

**MINUTES FOR TWO (2) PUBLIC HEARINGS OF THE
PLANNING & ZONING BOARD
HELD WEDNESDAY, NOVEMBER 5, 2008; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair called to order the meeting of the Planning and Zoning Board at 7:30 p.m.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

C. Members Present: Mark Bender, Frank Goodrich, Janet Golden, Kathy Patterson, Kim Rose, Susan Shaw, Greg Vetter, Victor Ferrante, Jeanne Cervin, Chair.

Not Present: Kevin Liddy

Staff: David Sulkis, City Planner; Emmeline Harrigan, Assistant City Planner, Phyllis Leggett, Board Clerk.

The Chair acknowledged the historic presidential election that had taken place yesterday. Noted the Planning and Zoning Board meetings will be televised commencing with this meeting and in the future.

The Chair explained the Board's role in the City's request for 8-24 approval under Connecticut General Statutes and its decision gets passed on to the Board of Aldermen for their final decision.

C. 8-24 APPROVAL

1. **EAST BROADWAY PUMP STATION REPLACEMENT** – Petition of Mayor James Richetelli, Jr. for CGS 8-24 approval to grant 1) a temporary construction easement by the State of Connecticut to the City of Milford; 2) a permanent sanitary sewer easement by the State of Connecticut to the City of Milford; 3) a temporary easement for abandonment of the existing sanitary sewer line by the State of Connecticut to the City of Milford; and 4) a Quiet Claim deed from the City of Milford to the State of Connecticut as to any previously granted sewer line easements in Silver Sands State Park.

Raymond A. Macaluso, President, Westcott & Mapes, Inc. 142 Temple Street, New Haven. Here on behalf of the Mayor's office and as consultants to the Milford Sewer Commission. On June 18, 2008, the Board approved this sanitary easement at the East Broadway Pump Station replacement through the Silver Sands State Park. The DEP has now finalized their resolution, as well as the Attorney General's office. Tonight asking for the Board's approval for clarification based on the three items described in the agenda.

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Mr. Bender: Asked if there was a problem with the verbiage when the Board gave its approval in June.

Mr. Macaluso: When this was originally presented, it was conceptual. When the City came to the agreement with the DEP to take a certain portion of the Silver Sands State Park, abandon that portion and quit-claim another portion back to them, it required more clarification in the resolution itself. The actual component and easement location that had previously been submitted is the same.

Ms. Rose: Move to approve the Mayor's request for CGS 8-24 as submitted.

Mrs. Golden: Second.

All members voted in favor. The motion passed unanimously.

D. PUBLIC HEARING; exp. 12/25/08

2. **62 WEST MAIN STREET (ZONE RO)** Petition of Beverly Streit-Kefalas and Nicholas Kefalas for a Special Exception and Site Plan Review to convert an existing first floor office to two apartments on Map 65, Block 313, Parcel 13, of which Beverly Streit-Kefalas and Nicholas Kefalas are the owners.

Mrs. Patterson: Made a motion to approve the application in accordance with the modified plan that was submitted to the Board on October 21, 2008, which provides for one apartment on the first floor and retains the existing apartment on the second floor, and requested a shade tree be planted in place of the law office sign when the sign is removed from the front yard.

Ms. Rose: Second.

Mme. Chair: Read a statement wherein she commented on this application and its original presentation for two apartments to be constructed on the first floor, thereby creating a three-family residence. There had been three people who spoke in opposition, two of whom were former board members, Mark Lofthouse and Jack Jansen and the third person was Mrs. Darling, a nearby resident.

The Chair stated although she holds Messrs. Lofthouse and Jansen in high regard she disagrees with their stand on this proposal. The former board members, along with Mrs. Darling, believed that approval of the application would lead to an influx of multi-unit buildings, resulting into an intrusion into the residential neighborhood and thus affect the property in the back.

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She further stated that any further change beyond what the Board is looking at tonight would have to come back before this or a future board for approval. The other concern was that the Board would be doing "spot zoning". She read the definition of spot zoning and clarified why spot zoning was not applicable to the application, and that the Special Exception regulation was totally acceptable for the purpose presented.

She noted in the continued public hearing, the proposal was reduced from two apartments to one, thereby creating a two-family residence. No one spoke in opposition at that public hearing. One of the major requirements of granting a Special Exception as stated in sec. 7.3.1. of the regulations, is that the change be in harmony with the surrounding neighborhood. By creating the two family at this address, it would be more in harmony than it is as present.

Furthermore, to her knowledge, this board has never shown political bias in its decision making. Hope to continue that course and that the vote will reflect the mandate to be objective and to use common sense in requirements of the zoning regulations.

