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**TOWN OF CROMWELL
PLANNING AND ZONING COMMISSION
REGULAR MEETING
7:00 PM TUESDAY JANUARY 16, 2018
ROOM 224 CROMWELL TOWN HALL, 41 WEST STREET
MINUTES AND RECORD OF VOTES**

Jean Ahlgren
TOWN CLERK

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

Absent: John Keithan (alternate)

Also Present: Director of Planning and Development Stuart Popper, Development Compliance Officer Bruce Driska, Town Attorney Kari Olson

1. Call To Order

The meeting was called to order by Chairman Kelly at 7:02 p.m.

2. Roll Call

The presence of the above members was noted.

3. Seating of Alternates

Michael Cannata made a motion to seat David Fitzgerald; Seconded by Brian Dufresne.
All in favor; motion passed.

4. Approval of Agenda

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

5. Public Comments

There were no public comments at this time.

6. Development Compliance Officer

Mr. Driska referenced his report included in the Commission's packet. He stated that he would follow up on Application #17-19 to see if the applicant intended to move forward; otherwise he would remove the item from his report.

7. Town Planner Report:

Mr. Popper stated that there would be new applications to accept and schedule at the February 6, 2018 meeting. Chairman Kelly asked about the 403,000 square foot warehouse and Mr. Popper said that the applicant was focusing on site work at this time and would be back with a design plan prior to beginning construction.

8. Old Business:

- 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.

Mr. Popper stated that the public hearing had been closed at the November 2017 meeting and the Commission had to render a decision tonight. He stated that he had reviewed the minutes and his notes and, with Attorney Olson, had drafted two motions that were included in the Commission's packet: for an approval with conditions and for a denial with reasons. Attorney Olson said that the motions were guides for discussion.

Michael Cannata made a motion to approve the application with the following conditions:

- A. Applicant shall provide proof that at all times relevant to the pending application it held a valid ownership interest in the property to be developed; and
- B. Applicant shall modify the plan to eliminate any potential for drive-through traffic from Shunpike Road and Court Street; and
- C. Applicant shall provide proof of a CTDOT-approved turning lane on Court Street at the intersection with Shunpike Road; and
- D. Applicant shall provide proof of a CTDOT traffic light with crosswalk signaling at the entrance to the development across Shunpike Road; and
- E. Applicant shall reduce the height of all buildings in the development to forty (40) feet.

The foregoing conditions are necessary to establish applicant's legal standing and to protect substantial interests in public health, safety and the general welfare of the community. The failure to comply with all conditions outweighs the need for affordable housing in Cromwell.

Jeremy Floryan seconded the motion. The motion was opened to discussion. Brian Dufresne asked to amend the last sentence of the motion to read "The failure to comply with all conditions outweighs the need for additional affordable housing in Cromwell." Ken Rozich asked for clarification on the procedure and a short discussion followed. Attorney Olson said that the motion to approve opened the discussion. If the motion fails, the Commission can then vote on the motion to deny, and in doing so, put their reasons for denial on the record to meet their statutory burden.

Nick Demetriades stated that he did not believe the zone was compatible or meant for multistory dwellings as it was a business zone, per the town's Plan of Conservation and Development. He said that the first proposal failed and this was essentially the same design and configuration. He said it was not an appropriate plan for development in terms of traffic and pedestrian safety. He said that the development would have risks for the

people living there and those driving through the area.

Ken Rozich said that he was concerned about safety for the hundreds of people living there at an intersection not meant for pedestrian traffic, as they would be utilizing the businesses across the street. He did not feel that any steps were being taken by the developer to ensure pedestrian safety.

Chris Cambareri said that he was concerned about safety and pedestrian traffic and wanted to deny the application.

Michael Cannata said that he had seen two other yellow blinking lights, similar to what the developer was proposing for the crosswalk, in New Haven and Simsbury. He said that it worked on Simsbury because it was not a high volume crossroad, but in New Haven it did not appear to be creating a safe crossing for pedestrians. He believes that it would create a worse situation for pedestrian safety if used at this development. He noted that all of the facilities would be across the street from the development, with nothing on the same side of the road.

Paul Cordone said that he did not believe that the developer had the town residents' or prospective apartment residents' interests in mind. He felt it was an unhealthy design and that he did not take into consideration the neighbors' concerns. He felt the developer was taking advantage of the state law. He said that the developer refused to reduce the building height even though it would impact the town's emergency resources as additional training and equipment would be needed to service the development. He said that there was no area for children to play and said that the development would serve as a cut through for drivers trying to avoid traffic and the stoplight. He said that the proposed crossing device was not enough to protect pedestrian safety. He feels that this is the wrong spot in town and is not in favor.

David Fitzgerald said that he concurred with his fellow Commission members.

Brian Dufresne said that he was not in favor based on the prior testimony because of health and safety reasons. He said that he could not be involved in its approval.

Jeremy Floryan said that he was not in favor because of the safety concerns over traffic and pedestrians. He said that the development should be in a different location.

