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Planning and Zoning **Meeting Minutes**

The East Haven Planning and Zoning Commission held a Special Meeting on **Wednesday, July 8, 2020 at 7:00 PM** via ZOOM video conference and conference call as noted to conduct the following :

Chairman DeMayo called the meeting to order at 7:00 p.m.
Roll Call-5 Present a quorum present.

Staff Present: Christopher Soto Zoning Official and Jennifer Coppola Assistant Town Attorney.

Mr. Soto, Zoning Official set the ground rules for the Zoom meeting.

Public Hearings

1. **Public Hearing # 1:** Amendments to Zoning Regulation Changes – (Adoption of entire Zoning Regulations).
Commissioner Asid moved to table.
Commissioner Shaul second the motion.
Roll Call Vote-All in Favor. None opposed. No abstentions.
Tabled
1. Accept/Approve of Minutes from the June 3, 2020 meeting.
Commissioner Disilvestro moved to approve with addition of which was omitted.
Commissioner Tarducci second the motion.
Commissioner Asid stated that the discussion included limiting the amount of seating and safety concerns with regard to occupancy.
Commissioner DiSilvestro withdrew his motion.
Commissioner Shaul moved to the minutes as articulated by Commissioner Asid.
Commissioner Disilvestro second the motion.
Voice Vote-All in Favor. None opposed. No abstentions.
Approved with additions.
2. **Public Hearing # 2 20-01-Z: 49, 57 & 63 Coe Avenue:** Application for a Zone Change: – (R-1 to PDD). Request to create a Planned Development District in accordance with the requirements of Section: 26.2.4.4. Owner/Applicant AG&L Properties, LLC.

Chairman DeMayo asked if the applicant was present.
Mr. Soto indicated he does not see the Attorney Segaloff or the property owners logged on to the meeting. He recommends that this item be table and the commission still has time under the 90

days based on the Governor's executive orders. Also, his department is still waiting on the same items, we don't have enough information.

Chairman DeMayo asked Mr. Soto if the application was complete.

Mr. Soto indicated that the plan is lacking some information and they are aware.

Chairman DeMayo stated he has a problem with the lack of information and this is the third or fourth time. The second problem is that at the time he was not aware that it would affect the surrounding area and would automatically have the right to develop it under a PDD. He then asked Counsel if the previous vote for the PDD could be amended as it affected the entire shore area.

Attorney Coppola indicated that she will review the regulatory amendment which made this application possible. You are asking me to look into amending that regulatory amendment and she will look at the possibility of that change but this application is still in effect under that change.

Commissioner Asid stated she is in agreement with the Chairman.

Attorney Coppola indicated that you are tapping into the 90 days.

Commissioner Asid moved to table this item due to a lack of information and the applicant is not present.

Commissioner Shaul second the motion.

Roll Call Vote-All in Favor. None opposed. No abstentions.

Tabled

3. **Public Hearing # 3 #20-05-S: 597 Main Street:** Application for a Modified Site Plan: – (Schedule A, Line # 34: Indoor theater assembly). Request to expand services to the 2700 sq. ft. area in the rear of the building. Zone: CC. Owner/Applicant: William B. DiCrosta III.

Attorney Coppola stated that she has been in contact with Attorney Pethick and he has some lease agreements that she has forwarded to the commission. This addresses the lack of parking and the utilization of off-site parking.

Attorney Pethick stated we were here a month ago seeking theater use in the rear portion of the building located at 597 Main Street. We have coordinated with the shared parking lot owners Mr. Steve Tracey at 575 Main Street 14 spaces for theater use only and a lease agreement with Mr. Mancuso at 44 Doran Street. We did meet with the Fire Marshal Mark Nimons and Building Official James Bassett and a third party consultant Mr. Anthony Moscato, former Fire Marshal for East Haven. He will have Mr. Moscato speak on behalf of the applicant.

Anthony Moscato stated he went to the site on June 22, 2020 because there were concerns with the occupant load. So using the fire and building code and based on the square footage per person in assembly it is net. The area where the audience would be (*the amount of square foot was inaudible*) divided by 7 without tables came to 139, so potentially up to 139 in the audience. That's net anything that makes the area small would lower the occupant load. The occupant load with tables would be at 65. Inaudible. He calculates the stage area at 38. Again, those numbers could change if the floor plans changes. It is subject to a plan review by the Fire Marshal and Building Official. We did look at emergency lighting and exit lighting, door swings, and number of occupants.

