

Steven J. Leinwand, Chm.; Stephen T. Gionfriddo, Vice-Chm.; Cos Giuffrida, COMMISSION Sec'y; Louis A. Carta, Emanuel A. Pattavina, Seb. J. Passanesi, Alternate: MEMBERS  
Sebastian J. Garafalo PRESENT

Mayor Michael J. Cubeta, Jr., Ex-Officio, Rose Sbalcio, Alternates: MEMBERS  
George L. Augustine, Vincent J. Loffredo ABSENT

Alternate Sebastian J. Garafalo acted for absent Comm. Rose Sbalcio ACTING MEMBERS

George A. Reif, Director, Althea Rinaldi, Recorder, Hope Kasper, tran- STAFF  
scriber

Phillip G. Bauer, Engr., Public Works Dept.; Lucas Held, reporter, OTHERS  
Middletown Press; Rosemary Keogh, reporter, Hartford Courant; also  
24 members of the audience.

CHM. LEINWAND

I would like to call to order the February 10th, 1982 meeting of the Planning and Zoning Commission. We have one, two, three, four, five members. Seb, as alternate, you will be sitting in right now for Rose. Okay. We have got some real jockeying to do in terms of trying to maintain a quorum throughout this whole Public Hearing. With people needing to disqualify themselves for one reason or another. Now, let me count again. One, two, three, four, okay. I would like to open the Public Hearing and ask the Secretary to read the call.

SECRETARY GIUFFRIDA:

THE MIDDLETONW PLANNING AND ZONING COMMISSION WILL HOLD A PUBLIC HEARING FEBRUARY 10, 1982, STARTING AT 7:00 P.M., IN THE COUNCIL CHAMBER, MUNICIPAL BUILDING, DEKOVEN DRIVE, MIDDLETOWN, CONNECTICUT, to consider the following:

Item 1. Proposed change of a Non-Conforming two family house to six at 39-41 Bretton Road and combine adjacent lots to provide off-street parking. Applicant Frank Rak.

ITEM #1  
NON-CONFORMING  
PROPOSAL  
39-41 BRETTON RD.  
FRANK RAK

CHM. LEINWAND

Let me just quickly explain for the benefit of the public. We will go through the five items on the Public Hearing one at a time and each time when appropriate the proponent will have a chance to speak and make his or her case, and then ask anyone who wants to speak in favor of that proposal to come to the microphone, then anyone that is against that, at that point we will hear reports from City Departments if there are any of those reports, and then at the option of how things go, we will either close the Public Hearing on that matter when we are done with all five, or in some cases we may recess the Public Hearing to preserve the opportunity for people to speak two weeks from now. I know that may sound a little complicated but it should work. With that having been said. Mr. Rak.

CHM. LEINWAND

While you are setting up, if I would just for the record mention that the Legal Notice for this particular Public Hearing appeared in the Middletown Press on both Saturday, January 30th, and Friday, February 5th, 1982.

FRANK RAK

I am Frank Rak and together with my son we have Rak Realty, which is an unlimited partnership with more limited partners, basically we have several

FRANK RAK (Continued from page 1)

rental units around the City and we are looking into this venture. Some of the things we have done are restoral and renovation work and one of the latest projects is the old St. Luke's home on the corner of Pearl and Lincoln. The project that we are, have here is located at 39-41 Bretton Road, the existing house is a large two family house and we own the adjoining property. What we propose to do is convert the existing two family house into six units comprising of four one bedroom units and two studio apartments. We will provide the adequate parking by joining in to our existing property which will provide the parking and allow more than adequate yard area, green area. In looking at this project and trying to determine the impact with the number of people that would probably occupy the building, we did a profile of about 20 other apartments in the same size, same price range, and based upon the occupancy of those apartments we come up with a projected population of this building with about 8.1 people. It would be laid out with adults only in one bedroom. We have looked at the existing neighborhood which is presently bleak single family or zoned for single family, and on the ... this is Bretton Road here and on the south side of Bretton Road where this house is located, there are presently 13 dwellings, 10 of which are multi-family, 6 two family, 2 three family, 1 four family, and 1 five family. On the north side of Bretton Road in that area, there is 1 four family, and the rest are single family. In looking over the project, we feel that with the type of rental units we'll be developing will in fact not detract from the neighborhood but enhance it. I think it will help support the mental market in the town and also bring in people that will support the downtown area. I guess that is about it. If you have any questions, I will be glad to answer them.

CHM. LEINWAND

We heard the preliminary presentation two weeks ago on this and I think most commission members understand the way in which this will consolidate some of the parking in back and whats going on, and if there are questions, Commissioner Garafalo

COMM. GARAFALO

Just to satisfy a curiosity, maybe George can answer this. Is this designated R1 right now?