Mr. Bender: Asked who monitors the fact that the side room to be used as a laundry room cannot be used as a bedroom, as set forth in the motion.

Mr. Sulkis: In order to receive a certificate of occupancy, inspections are made to make sure everything is in accordance with the permits that are taken out.

Mr. Goodrich: The original plans presented to the board were for the establishment of two apartments which were found not to meet the regulations' minimum space requirements. According to his interpretation of the Special Exception regulation, the drawings are required to be signed by a licensed architect, surveyor or engineer. These drawing were not and that is what led to the original problem. Several months ago the Board denied an application because the applicant did not have their drawings stamped. Does not see a difference between this application and the other.

Mme Chair: Thought this issue had been clarified at the last meeting. Asked for Mr. Sulkis' comments.

Mr. Sulkis: In this case the building and its use are existing. It is already a residential building. There is no change to the exterior. The application Mr. Goodrich refers to was for a use change and a major change in the exterior. Not a like comparison.

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Mrs. Golden: Referred to sections 7.3.1, 7.3.2, 7.3.3, of the Special Exceptions regulations. Stated the application meets those guidelines and she approves.

A vote was taken: 8 members voted in favor. Mr. Goodrich voted against.
The motion passed.

E. OLD BUSINESS

3. **255 BOSTON POST ROAD (ZONE CDD-1)** Petition of Anela Incorporated for a Site Plan Review to do building and parking lot renovations at Gusto's Restaurant on Map 53, Block 305, Parcel 5, of which Mavuli, LLC is the owner.

Mrs. Rose: Read the motion to approve with conditions as submitted by Staff.

Mr. Goodrich: Second.

Mr. Bender: Application should have been approved at the last meeting.

Mme. Chair: Stated that may have been the case, but much has taken place in the last two weeks to change and correct the application.

Ms. Shaw: This is a big project that impacts the neighborhood. The issue of having two meetings for the application is not unwarranted. The tree issue that was brought up was important.

Mrs. Patterson: Believed there was a big safety issue regarding the rear entrance that had not originally been marked for pedestrian safety.

All members voted in favor. Motion passed unanimously.

Mme. Chair: Commended the project as an improvement to a fine establishment on the Boston Post Road and the owner undertaking this project in light of the present economy.

F. PUBLIC HEARING; closes by 12/10/08

Mme. Chair: Addressed the audience as to the procedure for this public hearing. Also stated both applications would be combined; one for the zone change and the second for the Special Permit and Coastal Area Management Site Plan Review.

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4. **232-256 MELBA STREET (ZONE BD)** Petition of Melba Realty, LLC for a Zone Change from BD to RMF-16 on Map 39, Block 542, Parcel 2 and easterly 45' of Parcel 38A, of which Melba Realty, LLC is the owner.
5. **232-256 MELBA STREET (ZONE BD)** Petition of Melba Realty, LLC for a Special Permit, Coastal area Management Site Plan Review and Site Plan Review to construct four multi-family residential buildings containing 16 total units on Map 39, Block 542, Parcel 2 and easterly 45' of Parcel 38A, of which Melba Realty, LLC is the owner.

George Adams, III, Esq., Harlow, Friedman, Adams, 300 Bic Drive, Milford. Introduced the clients, Melba Realty represented by Ron Lombard, Principal and Ray Oliver, project architect. Verified the placards that were required for posting are still standing. All notices of mailing that were required with the affidavits have been submitted to the Planning & Zoning Office.

Melba Realty has owned the Beachside Market parcel since 1998 and the Melba Pharmacy parcel since 2006. Via the display noted that the big parcel on the left of the map is the Beachside Market parcel and the smaller parcel is the Melba Pharmacy parcel. Would like to have a lot line revision which would pick up 45 easterly feet of the Beachside Market parcel, adding it to the Melba Pharmacy parcel and then rezone the 195 foot wide parcel from BD to RMF-16, leaving the remainder of the Beachside Market parcel in the BD zone.

Gave a history of the zoning of this particular area. The regulations now allow mixed use with retail and professional office but not mixed use with residential. There are two apartments on the Beachside Market parcel that are grandfathered in. Would like the Beachside market parcel become a viable neighborhood commercial center and convert those apartments into retail uses.

Single family homes are allowed in the zone but that would be an impractical use of the parcel.

