

COMMISSION ON THE CITY PLAN AND ZONING - ACTING AS THE ZONING COMMISSION -
PUBLIC HEARING - THURSDAY - JANUARY 5, 1967 - COUNCIL CHAMBERS - MUNICIPAL
BUILDING - MIDDLETOWN, CONNECTICUT

Present: John J. Higgins, Chairman
Carmelo J. Mazzotta, Jr., Vice-Chairman
Edward F. Button, Secretary
Joseph W. Masselli
Frederick W. Atkins, alternate member, sitting in official capacity
Joseph P. Otfinoski, alternate member, not sitting in official capacity
(Chairman Higgins appointed alternate member Atkins to sit in
behalf of Commissioner Salafia)

Absent: Mayor Kenneth J. Dooley, member w.v.p.
Philip M. Salafia
Salvatore J. Lisitano, alternate member

Also

Present: Nicholas Misenti, Deputy Director of Public Works, member w.v.p.,
Hartford Courant Reporter, Harry Clow, B. Ralph Gustafsson, City
Planner, Thomas W. Anderson, Barbara Sakelakos, City Plan Office
Secretary, Petitioners and Counsels and approximately thirty-
two (32) members of the public.

The meeting was called to order by the Chairman at 7:37 P.M.

CHM. HIGGINS: We will now sit as the Zoning Commission and I'll ask
the secretary to read the call as the Zoning Commission.

COMM. BUTTON: As the Zoning Commission -

To consider a Change of Zone petition of Charles Berber. A request that
land be changed from a Medium Density Residence Zone to a Commercial
Zone. The property is located on the easterly side of South Main
Street Extension between Coleman Road and Randolph Road.
Counsel: Charles W. Snow, Jr., Attorney at Law, 164 Court Street,
Middletown, Connecticut.

CHM. HIGGINS: Anybody here to speak on this subdivision. I'm
sorry, on this zone change.

ATTY. SNOW: Mr. Chairman. My name is Charles W. Snow, Jr. and I
represent the, actually I represent the Middletown Lodge of the
Elks Number 771, which has an option to purchase this property.

Technically we are listed as representing Mr. Berber, because Mr. Berber is still the record owner of the property, but under the terms of this option, we are, the Lodge is the movers you might say, in asking the Commission to change this particular piece of property from a Medium Density Residence Zone to a Commercial Zone. Now originally, we were going to ask that the change be made into a General Residential Zone which would fit the rules and requirements for building a lodge for the Elks, a fraternal organization. But then we discovered that the, that you people in your wisdom, sitting as the Planning Commission decided in your General Plan, that is, that this particular property should be Commercial, so noting that fact, I thought it was only proper that we make this request for Commercial in keeping with the Plan that you people have already promulgated, in which I would like to state as a matter of record, that this property here, is in fact, under your Plan, should be Commercial. So what we are doing here, is in effect, by doing something that actually the Zoning Commission could do on its own, if it so desired, that is, request that this property be outlined and made into a zone which is in accordance with you Plan. There is no, I can state that next door is A. Brazos and Sons, Incorporated, operating a contracting business in the immediate area and there is a restaurant liquor outlet called Red's Mill in the immediate area which has been there for years and a couple of other commercial operations, you might call them. Monte Green or Cypress Grill. But I'm sure that the Technical Planning Associates and your Planning Commission in its wisdom went all through this last year when you decided that this particular piece of property should be Commercial and what we are doing, in effect is, in effect, asking you to do what you have already decided as the Planning Commission, that this particular area should be Commercial and you have the maps of the property there, in accordance with your rules and if there's questions that anybody would care to question.

CHM. HIGGINS: Anybody else wish to be heard on this particular zone change.

ATTY. ALLEN: Are you still asking for comments in favor of this petition?

CHM. HIGGINS: Pro or con. Immaterial. Just if you will state your name Attorney. It doesn't make any difference. It will be in the record.