Chairman DeMayo clarified 38 in the performance area and 139 in the audience for a total of 177.

Commissioner Asid asked for clarification that the applicant would have to provide the plan information for egress, lighting, etc.

Mr. Moscato stated yes.

Chairman DeMayo asked Attorney Pethick if he had submitted the plan with that information.

Attorney Pethick indicated that it was submitted to Fire Marshal Nimons and Building Official Bassett. We are well aware of the life safety with regard to the fire and building codes. The applicant is more than willing to meet fire and building code and in addition, if he is unable to meet those requirements he is well aware he will not be able to operate his theater.

Commissioner Asid stated then he has to submit a plan.

Mr. Moscato stated it would be futile to submit prior to the approval; it first has to be approved by Planning and Zoning. The Fire Marshal and Building Official would be wasting their time if they were denied. Upon approval they can submit plans to the Fire Marshal and Building Official.

Commissioner Asid stated that was not the impression we were given at the last meeting, it sounded like the other way around.

Attorney Coppola stated that she wants the commission to understand that in terms of plan review he is talking about two fire codes and building code pursuant to those codes he is not talking about zoning requirements. The applications are approved by this commission go to fire and police for zoning review. Mr. Moscato speaks on capacity for fire code purposes; we are talking about capacity for zoning purposes. Inaudible. The concerns that were expressed at the last meeting we received a note from the Fire Marshal which is part of the record that he did acknowledge a concern with capacity. You cannot lose sight that there is a parking deficiency issue. They have 30 parking spaces between the two lease agreements and the spaces that are available on site. The testimony from Mr. Moscato is 139 in the audience area and 38 in the performing area. You are saying 177 total from a fire code prospective you believe that is the capacity. It is a different analysis with regard to zoning concerns because you have to take into account the number of parking spaces that are available and what they are presenting. I believe Attorney Pethick will agree what is before is not for 177 people, it was proposed for 100 seats, between 25 and 50 participants in the platform area and some concessions. The total they are asking for is 150 occupants not 177. She and Mr. Soto do have some recommendations to address their deficiencies.

Attorney Robert Pethick agreed with Attorney Coppola that what Mr. Moscato was addressing building and fire codes. After the last meeting we contacted Mr. Moscato for some guidance. What we are talking about here is how the seats coordinate with the parking. We are asking for 100 seats in the audience area and the regulations state 1 parking space for every 3 seats. We should provide 34 parking spaces including the shared spaces, 7 on the actual property, 9 on Doran Street and 14 at 575 Main Street. Section 42.5 of the Zoning Regulations says that parking may be established by the owner on separate lots and 42.6 of the regulations states that the commission may authorize a lesser number of off street parking. So we are asking for an exception of 3 spaces for 100 seats. The parking is only required on the days of theater performances and these performances are in frequent. The performances are after 7:00 p.m. on

weekdays and on reasonable times on the weekend. There will not be performances during commuting hours or a high volume of traffic. During theater hours there will not be any normal operations. The shared parking will only take place while those businesses are closed. There will be 100 tickets for the 100 seats with no overflow tickets. The cast and crew will be from 25-50 depending on the performance. He reminded the commission that the cast and crew are under the driving age.

Chairman DeMayo asked what's the duration of the leases will be.

Attorney Pethick indicated the lease between the applicant and Mr. Mancuso is for a 3 year term with an option for renewal. The lease with the managing member for 575 Main Street, Steve Tracey, is month to month with continuous renewal. After lengthy discussions with Attorney Coppola and Mr. Soto we understand that once these parking agreements don't exist, the used does not exist.

Chairman DeMayo's biggest concern is safety and would like to see a report from the Fire and Building Departments as to what has to be done and is it feasible.

Attorney Coppola indicated that Mr. Soto did have an extensive discussion with the Fire Marshal regarding the application and he can give you some insight.

Attorney Pethick indicated that the Building Official and Fire Marshal upon meeting at the site indicate first get through zoning. To go through them first is a cost and effort that is prohibitive.

Mr. Moscato stated he was there at the same time as the officials and they will do a plan review once they receive an approval from zoning and they will only approve if they meet all the codes.

Commission Asid the approval from this commission should come before the report that would address safety issues and we could make it a condition of the approval.

