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**ZONING COMMISSION
PUBLIC HEARING MEETING DECEMBER 17, 2008
FOR A SPECIAL PERMIT Regarding a FIELD HOUSE CONCESSION STAND,
LOCATED ON ROTARY FIELD #2,
APPLICANT: BOROUGH OF NAUGATUCK**

Mike Ciacciarella opened the Public Hearing Meeting at 6:30 P.M. with the following in attendance:

MEMBERS:

Mike Ciacciarella, Chair
Diana Raczkowski, absent
Stanley Jaroneczyk
Neil Mascola
Matthew Katra
Jeffrey Litke, alternate
Joseph Savarese, alternate, absent

OTHERS:

Public: 24
Steve Macary, CZEO
Allison Hurley, Asst. CZEO
N.Warren Hess, Boro Attorney
Jim Stewart, Boro PE

Steve Macary representing the Borough of Naugatuck stated that they are withdrawing the application. Mike Ciacciarella asked him to submit the request in writing.

RESPECTFULLY SUBMITTED:

Neil Mascola, Secretary, ah

**ZONING COMMISSION
PUBLIC HEARING MEETING DECEMBER 17, 2008
FOR A ZONE CHANGE TO B-2, IN THE LOCATION OF CLARK ROAD AND
NEW HAVEN ROAD and FOR A SPECIAL PERMIT APPLICATION FOR A
COMMERCIAL STORAGE FACILITY AND EARTH EXCAVATION
ACTIVITIES IN THE LOCATION OF CLARK ROAD AND NEW HAVEN
ROAD. APPLICANT: NICHOLS REALTY.**

Mike Ciacciarella opened the Public Hearing Meeting at 6:45 P.M. with the following in attendance:

MEMBERS:

Mike Ciacciarella, Chair
Diana Raczkowski, absent
Stanley Jaroneczyk
Neil Mascola
Matthew Katra
Jeffrey Litke, alternate
Joseph Savarese, alternate, absent

OTHERS:

Public: 24
Steve Macary, CZEO
Allison Hurley, Asst. CZEO
N.Warren Hess, Boro Attorney
Jim Stewart, Boro PE

Mike Ciacciarella asked Attorney Warren Hess to give a little back round regarding these Applications. Attorney Warren Hess, Borough Attorney representing the Commission stated this was a remand from the Connecticut Superior Court, in which they ordered a new hearing on the applications that were previously filed and heard several years ago. Attorney Hess explained that we are starting with the previous applications filed. The first one is a letter dated 12/21/05 requesting a zone change from R-15 to B-2

DRAFT

for a portion of property located on New Haven Rd. and Clark Rd. and the other application is a special permit. He stated that they are the same applications that were discussed and contain all maps, correspondence and information as before. Everything that was in the prior record testimony, exhibits etc. will become part of this record.

Attorney Hess stated the record contains transcripts of the prior hearings and will make a full copy to be filed at the Land Use Office. He stated there has been a significant change since the last hearings. The Commission has changed a large portion of New Haven Rd. to a new district that is called the New Haven Road Design District North and South; this amendment is dated September of 2007. This may or may not become relevant depending on if the applicant proceeds with a zone change to a B-2. Attorney Hess said just so that it is clear the land is in the NHRDD and it is no longer zoned R-15. Attorney Hess said that the Commission has received a letter from the CT Water Co. asking for a set of plans to review. Mike Ciacciarella read the letter into the record. Attorney Hess stated Public Hearing will not close tonight so the Water Co. can review the plans.