When a zone change application is applied for, a concurrent application must be filed for what is to be done with the property if it is rezoned. That is where the 16-unit condominium project comes in. It would be twelve two-bedroom units and four one-bedroom units that would be located on the extended Melba Pharmacy parcel. Melba Realty would also be doing substantial improvements to the Beachside Market parcel to conform the architecture and landscaping with that of the proposed condominiums.

The application is for a Zone Change, Special Permit, Site Plan Review, Coastal Area Management Site Plan Review. Only part of the parcel is in the CAM zone, but has been treated as though the whole parcel is in the CAM zone. 9,397 SF is

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on inland-wetlands, which is part of the 27,483 SF open space parcel that would be part of the condominium project. Believe that the wetlands would be enhanced by the proposed development through the improvement of the grading, draining, soil erosion control issues, etc.

Open Space for the condo project in an RMF-16 zone is 11,200 SF. Area provided for open space is 18,086 SF, almost 7,000 SF more than is required; not counting the 9,387 sf of wetlands. The open space will provide a serene experience with the adjoining wetlands area that will be separated by a split rail fence that will be accessible to pedestrians to walk around the wetlands. The open space connects to other open space and wetlands on the Beachside Market parcel.

All applicable City departments have reviewed this project. This project does not include any tidal wetlands, only inland-wetlands. It has received approval from MaryRose Palumbo, Inland Wetlands department head in a letter received at the Planning and Zoning Office dated November 5, 2008. The conditions set forth in the letter will be dealt with when and if the Board approves the condominium project. Comments from all other City Departments, including those of the Engineering Department and Public Works Department have been addressed and subsequently approved.

A fiscal impact study has been submitted to the Planning and Zoning office and is on file. It was concluded by the City's assessor, Dan Thomas and Tom Ivers, Community Development that the taxes generated by the condo project would exceed the present taxes by approximately \$106,000 per year. The calculation is based on two-bedroom apartments selling for approximately \$450,000 and one-bedroom apartments selling for approximately \$400,000. It is not expected that these residences will generate any significant number of school children. These will be luxury units with elevators and will not have recreational facilities for children on the property.

RMF-16 property is across the street. Would not be creating spot zoning by changing the zone from BD to RMF-16.

Residential density. 16 units to be occupied by singles or two people to total approximately 32 people would not create a density situation in this area. It would be desirable to keep a portion of the retail establishments that already exists and the condominium occupants who would frequent the retailers who would already be on the same street. The neighboring multi-family properties are not considered luxury. The proposed condominiums would provide an alternative to those residents who own beach property and want to stay in the area, but do not want to pay the high taxes. Cited parts of the POCD where this complex meets its criteria. Area is not conducive to professional offices. Melba Pharmacy

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building was built in 1965 and is dated. There is a deed restriction imposed by Stop & Shop which prohibits the use of a pharmacy in the Melba Pharmacy building. The popularity of the "local pharmacy" will not be making a comeback.

According to the zoning regulations, there cannot be an eating place with a liquor license, nor can there be other establishments sell liquor due to the proximity of the park. Explained why a retail establishment that sells liquor that might be allowed in other zones, would not be allowed in this zone. This is an out of the way area and not one sought after for retail use.

The property owner believes the two parcels are incapable of attracting the kind of retail use the Board may have envisioned when it changed the zone from LB-50 to BD.

Believes this would be a good proposal that accomplishes one of the goals stated in the POCD. It improves the viability of the wetlands and dresses up the site. Asked for the Board's careful consideration of this application.

Mr. Sulkis: Clarified the proposed property's surrounding areas of RMF-16, BD and residential zones on the area map.

Ray Oliver, Architect, 3 Lafayette Street, Milford. Distributed photographs, (date stamped into the record), that showed the Board the way the property looks today and showed via the displayed renderings, the proposed improvement to the properties. The Beachside Market and Melba Pharmacy and the nondescript surrounding properties at present do not enhance the area. Significant open space with inland-wetlands in the back, which are walkable. Extensive pavement, telephone lines and bland structures will be improved by this project.

Described the architecture and the layouts of the proposed units. New England style architecture with many details to add character. Each unit will have a garage with an additional parking space in front of the garage. There will be 36 spaces and 6 spaces for guests. All units will have access to elevators. Most likely will be geared to 55 and older but will not be marketed specifically for that age group. There will be handicapped units, but each unit will have elevator access. Described the units, storage areas, garbage removal, etc.

Discussed the site drainage. Worked with the City Engineer to make sure all his conditions were addressed. Described the lighting and landscaping. Planting Austrian pines as a buffer area. Seeking a waiver for that buffer from 10 feet down to 5 feet.

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Discussed the proposed enhancement of the Beachside Market building and how it will tie in with the condominiums.