Mr. Soto stated he had a conversation with Fire Marshal Nimons who expressed that based upon the number of people they can fit would not be insurmountable with regard to fire code. They should be able to adapt the building whatever way necessary to meet those codes, once the commission has determined how many seats are allowed. What is within the commission's preview is how people are allowed in the building based on the allocated parking. What we are looking at is 100 seats because zoning codes say that you must have 1 parking space for every 3 seats, which puts you at 30 spaces and that would be it. The challenge that they're saying is 100 seats plus an additional 50 people roaming around, which would put it at 5 people per car at capacity and that is the challenge.

Chairman DeMayo indicated to date no one has asked how this would impact the neighborhood.

Mr. Soto stated that is what you are deliberating on now; 30 spaces is what we are looking at; we cannot count off street parking. That is your challenge without a real parking analysis and traffic study you can't get a real answer to that. Attorney Pethick is asking not to look at those additional 50 people and the parking is not being accounted for because they are not in seats.

Chairman DeMayo has the applicant look into performing at another venue.

Mr. DaCrosta stated that Mr. Soto does not understand that those on stage are students and the audience members aren't necessarily their parents.

Chairman DeMayo asked the applicant to please address the commission with decorum.

Mr. DaCrosta stated that is how he has been treated by Mr. Soto.

Mr. Soto stated that Mr. DaCrosta is categorically incorrect; no one has ever raised their voice to him over a 3 hour conversation trying to explain this to him at length. So, saying he has been mistreated is categorizing it as abuse. It because he is not receiving what he wants is a mischaracterization.

Attorney Pethick stated in regulation 42.2.2 states that in place of worship and theaters it one space per every seat. It is not occupancy based, it is seat based.

Chairman DeMayo stated that no one has answered his question regarding a different venue.

Attorney Pethick indicated it is financially prohibitive.

Attorney Coppola stated this is a public hearing and there are people in the chat and we have some conditions to add.

Councilwoman Parlato stated she would like to make public comment on an application that will be discussed at tonight's meeting. My comment is in reference to Public Hearing #3 #20-05-S:597 Main Street Application for a Modified Site Plan. I spoke with Mr. DiCrosta today expressed his frustration in the Planning and Zoning process. I believe this application would greatly impact the youth in our community, East Haven has become a diverse community supporting sports, academics and the arts. This modification would allow the student access to voice, acting, and instrumental instruction where they would be able to showcase their skills with their family members and friends.

She would ask the Commission to consider zoning regulation 42.6 Modification of Standards which gives the commission significant discretion to allow parking below the standards delineated in our regulations and that, given the lengths the applicant has on to in order to apply, the commission should consider the appropriateness of exercising that discretion.

Respectfully, Councilwoman Parlato, East Haven Town Council, District 4

Attorney Coppola stated that the commission has a copy of the lease agreement signed by Mr. Tracey for the 14 spaces and the term in paragraph 3 indicates the term would commence on August 1, 2020. Mr. Tracey through the chair is stating he would like a similar agreement as Mr. Mancuso where it would be in effect for 3 years and given a one month notice of ending the lease agreement asking for the chairman to Mr. Tracey.

Commissioner Tarducci stated to Mr. Tracey that he mentioned there are 16 spaces and you are prepared to offer the additional 2 spaces.

Mr. Tracey indicated that there are 2 additional spaces on the side of the building; we only use those spaces while we are open for business. Have no problem with the additional two spaces.

Chairman DeMayo asked what would happen if any of those properties are sold.

Attorney Coppola stated that in each lease agreement there is an assignment provision that the agreement shall be binding upon heirs, executors, administrators etc., which is in part of paragraph 9 of the lease agreements that have been submitted. One of the conditions of approval is that the lease agreements be recorded on the land records.

Commissioner Asid (inaudible) it sounds like we now have 32 spaces of the 33 needed, this would create a one space exception. The report also would be part of the conditions of approval.

Mr. Mancuso and Mr. DaCrosta discussed the possibility of utilizing a valet then 15 cars could fit on Doran Street they would be stack only by utilizing a valet.

Commissioner Shaul stated that at last month's meeting we denied an application because they were short a half of a parking space. I think we need to be consistent and take that into account, not to deny this application. Just to remind everyone that we denied over a half of a parking space at 474 Main Street.

Inaudible

Gina Helland owner of Broadway Dance stated she has been there for 26 years and has never had a problem with parking and she and Mr. DaCrosta co-exist at the site and she is in favor of this application and does not see what all the squabbling over parking is about.