ATTY. ALLEN: Mr. Chairman and Members of the Commission. My name is Sam Allen and I am a member of the law firm of Dzialo, Pickett and Allen here in Middletown and we appear on behalf of Mr. Lloyd, Mr. and Mrs. Lloyd Hubbard who own property to the east, abutting to the east of the property described in the application and Mr. Seth Hubbard who owns property three hundred (300) feet to the north and who has an option to buy that property abutting. Mr. Hubbard would like to make it very clear, I know that it is not a reply that your Commission is generally interested as to what use is going to be made of a property when the zone is changed but in this case, I think everyone knows that the plan is to put up an Elk's Lodge there and Mr. Hubbard would like to make it very clear that he has no objection to the location of the proposed new Elk's building near his property. What concerns him is that the zone is to be changed to Commercial and that the logical next step is to change other properties fronting on the highway and abutting into the rear as a Commercial property and he sees the development of another Washington Street right next to his home and right next to the property which he bought at a time when it was zoned Residential, for residential purposes and in the expectations that it would continue as such, and in reliance of those expectations, he has subdivided or rather has an option on a subdivision and has already constructed a home very near this property which was, which cost nearly \$30,000 and who has constructed other homes for sale that will be in the same general range of \$25 to \$30,000 homes. Moreover and in the expectations that this property would continue to be zoned as it was at the time he made his investment, he has put additional restrictions on the use of the property, on the so-called Acer Drive property by a Declaration of Restrictions which would make it now virtually impossible to construct any home on this property that would be in the price range much less than \$25 to \$30,000 homes already located there and I think all of us know here that you have a residential property of that value and that quality abutting a piece of property which suddenly changes into another gasoline alley or into a series of heavily lighted Commercial, heavily travelled establishments that abutting properties are going to be severely and adversely affected and he asks that before you grant this application that you, as we know you will, show consideration into the long range implications of it and to the

rather obvious almost inevitable effect on the value of the abutting and very attractive residential properties.

CHM. HIGGINS: Thank you Attorney Allen. Anybody else wish to speak. Yes Sir.

MR. HUBBARD: I'm Lloyd Hubbard. What I would like to state is that I believe most of you people on the Board about four or five years ago when Sears wanted to build out there, you remember we stopped them at that time and I think we are running into exactly the same thing all over again. We opposed it mainly because of the School and actually here we have a new Master Plan in the City, why do we go ahead and change the opposite of what the Master Plan is. I mean there is nothing about Commercial in there.

CHM. HIGGINS: Well I think that if you go downstairs to the Planning Office anytime that is convenient for you and look at the Master Plan, you'll see that this particular area is projected for Commercial usage.

MR. HUBBARD: From Randolph Road out?

CHM. HIGGINS: Not particularly from Randolph Road out, but the area is clearly depicted on the General Plan and it is available to the public at anytime in the City Plan Commission's office.

MR. HUBBARD: Well if I remember correctly, when Sears was going in, of course they were hoping to commercialize this property right behind this new development we are putting out there. We don't call it a development really, on Acer Drive, which was stopped in time and I believe that we are coming right back to the same thing again.

CHM. HIGGINS: Well if this particular piece of property is not in an area

MR. HUBBARD: Well I'm not talking, excuse me, I'm not talking particularly about Berber's property. I'm more concerned on this piece of property this side of Berber's.

CHM. HIGGINS: Well we are acting on Berber's property tonight. Sir.

MR. HUBBARD: I realize that, but my feeling is that if Berber's property goes, automatically the rest of it will go and this is what I am more concerned about to be truthfully direct.

CHM. HIGGINS: Thank you Sir.

MR. HUBBARD: Thank you.

MR. HUBBARD: Seth Hubbard, Jr. Mr. Chairman. May I say a few words please?

CHM. HIGGINS: Yes.

MR. HUBBARD: I'm Seth Hubbard, Jr. Now Mr. Allen has stated quite a few things. As I say, the first thing. I do not oppose that the Elk's are coming in by no means, because you stated in the paper that the Elk's building could be built in a General Residential Zone. Is that correct?

CHM. HIGGINS: I don't believe there was any statement from the City Plan Commission.

MR. HUBBARD: I have the cut-out of the paper here which says. I mean there is an item in there. Can I ask you a question? Now you said that your Declaration, not Declaration, but projection of the Planning Commission for zoning out there. When was that last Plan drawn up. Can I ask?

ATTY. SNOW: Mr. Gustafsson knows that answer.

CHM. HIGGINS: I think that the Public Hearing on that was when?

MR. GUSTAFSSON: It was approved and adopted and effective as of July 1, 1965.