Attorney Franklin Pilicy, representing the applicant Nichols Realty stated the agenda calls for two public hearings. In the past they have conducted a combined public hearing and a combined appeal so he asked to note in the record that this application will be a combined public hearing for both pending matters. Attorney Pilicy talked about the nature of the re hearing in regards to it being a result of a court decision that was rendered on May 12, 2008. He then handed out to the Commission a copy of the court decision. Attorney Pilicy stated this is not a new application or record. They are supplementing the existing record and incorporating the memorandum of the decision. Attorney Pilicy said the application for the proposed use as a storage facility was filed under the 2004 regulations and in those regulations public storage use was a permitted use. In the new regulations as of January 1, 2005 and the later regulations affective September 2007 require a special permit for a public storage use. He would like to remind the commission and the record, under these preceding the public storage is a permitted use. In September 2007 there was a zone change by the commission in the NHRDD regulation. It is Attorney Pilicy's opinion that the adoption of this new zone for this property obviates the need to proceed with the application for a change to a commercial zone that accommodates the use that has been proposed. Attorney Pilicy reiterated that all of the applicant's property is within the new zone. Attorney Hess clarified that the Borough Engineer provided a map showing all of the property in the NHRDD zone. This map was submitted into the record. Attorney Pilicy stated this application is essentially an application for a special permit for earth removal component to develop the site for a public storage facility. He said the rehearing proceedings are based on the fact that the zone has been changed from residential to a NHRDD which is a commercial district and the proposed use is a permitted use, that being the case when the application was filed. Attorney Pilicy stated that the public hearing focus is much different then when the public hearing first started. This public hearing is for an excavation special permit associated with constructing a building for a permitted use in a commercial zone. He mentioned significant documents that are already in the record as followed: the Planning Commission has sent a positive referral to the Zoning Commission in favor of the application, the Fire Commission sent a unanimous positive referral and so did the Police Commission. Attorney Pilicy stated there was a traffic study that is in the record from the last public hearing session and the findings report there will not be a significant impact on the traffic and talks about the number of truck trips per day. The report states that essentially in the most given hours it would not have more than 3 trucks entering or leaving the site and concludes that it would have insignificant, if any impact on the overall operation of route 63 between the site driveway and the RTE 63 interchange.

DRAFT

Attorney Pilicy noted in regards to the letter from the CT Water Co. dated March 10, 2005 all of the recommendations from them contained in the letter were taken into account and addressed in the plans that were submitted. He stated that the use meets what is called for in the Plan of Conservation and Development and the action taken by this Commission to recognize the need to rezone the properties should be taken into account because this property is now a commercial zone and should be develop commercially to generate the tax base for the town of Naugatuck which is surly needed.

Terry Meyers, Engineer reviewed the history of the proposed plans for the property. He noted test pits were done and that at no time was ground water indicated. The applicant is not proposing any excavation within 6 feet of the ground water, they are proposing to maintain the storage units in the rear and a commercial building located in the front of the property with 18,000sq.ft of retail. Then climbing up the side as Mr. Stewart suggested getting to the rear with a 2nd level being 18,000 sq.ft., taking advantage of the topography and the adjoining property but still maintaining the 40 ft landscape buffer around the site. The detention pond will be moved to the front of the property. The Commission asked Mr. Meyers to submit new proposed plans with a SEC plan. Joe Santivocci Principle and Vice President of Advanced Environmental Interface, License Environmental Professional in the State of CT., Certified Professional Geologist and Credentials in ground water Science. Mr. Santivocci reviewed his letter he initially wrote which is part of the file already. He stated the letter from the State DEP says they do not get involved with construction or excavation projects like this; they leave it more to the local folks like you. Attorney Pilicy said regarding the discussion for the concerns of potential hazardous materials being stored on site, the applicant has provided in the earlier public hearing his contract that prohibit such material. He said the existing building has been there for 14 years and in those years there has never been one incident of concern that occurred with the public storage facility. Steve Macary has asked for a Southwest Conservation report.

Public: William Ryan, Attorney representing Gerald and Carol Gendron owners of the Mobilehome Park. Attorney Ryan asked where the water table was, and if the applicant has withdrawn the zone change. He objects to the alternative plan being submitted into the record because it is irrelevant and if the applicant has considered any containment structure of the storage facility for contamination purposes. Attorney Ryan stated in regards to the Judges Decision, page 3, concerning Commissioner Diana Raczkowski's participation and asked if the applicant has not sought redaction of any of Commissioner Raczkowski's comments that may be contained in the existing records and he is presuming that the applicant waiving any rights to do so. Attorney Pilicy stated they have not waived that at all and feels that it is implicit to the decision.

Attorney Ryan restated his question, is the applicant seeking redaction of any comments that are contained in the record of Commissioner Diana Raczkowski? If he indicating to leave them in the record that would be non-compliant with the court order. Attorney Pilicy stated that the court order complicity directs that the Commission not take into account any of those comments and does not feel anything more should be said. Attorney Hess stated again to the Commission, no one can communicate with Commissioner Diana Raczkowski on this issue and no one should take into account anything she said in the prior proceeding. Attorney Hess then asked if this was satisfactory to both sides. Attorney Ryan and Attorney Pilicy both agreed. Attorney Stephen Berg representing Meadowland Estates Condominium Association asked that the Commission not close the Public Hearing this evening so that he can further review the project. Linnea Belhman of 32 Clark Rd. read and submitted a letter stating her concerns. Patricia Dwy of 25 Clark Rd stated her concerns and asked the Commission to think about her home life, to deny the

DRAFT

request, and the area of the general residents be protected at all costs. The Commission agreed to recess the Public Hearing to a sitewalk on Saturday, December 27, 2008 at 9 am with a snow date of January 10, 2009 at 9 am assembling at the storage facility. The Public Hearing will continue on January 21, 2009 at 6:45 P.M.