Mr. Soto indicated some of the issues to be addressed are that we put a maximum of 135 people in the building while shows are happening. A maximum total of 100 seats, if their leases expire the town needs to be notified and the use must cease until parking has been acquired again, lease agreement recorded on the land records, Mr. Tracey has modified his lease agreement with a 3 year term, the town is to be notified if either party intends to terminate their lease agreements or change them in any manner.

Chairman DeMayo requested a one year review.

Attorney Coppola stated that you are requesting a one year review of the lease itself with regard to the sufficiency.

Chairman DeMayo stated yes a report from the Zoning Official stating there are no complaints with the parking issues and the leases are in place.

Mr. Soto stated that is manageable.

Attorney Coppola stated we need a catch all stating any other conditions that have been agreed upon by the applicant. Parking is for performances only, no other activity would take place while performance are going on, week day performance can only commence at 7:00 p.m. or later, Mr. DaCrosta must issue physical tickets, seating to what is being proposed will be reduced to 85 and 50 performers a total of 135, no standing room in terms of attendees, the terms of the lease agreements, (inaudible). The fire safety issue concerns have not been indicated to her that they all can be addressed during the permitting process and the Fire Marshal hasn't raised any concerns with regard to any construction at the site. A fire plan review is much different for zoning purposes and she does not believe there are any issues that cannot be implemented.

Attorney Pethick stated that you have addressed all the issues except for that recommendation for a valet, we will have a valet present during performances. He indicated that they are agreeing to all the conditions including a valet

Commissioner Asid heard conflicting numbers for the occupancy please clarify.

Attorney Coppola indicated that all total it is 135, which was her error.

Commissioner Asid moved to close the public hearing.

Commissioner DiSilvestro second the motion.

Voice Vote-All in Favor. None opposed. No abstentions

Hearing closed.

4. Public Hearing #4 #20-01-E 11 Roma St.: Application for a Special Exception: - (Schedule A, Line #14: Churches and Places of Worship). Request to establish a church at a prior banquet hall. Zone: R-1. Owner/ Applicant: Charles Cheslock/Iglesia Dios Admirable.

Chairman DeMayo recognized Attorney Timothy Lee stated he is here on behalf of a non-profit corporation Schedule A, line #14, for a church at 11 Roma Street that has primarily operated as a banquet hall since 1957, a place of assembly. The church has a contract to purchase subject to zoning approval. They have submitted a statement of use, which is a permitted use under a special permit approval. We have submitted a site plan along with architectural renderings of the interior. There will not be any exterior renovations, some minor interior renovations. Currently, there are 60 parking spaces and for 180 parishioners at any one time. They currently operate a church on Grand Avenue, New Haven; a very thriving community. They will have church service, religious education, women focus groups, youth services, and typically closed on Saturday and hold services on Sunday.

Chairman DeMayo stated this across from a park would be in conflict with the activities there.

Attorney Lee indicated that 11 Roma Street has the abundance of parking, which is adequate.

Chairman DeMayo what are the hours.

Attorney Lee indicated that he did submit that information in the application; Mondays choir 7-9:00 p.m., Tuesday religious education 7-10:00 p.m., Wednesday services, Thursday is a Women's Focus Group from 7-10:00, Friday youth service 7-10:00, generally closed on Saturday occasional wedding, and Sunday service.

Town Engineer, Jonathan Bodwell stated his only concern is there is an encroachment to the abutting property therefore he will have to rotate those 3 spaces onto his property to eliminate the encroachment.

Mr. Soto indicated due to the placement of the dumpster you are short 2 spaces along the back but those spaces can be made up under the canopy.

Steve Tracey, Edgar Street stated that he has concerns with the parking on Sundays no emergency vehicle could get through that area. If the church gets bigger what happens if they overflow onto the street. We had another church that wanted to come here a few years ago; it will be the same issue. With the church and all the baseball games it will be ridiculous, and that wasn't approved. If the church is growing what will happen to all the parking.

Chairman DeMayo asked where the parishioners mostly from.

Attorney Lee stated from New Haven and the surrounding towns. He understands if the parish was thriving they would have more than one service on a Sunday. Unlike the ballfields the church has their own parking, which accommodates the church.

Attorney Lee stated for the record that a church is governed by East Haven Zoning regulation and there is a federal statute which gives special rights to religious entities from a land use perspective. Zoning looks more favorable to churches similar to places of assembly, which it was used as.

