thought that the state may comment on that.

Dmytro Grebenyk, 202 Coles Road, questioned the traffic report findings and wanted clarification on wait times and the allotment for parking. He questioned the conclusion that there would not be more pedestrian traffic when the proposed development was across from restaurants and bars and other establishments. He wanted to ensure that the drainage system was built properly.

Amanda Chiappetta, 59 Geer Street, asked how this would affect the property values of the surrounding homes.

Deborah Bradley, 93 Court Street, said that she had a lot of difficulty pulling out of her driveway because of the traffic on Court Street. She said that class sizes are getting bigger, not shrinking, and is concerned over the validity of the studies being presented by the applicant.

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 said that the Chief's job is to make recommendations regarding safety, not to support or oppose a particular development. He did not believe that there was total aerial coverage for firefighting and was concerned that if additional equipment was needed, it would fall on the town to provide it.

Dilys McIntyre, 104 Court Street, said that she wanted the fencing installed prior to construction. She also said that the parcel is zoned local business and that it should be developed that way as it is the only one in the northern tier.

Stuart Epstein, 9 Fern Street, said he was concerned over the safety of traffic along Court Street, with other bad elements that might follow this development, and with the possible noise, light and fire safety. He felt that the developer should be held accountable for his past projects.

Mr. Popper read into the record a letter from Donna Brilliant and Pierre Brilliant, 91 Court Street, regarding their concerns over wastewater, traffic, fire safety and the safety of the tenants. They wanted the town to petition the state for a moratorium on these types of applications so they could have time to identify appropriate locations and developers.

Marisol Bonacquisto, 7 Patricia Lane, said that the developer's history is relevant and that he has a demonstrated record of not paying contractors and vendors, of not maintaining his properties, of shoddy workmanship, and ensuing lawsuits. She felt that the traffic study and parking allotment were both insufficient, that his data on the school impact was outdated. She wanted him banned from doing work in town and asked why the town manager, mayor and attorney were not present. She wanted development that helped the town, such as a senior center, recreation center, schools, and businesses.

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

Richard Waters wanted to know where the Affordable Housing statistics came from. Chairman Kelly wanted to review the materials. She wanted to know why the proposed aesthetics of this project are so vastly different from his previous application for luxury apartments. She felt that this "two tier" approach could be the "other matters" referenced in the regulation. She also referenced an interview with Evonne Klein, Commissioner of Connecticut's Department of Housing, that the intent of the regulation is to combat exclusionary zoning and not to force the acceptance of projects that were previously denied. She said that the PRD regulations were to allow flexible housing that fits in with the surrounding neighborhoods.

Michael Cannata asked for confirmation that a turning lane would be added to Court Street and that a fence would be constructed during Phase 1. He said that he was concerned with the use of a Jersey barrier and that plan should be reviewed with the Fire and Police Departments because of its affect on the public health and safety. He wanted confirmation of a children's bus stop and additional recreational areas, such as a playground. He was concerned about the use of the complex as a cut through. He also stated that he had quickly identified several companies that specialize in pedestrian analyses.

Attorney Landolina said that the Department of Housing provides the percentages of affordable housing per town, based on a number of factors. He said that he wasn't involved in the previous application and therefore could not discuss the aesthetics. He thought that they could accommodate the turning lane wholly within the right of way and that a ten foot fence could be installed prior to construction. He said that he would look into the safety concerns raised by the placement of the Jersey barriers, the pedestrian traffic study and how to address the possibility of the cut through via stop signs and speed bumps. He said that there was a bus shelter provided and he would review the possibility of additional recreational areas with his client.

Richard Waters stated that a ten foot fence next to a four story building would not add much in terms of privacy.

Attorney Landolina agreed to an extension of the public hearing to November 21, 2017, which he submitted in writing to Mr. Popper. He said that he could not grant any additional extensions beyond that and once the hearing was closed, the Commission had sixty five days to render a decision.

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

9. Commissioner's Comments: None

10. Approval of Minutes:

a. October 3, 2017: A motion to accept the minutes as presented was made by Michael Cannata; Seconded by Jeremy Floryan. *All in favor; motion passed (Paul Cordone abstained).*

11. Adjourn: A motion to adjourn was made by Michael Cannata; seconded by Paul Cordone. *All in favor; motion passed.* Meeting adjourned at 10:00 p.m.

Respectfully Submitted,



Julie C. Petrella
Recording Clerk