RESPECTFULLY SUBMITTED:

Neil Mascola, Secretary, ah

**ZONING COMMISSION
PUBLIC HEARING MEETING DECEMBER 17, 2008
FOR A SPECIAL PERMIT APPLICATION FOR A COMMERCIAL
STORAGE FACILITY AND EARTH EXCAVATION ACTIVITIES IN
THE LOCATION OF CLARK ROAD AND NEW HAVEN ROAD.
APPLICANT: NICHOLS REALTY.**

Mike Ciacciarella opened the Public Hearing Meeting at 7:00 P.M. with the following in attendance:

MEMBERS:

Mike Ciacciarella, Chair
Diana Raczkowski, absent
Stanley Jaroneczyk
Neil Mascola
Matthew Katra
Jeffrey Litke, alternate
Joseph Savarese, alternate, absent

OTHERS:

Public: 24
Steve Macary, CZEO
Allison Hurley, Asst. CZEO
N.Warren Hess, Boro Attorney
Jim Stewart, Boro PE

This Public Hearing application was combined with above application.

RESPECTFULLY SUBMITTED:

Neil Mascola, Secretary, ah

DRAFT

**ZONING COMMISSION
REGULAR MEETING DECEMBER 17, 2008**

Mike Ciacciarella opened the Regular Meeting at 6:00 P.M. with the following in attendance:

MEMBERS:

Mike Ciacciarella, Chair
Diana Raczkowski - absent
Stanley Jaroneczyk
Neil Mascola
Matthew Katra
Jeffrey Litke, alternate
Joseph Savarese, alternate

OTHERS:

Public: 3
Steve Macary, CZEO
Jim Stewart, Boro PE
Allison Hurley, Asst. CZEO
N.Warren Hess, Boro Attorney

1. Mike Ciacciarella opened the meeting and took attendance. At this point, it was determined that a quorum was present. He appointed Jeffrey Litke as a regular voting member in place of Diana Raczkowski.

2. No Executive Session.

3. Approval of minutes and the secretary will sign previously approved minutes.

VOTED: Unanimously on a motion by Neil Mascola and seconded by Jeffrey Litke to **APPROVE** the November Regular meeting minutes as written.

4. **OLD BUSINESS:**

A. Commission Discussion/Decision for a Special Permit regarding a proposed field house concession stand located on Rotary Field #2. Applicant: Borough of Naugatuck. The Application was withdrawn by the Applicant.

B. Commission Discussion/Decision for a Zone Change to B-2, in the location of Clark Road and New Haven Road. Applicant: Nichols Realty.
The Applicant has withdrawn application.

C. Commission Discussion/Decision for a for a Special Permit application for Commercial Storage facility and earth excavation activities in the location of Clark Road and New Haven Road.
The Commission recessed this meeting to the site walk scheduled for December 27, 2008 at 9:00 A.M. with an climate weather date of January 10, 2009 at 9:00 A.M. assembling at The Self Storage Facility on New Haven Rd. The Public Hearing will continue on January 21, 2009 at 6:45 P.M.

D. Commission Discussion/Decision regarding Zoning Map with Borough Engineering and possible accept/refer to Planning Commission and set a Public Hearing.

Jim Stewart handed out a final copy of the proposed Zone Map. The Commission **Voted:** Unanimously on a motion by Matthew Katra and seconded by Stanley Jaroneczyk to Accept / Refer to the Planning Commission regarding updated Naugatuck Zoning Map and set the Public Hearing for **February 18, 2009 at 6:30 P.M.**

DRAFT

E. Commission Discussion/Decision regarding sign regulations.

Mike Ciacciarella would like Jim Stewart, Steve Macary and Allison Hurley to work on these and come up with a final draft by February's meeting so a Public Hearing can be set.

5. NEW BUSINESS:

At 8:46 P.M Commissioner Matthew Katra left the meeting.

At 8:46 P.M. Commissioner Diana Raczkowski arrived at the meeting.