MR. HUBBARD: 1965?

MR. GUSTAFSSON: Right.

MR. HUBBARD: Ralph, then before 1965, in the paper, the Middletown

Press stated. I have the cut-out. You can find it also about this piece of property that we are talking about tonight that was about this zoning. This was all subdivided. This piece of property. Eleven (11) lots and it was quite a write-up in the Middletown Press. I'm sorry I don't have the write up with me tonight. I have the other two cut-outs from the paper to do with this hearing. But that was before 1965. Before your date. What did you say, July?

MR. GUSTAFSSON: July 1.

MR. HUBBARD: All right. July 1. Now I was originally on Highland Terrace and I had a nice home on Highland Terrace so this section here to me was the most gorgeous section that I had ever seen in my life with the restrictions that were laid out and so forth that were drawn up by the parties that were involved and I think that you were involved at the time of the subdivision, I think, Ralph.

MR. GUSTAFSSON: Acer Drive. Yes.

MR. HUBBARD: That is correct. So I sold my home on Acer Drive. I think it was in April of 1965 and moved out to Acer Drive from Highland Terrace to Acer Drive, under, assuming that this property, because of the last battle that they had, that this Commercial business had been tabled. That we were not going to have a gasoline alley out there and a mess of shall we say, shopping centers and here we are right back again. But you are telling me now, that the Plan was adopted as of July 1 and yet our subdivision, the subdivision that we have the option on, was planned before that.

MR. GUSTAFSSON: Well the General Plan was in preparation for about two years and we held at least one public hearing on it and I think that this was the time you should have brought it to our attention.

MR. HUBBARD: Of course. I think our biggest trouble is that we miss these small legal issues in the paper, which is too bad.

MR. GUSTAFSSON: When the General Plan was through, there was big headlines on the front page of the paper, I'm sure.

MR. HUBBARD: Sam, may I see that just a second please. May I read

something from the paper here please. "Elks to Build Home If Zone Change Made". But I will only go to one statement. "Under current zone regulations the Elks would only require a change from medium density to general residential". This is in the Hartford Courant on December 17, 1966 and the other article was written in the Middletown Press.

MR. GUSTAFSSON: From what source did that information come?

MR. HUBBARD: Well I don't know, Ralph . . .

MR. GUSTAFSSON: Well I have a pretty good idea.

MR. HUBBARD: Beg your pardon?

MR. GUSTAFSSON: I have a pretty good idea where the source of information . . .

CHM. HIGGINS: Seth, I can explain that to you very simply. If we change this particular acreage to General Residence, in violation of the General Plan, it becomes a spot zone. Now when the people came in to petition for that twenty-two or twenty-three acre triangle, in the Brown Street, Randolph Road, South Main Street area, if we had changed that to Commercial at that particular time, that would be in violation and a spot zone. In the meantime, we went through two or three years of continual hearings and we brought in a planning outfit which cost the City \$35 or \$40,000. We drew up a General Plan for the City of Middletown which projects it to the year 2000. We had publicity over a period of two or three months on certain phases of it as it developed and we had two public hearings at which the whole Plan was projected to the people who came to the hearings and they were allowed to talk and we did make two or three changes as a result of comments that we got from the public. Now this is the situation and this is why this was changed from General Residential to Commercial.

MR. HUBBARD: May I ask a question, Jim?

CHM. HIGGINS: Yes.

MR. HUBBARD: Now as far as the Elks is concerned, I just as soon have them behind me. There would be nothing better, but they are going to be down the line just a short way, which is bound where we have the property and the property of my brother abounds Charlie Berber's property. But why does, why do we have to have the change now to Commercial when the Elks can go in there and build under this General Residential Zone.

CHM. HIGGINS: Because they can't. Because it is a spot zone if we change it to residential.

MR. HUBBARD: In other words, this piece written in the paper

CHM. HIGGINS: This didn't come from the City Plan Commission.

MR. HUBBARD: No, that's what I mean. In other words, this here does not mean a thing.

CHM. HIGGINS: Well I don't know who put that in the papers. It doesn't mean The fact of the matter is, to put that particular acreage in a General Residence Zone is a spot zone. To put it in a Commercial Zone is not because it conforms to the General Plan.