Chairman Kelly said that she was not in favor because of traffic concerns. She also said that the development was not aesthetically appealing and offered no amenities, such as a porch or playground. She said that affordable housing residents should not be treated like second class citizens. She pointed out that the previous application proposed less units.

A vote was held; all were opposed. *Motion failed unanimously.*

Michael Cannata made a motion to deny the application for the following reasons:

- A. The application is incomplete. Applicant has failed to provide any evidence of its legal standing to submit and pursue the application. Despite request from the Town Planner, the applicant never submitted any proof it had the right to pursue the application in question, i.e. a letter from Sybil C. Martin, Executrix of the Estate of Helen M Ewald authorizing JGP Partners LLC to pursue approval from the commissions for the proposed development of the property or a valid option to buy the property which it currently does not own.
- B. The Commission also votes to deny the application based upon the failure of the applicant to adequately address public health and safety concerns, especially of the new residents of the proposed development. These concerns, as outlined below, outweigh the need for affordable housing in Cromwell.
1. The Commission is of the opinion that there will be more pedestrians as a result of the proposed development's ninety two (92): studio, 1, 2 and 3 bedroom units. These new residents will likely be pedestrians when they frequent the businesses directly across Shunpike Road. These businesses include a daycare facility, a doctor's office, a pediatric physical therapist, a hair salon, a bar, two restaurants and two gyms. The applicant has failed to provide adequate safeguards to prevent pedestrians from crossing Shunpike Road, an extremely busy and fast-paced route from the most direct and unsafe path from the proposed development driveway on Shunpike Road.
 2. The other major pedestrian and vehicular traffic safety issue that the applicant did not address is the use of the private driveway through the development as a cut through to avoid the busy intersection traffic and delays at the light at the intersection of Court Street and Shunpike Road. In most cases cut through traffic usually does not follow posted speed limits and stop signs in their rush to beat the traffic and the light. Cut through drivers pay little attention to existing pedestrian and vehicular traffic thus creating dangerous and hazardous conditions to the proposed development's pedestrian and vehicular traffic.
 3. The applicant has proposed to install an additional west bound right turn lane onto Shunpike Road from Court Street. The construction of this turning lane will require the approval by the CT DOT. The construction of the turning lane is required to mitigate the traffic impact of this development. At this time the turning lane has not been approved. If the turning lane is not approved and constructed it will further deteriorate an already dangerous traffic condition.
- C. The proposed building height exceeds the height limits for the zone and substantially undermines the comprehensive plan for protecting the general welfare of the community, it being situated directly next to small residential homes. Compliance with the height restriction of this zone outweighs the need for affordable housing especially where, as here, applicant has refused to amend the plan and has provided no evidence that it could

not modify the plan to comport with the zoning height restriction without creating a substantial adverse impact on the affordability of the units.

Paul Cordone seconded the motion.

Brian Dufresne moved to amend the motion to change Paragraph B to read: These concerns, as outlined below, outweigh the need for additional affordable housing in Cromwell. Jeremy Floryan seconded this motion.

Michael Cannata said that, if this denial is subject to a lawsuit, he hoped the judge would see that this application was an attempt to get around the town regulations via the affordable housing statutes. He hoped a judge would see the true legislative intent of the affordable housing regulations. Chris Cambareri said that the intent of the affordable housing act was to combat exclusionary zoning and not to allow developers a way around zoning regulations. He said that the judge had found that the first application that was denied, if approved, could have caused a decrease in the abutting neighbors' property values, and the same could be said for this application.

Attorney Olson asked each member to confirm their reasons for denying the application.

Michael Cannata said that he was denying the application for the reasons he stated previously and as not being right for Cromwell. Jeremy Floryan said that he was concerned over pedestrian safety and traffic. Chris Cambareri said that he was voting against it for the reasons previously discussed. Brian Dufresne concurred, saying that it was not the right place and unsafe. Nick Demetriades said that he was against it for the reasons previously given by both himself and his fellow Commission members. He said it was not an appropriate site and that the town was willing to work with developers to find appropriate sites for Affordable Housing. David Fitzgerald said he was against it because of public safety. Paul Cordone said that he was against it for the comments previously stated by himself, the town residents and the Commission. Ken Rozich said he wanted to deny the application because of public safety for the drivers and residents. Chairman Kelly said that she was against the application because of what she and the other Commissioners said regarding public safety and this not being the right location.


Attorney Olson asked the Commission if they were ok with the reasons listed in the motion and if that was their collective statement of reasons. Michael Cannata said that he agreed with all the comments made and read into the record; all other Commissions agreed with the listed items and Commissioner comments.

A vote was held. *All in favor; motion to deny the application passed unanimously.*

9. Commissioner's Comments: There were no comments.

10. Adjourn: A motion to adjourn was made by Michael Cannata; Seconded by Paul Cordone. Meeting adjourned at 7:48 p.m.

Respectfully submitted,


Julie C. Petrella
Recording Clerk