Mme. Chair: Asked for Mr. Sulkis' comments and a review of his administrative summary of this application.

Mr. Sulkis: Reviewed the departments' responses and the fact that the departments' questions and concerns were addressed. Stated the Police Department's comments were not relevant to this project. The Fire Department's comments will be addressed if the project is approved.

Mr. Oliver: Showed on the display where the emergency vehicles would have access to the property as required by the Fire Department.

Ms. Shaw: With regard to the zone change, the property most recently purchased in 2006 was bought knowing the covenants of the property. What efforts were made to get retail into that property?

Ronald Lombard, 232 Melba Street, Milford. 46-year resident of Milford in areas near the beach. Lives at the apartment at the Beachside Market. Two buildings, two pieces of property. 7,000 sf vacant. Laundromat owed 9 months rent. Another tenant is leaving. Using two large realtors, word of mouth, signs on the property and networking to get potential tenants.

Mme. Chair: Asked if an MLS realtor had been retained.

Ms. Rose: Asked if there would only be one commercial parcel (the market) and the rest condos.

Mr. Adams: Described the area that would create approximately three additional tenants in order to establish a viable commercial center rather than have just a commercial center. See these two parcels combined as a whole. By creating the 16 luxury units, the grocery store and the additional tenants, would create the synergy necessary to revitalize the area. Mentioned that commercial properties are not necessarily best marketed through the MLS, like houses.

Ms. Rose: Property has not been improved and the owner is not actively looking for tenants. The pharmacy property was purchased knowing it could not be used as a pharmacy. If the application was approved, what would be done differently to attract retailers?

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Mr. Lombard: Stated he has painted the pharmacy building and has looking for tenants during the long process of applying for the changes. Described what he would do to make the property more attractive. In their present state the two properties conflict with each other.

Stated he did not know there was a deed restriction on the pharmacy property when he bought it. He and his partner bought it because they did not want another developer to own property next to theirs.

Mme. Chair: Milford Arms had been denied for additional units. How can this be justified for residential use when the other project was denied due to density.

Mr. Adams: Asking for a permitted use within the RMF-16 zone. The only variance for asking to create the zone change is for the fence along the buffer.

Mme. Chair: The Board's concern was density. This is increased density.

Mr. Adams: The other applicant was asking for more density than he was entitled to and he already had a viable project going. The proposed project has proven itself to be unviable, which the owners would like to make viable. The RMF-16 zone is appropriate given the proximity of other RMF-16 zones in the area.

Mme. Chair: The Board's concern was the area is too dense and did not want to add more housing to the area that is already very dense in housing units.

Mr. Adams: Stated this was a different type of housing in the neighborhood and would improve the neighborhood.

Mr. Ferrante: Why is this different?

Mr. Adams: Promotes diversity. Described the neighboring residences. This would be luxury style units appealing to the over 55 age population. No other such housing in the area.

Mr. Ferrante: Concerned that the proposed condominiums do not qualify as luxury based on the size of the units, whether all the elevators installed at the time of construction, one garage, etc. Living space appears very crowded. Isn't there some other project keeping within the BD zone that would be less dense for this area?

Mr. Oliver: This project is within the bedroom per acre definition of RMF-16. The other project at Milford Arms was not. No comparison in density.

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Mme. Chair: Outlined some of the other possibilities that include residential use, which might be viable.

Mr. Sulkis: Heard that this is a desirable type of project that the applicant wants. What study was done to support a \$450,000 unit in an RMF-16 zone? What housing exists in the vicinity that supports this price level? Will the reality of the market place allow this price? If this becomes a 55+ project, these type of residential communities do not go for \$450,000.

Mr. Adams: Based on the current housing market, there no norm in selling prices right now. Luxury might not be the best term. High end may be more like it, especially its proximity to the water and can have elevators in a townhouse unit.

Mme. Chair: Asked if the owner would make some changes to the wetlands.

Mr. Goodrich: Apartment square footage is within the regulations. Question before the Board is whether to change the zone.

Mrs. Patterson: The surrounding area is being revitalized for residential use a population who potentially frequent retailers in the area. Once the retail use is taken away, it will not come back. Can anything be done to attract retailers to this area?

Mr. Adams: This market is finding it almost impossible to get tenants for retail use. The larger retailers, i.e., CVS, Walgreens, like to be at major corridors at intersections. Those kinds of retailers will not come. Best of both worlds would be to combine the commercial area that will be left with the residences that will be created. Some mom and pop type businesses such as a shoemaker, beauty shop would fill in with the grocery store.