MR. HUBBARD: Well of course my biggest objection, Jim. I would have never moved, shall we say, sold and moved out to here, if I had known this because this is as I say, as of last April, 1965.

MR. GUSTAFSSON: Well of course it is up to each person individually to find out what is going on in the City.

MR. HUBBARD: I know Ralph, but it would take me all day and all night to get down there to keep up with it.

MR. GUSTAFSSON: In April of 1965, they were already completed with the General Plan itself. I . . . and if you came down. It was publicized all along for about two years when we were preparing it and every three or four weeks there was headlines on the front page on what we were doing.

MR. HUBBARD: As I say, our only objection tonight with Mr. Allen is only one thing, who is representing us, is this change to a Commercial Zone.

MR. GUSTAFSSON: You see it is projected for Commercial and you have to change it to Commercial. You can't change it to something it isn't projected for. Regardless of what a private club is, it is in some form or the other a Commercial use. It is a very light one, yes, but it is still a Commercial use. It is not an Industrial or Residential use, is it?

MR. HUBBARD: I suppose not.

COMM. MASSELLI: How far north does this Commercial Zone go, Ralph?

MR. GUSTAFSSON: East.

COMM. MASSELLI: South.

MR. GUSTAFSSON: East, actually.

COMM. MASSELLI: Along Route 17.

MR. GUSTAFSSON: Maybe a few hundred feet, that's all, and then there is a buffer zone. A park area between what we are talking about and where the Elks are going, which is projected in our General Plan . . .

MR. HUBBARD: Ralph, maybe you can answer a question. I don't know. This may have to do with the Building Department, so it would be immaterial, but I would like to know in the sense. Now say for example, with a Commercial Zone coming in, how far can they build from the back lines? Do you know off hand?

MR. GUSTAFSSON: Off hand, right now you can build eleven (11) feet from it.

MR. HUBBARD: Eleven (11) feet. So you see what happens there. That's your whole answer right there.

MR. GUSTAFSSON: And then you have a buffer zone between there and

any residential development beyond that.

MR. HUBBARD: In other words, what we are going against too, is how can you build homes in this category, shall we say. I mean we've worked hard for twenty-one years. We have been registered in the City of Middletown to build a good home. All right and you go out and look at these supermarkets any place around. I'm not naming any, but you just go around and you know that I don't have to tell you, and what is in back of them. Between papers and what have you and the fifty gallon drums with their burning garbage and papers in. This is the thing, this is the thing we are opposing.

MR. GUSTAFSSON: Well if the Elks are going to do that, I don't know anything about it.

MR. HUBBARD: No. I'm not talking about the Elks. Because to me, usually for the amount of time they are there and so forth, as I say, I just as soon have them in back of me. That would be fine.

MR. GUSTAFSSON: Right now we are only talking about the Elks.

MR. HUBBARD: We are only talking about the Elks, that's right. But I'm, of course, we are assuming anything from Coleman Road to Randolph Road. That's what we are assuming now.

CHM. HIGGINS: Well we are talking around in circles, Seth. Actually, the truth of the matter is, your function here, is to protest the fact that we are changing it to Commercial or not to protest it. I mean, since your a nice fellow and there are not too many people here, I'm giving you a chance to get up and make some long speeches which normally is not the actual function of the public. Your function is to come in and make your statement for or against, pro or con and it is a matter of record and it will be handled in Executive Session.

MR. HUBBARD: I apologize to you and the Board.

CHM. HIGGINS: No. That's all right, Seth, because there are not too many people here.

MR. HUBBARD: I just want you to see our point.

MR. PROUDMAN: My name is Harry Proudman and I just moved in from Framingham, Massachusetts. I invested heavily into Mr. Hubbard's property. I was assured at that time when I did buy, this was going to be a suburban type dwelling and I want to voice my protest.

CHM. HIGGINS: Thank you Sir. Yes Sir.

MR. MOLESKI: I'm Robert Moleski from Maple Shade Road. I'm opposed to this change.

CHM. HIGGINS: Thank you Sir. Any further comment. Hearing no further comment, I'll declare this hearing closed.

The meeting adjourned at 7:55 P.M.

Respectfully submitted:

Barbara Sakelakos
Barbara Sakelakos, Recording Secretary

John J. Higgins, Chairman