Mr. Valente, 15 Roma Street stated since this is a church from New Haven; would it make sense that a church from Bridgeport would want to open in East Haven or one from New York City.

Chairman DeMayo stated sure why not, yes.

Mr. Valente stated because it's not New York City. To come to East Haven and have Bridgeport parishioners.

Chairman DeMayo stated that we have no jurisdiction over that.
Inaudible

Chairman DeMayo asked Attorney Coppola to comment.

Attorney Coppola stated she will keep her comment brief "people can practice religion wherever they choose" she indicated that she attends 6 different churches.

Commissioner Asid stated that at any time when you start to exceed your occupancy we would like for you to increase services.

Commissioner Asid moved to close the hearing.
Commissioner DiSilvestro second the motion.
Voice Vote-All in Favor. None opposed. No abstentions.
Hearing Closed

I. Old Business

1. Amendments to Zoning Regulation Changes – (Adoption of entire Zoning Regulations).
No Action Necessary
2. **#20-01-Z: 49, 57 & 63 Coe Avenue:** Application for a Zone Change: – (R-1 to PDD). Request to create a Planned Development District in accordance with the requirements of Section: 26.2.4.4.
No Action Necessary
3. **#20-05-S: 597 Main Street:** Application for a Modified Site Plan: – (Schedule A, Line # 34: Indoor theater assembly). Request to expand services to the 2700 sq. ft. area in the rear of the building. Zone: CC. Owner/Applicant: William B. DiCrosta III.

Commissioner Asid moved to approve the proposal with the conditions articulated at the public hearing by Attorney Pethick, Attorney Coppola, and Mr. Soto. Chairman's recommendation of a one year review.

Commissioner DiSilvestro indicated that he has been quiet throughout this whole hearing and just want to say that he lives near the west end and the parking was not a big issue for him but the Fire Marshal still has to review for fire safety. If we approve this and he is in favor of approval

because he does not believe parking and traffic are an issue. His concern certainly is fire safety for the students and public safety and this issue was not solely about parking.

Commissioner DiSilvestro second the motion.
Roll Call-All in Favor. None opposed. No abstentions
Approved with Conditions

IV. New Business

1. **#20-01-E: 11 Roma St.:** Application for a Special Exception: - (Schedule A, Line #14: Churches and Places of Worship). Request to establish a church at a prior banquet hall. Zone: R-1. Owner/Applicant: Charles Cheslock/Iglesia Dios Admirable.

Commissioner Asid moved to approve with the conditions set forth by Attorney Lee to remove the encroachment and to maintain the occupancy at 180 .
Commissioner DiSilvestro second the motion.
Roll Call-All in Favor. None opposed. No abstention.
Approved with Conditions

2. **#20-08-S: 85 Hemingway Ave.:** Application for Modified Site Plan: - (Schedule A, Line # 4B: Non-Assisted Elderly Housing). Request to modify a previously granted Special Exception on September, 2017. Zone: CB-2. Owner/Applicant: Guru Krupa Investments, LLC

Mr. Soto indicated that this was a special exception when they started to build they found the need to make some changes. The plan before the commission has been modified some of the drainage and modification to the retaining wall; the building shape was changed somewhat too.

Attorney Lee stated this was approved in 2017, inaudible. They made some changes and didn't come back before the commission. Upon inspection it was determined that the foundation was not what was approved. The town issued a stop work order. We decided to submit a plan with the modifications, which is very similar to the approved plan. The change to the building is that it has increased in square footage by 1,800 sq. ft. it is a result of the additional space on the fourth floor and an added laundry facility to the first floor.

Chairman DeMayo wants a full set of plans signed off by the Mr. Soto.

Mr. Soto indicates they do have a full set of plans.

Jonathan Bodwell, Town Engineer submitted 6 comments that are workable, grading, proper drainage accomplished and he will work closely with the builder.

Commissioner Asid moved to approve with the conditions of the town engineer.
Commissioner DiSilvestro second the motion.
Roll Call-All in Favor. None opposed. No abstentions
Approved with conditions.

Commissioner DiSilvestro moved to adjourn.
Commissioner Asid second the motion.
Voice vote-All in favor. None opposed. No abstentions.
Meeting adjourned at 9:02 p.m.

Respectfully submitted,
Roberta A. DeLuca
Commissioner Clerk