Mr. Bender: Has lived in this area for 16 years. It is only a business district because it is zoned that way. It seems to be what it wants to support.

Ms. Shaw: Asked about the passive recreational area that will incorporate the open space and wetlands.

Mr. Adams: 27,000 SF is the total open space of which 9,000 SF is wetlands. Not tidal wetlands, but inland wetlands where it is soil related and can be walked on.

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Mme. Chair: Believes this application borders on spot zoning, which is usually done to the economic advantage of the property owner. Has any consideration been given to using what is allowed for residential use in the BD zone or to request increasing the zone on the other side and possibly get 3-4 more lots?

Mr. Adams: Came into this project after it was ongoing for a year. Does not know the early thought process. Could say the BD zone does not work here and try to rewrite the BD zone to permit what the applicant wants to do. Thought it made more sense because there is a full thought out set of regulations for RMF-16, since that zone is already in the neighborhood. Discussed the alternatives that could include rewriting zones and regulations.

A recess was taken at 9:19 p.m. so that the public could view the displayed plans.

The meeting reconvened at 9:28 p.m.

Mme. Chair: Anyone to speak in opposition to the application?

Anne Berman, 77 Pelham Street. Lived in the neighborhood for over 30 years. Always had a viable commercial area. Concerned about the density of the project. Too squeezed in. Personally against it and as an environmentalist, thinks it should remain commercial. No transportation in the area. Many seniors need stores nearby especially if they cannot drive. Must continue to make this a community and a neighborhood, and keep it as a commercial area. Once it leaves it will not come back.

Danielle Bercury, 162 Melba Street. Attorney who does planning and zoning work. Just learned about this project. Likes the fact that there is a little retail center nearby. Tries to do most of her shopping there. Shops create a sense of community. Thinks it is not as attractive as it could be. Improvement of the food market should not be contingent on the change of zone and condo project being approved. The existing stores are not esthetically pleasing and should be improved. Seems inconsistent that changing a zone and adding 32 residents would improve the potential for business and viability of the existing commercial area.

Mme. Chair: Anyone to speak in favor of the application?

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Cezarila Ionesco, 264 Melba Street. Has lived behind the Melba Pharmacy since 1985. Named the businesses that were in the area. Fire destroyed the grocery store in 1989. Since then the building was fixed and there were 2-3 grocery stores there that would open and then close. Beachside has been open for a number of years. Surprised it still exists. Cannot guarantee that shops will stay open.

D. Ugrin, 267 Melba Street. Live there 5 years. Seen vandalism, youth loitering, police coming. Lost two tenants in the past few months. Area is too large for the area it is serving. Smaller business such as a diner, hairdresser, daycare to keep it community-oriented might work. Not enough traffic to keep the commercial going. Perhaps a compromise of 12 townhouses rather than 16 would work. As a homeowner considers the present setup a blight. There is new high end housing just built on Platt Street.

Rebuttal by Mr. Lombard:

Square footage cost of \$8 in the area as opposed to other areas that sell for \$15-25 SF. There is too much empty space between the two buildings. Having one large commercial building would be more effective to rent. Getting new residents would keep the market open, which is preferable.

Mr. Oliver: New urbanism is based on increased density. Having additional people to support the commercial areas is what new urbanism is.

Mme. Chair: If it were approved could there be a public access as a walkway in the rear?

Mr. Oliver: There is an informal walkway in an adjoining complex and it should be easy to connect to a walkway on this property.

Mme. Chair: Declared the public hearing closed.

G. LIAISON REPORTS

H. APPROVAL OF MINUTES – (10/21/08)

Mr. Bender:

Mr. Goodrich: Second.

All members voted in favor. The minutes were approved as recorded.

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I. CHAIR'S REPORT

Thanked Staff for the zoning violation report submitted by the Zoning Enforcement Officer. Asked for the Board's feedback. Reports will be distributed on a monthly basis. There will be a more detailed report submitted on a quarterly basis which will give status and results of noted items.

November 18th meeting will be on the text regulations.

Asked for a report from Kathy Patterson and Kim Rose who attended the Land Use Seminar. Each attended a different seminar topic. Next seminar will be March 28th at Wesleyan University.

J. STAFF REPORT

Mr. Sulkis: Stated he was contacted by the APA on a research project. He gave them permission to use Milford's Zoning Regulations for Age 55 and Older Housing Regulations. They will make this available to other municipalities in the country as a model.

Mr. Bender: Motion to adjourn.

Mr. Vetter: Second.

Meeting adjourned at 10:00 p.m.

Phyllis Leggett, Board Clerk

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