A. Discussion for possible zoning violation located on Elm St.

Attorney Ned Fitzpatrick stated that he was obtained by the Lineweber family to discuss this complaint that the Land Use Office received. Attorney Fitzpatrick stated that this site has been used as a processing site since the early 1900's. Mike Ciacciarella asked what was processed back then. Attorney Fitzpatrick said it was used to grind and process old tires and recycle them so that they could be sold to other companies. Mr. Lineweber started his sand, gravel and mining in the 50's. Diana Raczkowski asked Attorney Fitzpatrick what was the same? Attorney Fitzpatrick said that Mr. Lineweber was a sub-contractor to sand, gravel and mining on this property. Diana Raczkowski asked if Uniroyal had a site plan or development plan going on and used Lineweber as a sub-contractor. Attorney Fitzpatrick stated that there were no zoning regulations back then. He reviewed with the commission an Arial map that Mr. Macary had which that showed some site work being done and tires in the earlier years. A discussion ensued regarding the uses allowed per the regulations and the parking requirements. Attorney Fitzpatrick explained that the use of land then with Uniroyal and now is the same type of use. Diana Raczkowski said they were two different uses. Attorney Fitzpatrick stated that the use of land has not changed and the use has predated zoning. Diana Raczkowski asked Ned to provide the commission with proof of that. She asked if Mr. Lineweber was doing the process to the tires or was Uniroyal doing it and when did the equipment first come onto the site? Diana Raczkowski said that if the Linwebers are paying taxes on the property and equipment it would be on the Assessors card and that would be proof that he had it. Attorney Fitzpatrick stated there is no reasonable evidence before the commission or that he has seen of any complaints or documents to raise this question. For a family that has been in business for over 50 years and a use that has been known in the community pre dating most of our lives. He said there has been no reasonable grounds to generate the complaint and would like to know what the Commission is basing it on. Diana Raczkowski stated that it has to be investigated and the commission is trying to obtain information because they cannot get reasonable grounds without the information. Attorney Fitzpatrick wanted to know what the complaint was and what generated the complaint. Mike Ciacciarella asked Steve Macary if he knows who called in the complaint. Steve Macary stated that he does not know who the caller was. He said the caller complained about a processing plant being run and trucks going in and out on Sat. and Sun. Mr. Macary investigated the complaint and found there were two people conducting processing, Linwebers on one property and another guy on the Rimkus property which are right next to each other. Steve said he shut down the guy on the Rimkus property. Jim Stewart stated that the one gentleman was excavating virgin material and Linwebers do not do that, they truck material in

DRAFT

process it and then truck it out. Diana Raczkowski stated that we are trying to determine if what is being done on the property now is grandfathered in and if it is not then it is not allowed. Attorney Fitzpatrick said he would gather more information to give to the Commission by the next meeting. The Commission agreed to continue this discussion at the January 21, 2009 meeting.

6. Commission Discussion for Change of Use applications.

Steve Macary stated he had two Applications that he was not sure if they were a Change of Use or not. The first application was for Mikes Engine Stand located at 628 Prospect St. After a brief discussion the Commission agreed to vote.

VOTED: Unanimously on a motion by Diana Raczkowski and seconded by Matthew Katra to **RATIFY** a Change of Use Application for Mikes Engine Stand located at 628 Prospect St., Applicant: Michael Adomaitis.

The second application was regarding a repairs/gas station to a gas station/ convenience store located on 5 Meadow St. Steve stated that the parcel had already received a Special Permit approval for the gas station with repairs. Steve Macary said so he administratively granted a Change of Use. Diana Raczkowski stated that it should be a modification to a site plan. Mike Ciacciarella stated that he agreed with Diana Raczkowski and that it was a modification to a site plan. Diana Raczkowski asked about the exterior work and said before the applicant starts any work the Commission would need to review the Architectural plans. For the Special Permit she believes the conditions were that the applicant comes back to this Commission to show the types of material to be used , the elevation showing how it will look and the colors to be used. She asked Steve Macary to pull the Special Permit that was issued and check the conditions.

7. No Public Comment.

8. Additional items to be discussed require 2/3 vote to be added to the Agenda.

VOTED: Unanimously on a motion by Neil Mascola and seconded by Jeffrey Litke to **ADD** to the agenda a discussion regarding a informal review for Lot 3 Great Hill Rd. in the Industrial Park.

Attorney Ned Fitzpatrick stated that the Lineweber family is interested in purchasing the property to construct an office building. Ted Crawford, PE Milone and MacBroom review the plans.

9. No Report of the ZEO.

10. VOTED: Unanimously on a motion by Stanley Jaroneczyk and seconded by Neil Mascola to adjourn the meeting at 9:40 P.M.

RESPECTFULLY SUBMITTED:

Neil Mascola, Secretary, ah