DIR. REIF

Yes, this is a R1 zone and has a non-conforming use in the sense that there is a two family house that is there.

COMM. GARAFALO

It is just interesting for him to note how many multi-family dwellings there are in a R1 zone. Were these there prior to the designation of a R1?

DIR. REIF

The reason he did that is that we were contemplating several approaches to what he wanted to do. One was to come in and ask for a zone change. This seemed like a better approach, ... the expansion of a non-conforming use then the otherwise, here in that category.

CHM. LEINWAND

Other questions. Are there members of the public that would like to speak in behalf of this proposal. Speak against this proposal. Seeing no one. No further questions. I think we will move onto the next item. The only problem with the next item is the following: The record needs to show that on that particular item involving Mr. Rak that Comm. Passanesi had

CHM. LEINWAND (Continued)

disqualified himself. The next item on the Public Hearing is the proposed special exception for Tri-County. Unfortunately Comm. Passanesi needs to disqualify himself once again on that matter and as I said two weeks ago I am a member of the board of Tri-County Alcohol Council and therefore I must disqualify myself. We are trying to get Comm. Augustine here to act as an alternate so that we will have a legitimate quorum to hear that. So with that unfortunate event, temporarily in the way, I would like to move to the third item on the Public Hearing. The secretary would read that.

SECRETARY GIUFFRIDA

Item 3. Proposed Subdivision of four lots located on Randolph Road and South Main Street, an R-1 Zone, Applicant/Agent. Tom Mickiewicz, representing Beatrice M. Christensen, owner.

ITEM #3  
PROPOSED SUB-  
DIVISION  
RANDOLPH &  
SOUTH MAIN ST.

CHM. LEINWAND

Mr. Mickiewicz, No ..... I think that helps to explain one of the reasons why we reserve the right to recess a Public Hearing rather than just automatically close it. Is there anyone who wishes to speak to this matter, the proposed four lot sub-division on Randolph Road. Okay, seeing no one, we move to the fourth item.

SECRETARY GIUFFRIDA

Item 4. Proposed amendment to the Zoning Code to permit bus shelters in various locations, in any zone, as a Special Exception Use. The possibility of including off-site signs on the shelters will be considered. Proponent Middletown Transit District. Agent Karen L. Olson, Transit Administrator

ITEM #4  
PROPOSED AMEND-  
MENT ZONING  
CODE - BUS  
SHELTERS AS  
S. E.

CHM. LEINWAND

Karen

KAREN OLSON

Thank you, I am Karen Olson and I am the administrator of the Middletown Transit District. I am here to support the proposal to change the zoning code to allow bus shelters in the city at this time in all zones, through a special exception procedure. What this would do as I am sure you are aware, that I will also explain for the Public is to allow bus shelters only after they have been submitted to individual Public Hearings for each individual site and also only after they have been submitted to a site plan review. We made our proposal in this fashion so that each individual site that we would propose in the future would be subject to a Public Hearing so that neighboring people who live in area would have a chance to talk on a specific site. People who might use the shelter would have a chance to come and talk about that specific shelter, but the zoning code now does not allow shelters of any type anywhere in the city, so we wanted to get, if possible, get that step out of the way, so we may in the future come to some specific proposals. We have proposed that they be allowed in all zones primarily because at this time we are not in a position to pick one or two zones as a high priority site. We have maybe three or four shelters that we consider a high priority shelters but they are in several different zones, and we felt it would be more appropriate just to allow them in general and address the particular site specifically through the special exception procedure. We also asked for your consideration to allow advertising in the shelters and again it would be through the special exception procedure so that each individual site would be reviewed for its appropriateness to whether

KAREN OLSON (Continued from page 3)

or not advertising should be allowed. We feel that there are some areas in town that advertising may be appropriate in a shelter and it may not be a well, but that is something should be considered on a site by site basis, and we are proposing advertising for the simple reason that there is not alot of money for shelters. There are companies which would provide the shelter itself, install the shelter, maintain the shelter on a regular basis, provide insurance for the shelter, and also repair the shelters. And their way of being able to do that is to have advertising in the shelters. Again this would be sometime in the future and we would come with a specific proposal before this board and you would have the opportunity to look at each individual shelter site. At this time I am not prepared to propose individual sites, we expect to be doing that sometime in the future. We also expect to start at a very low level of construction, our construction schedule, our board meeting last week we discussed that possibility of five or six shelters without advertising to put them up at various sites if the sites are approved, and see what the public reaction is, see if they are used, see what our maintenance experience is with them, and proceed slowly and deliberately with this. I just have one other thing to add. We have had several people call us, call our office, and I don't know whether it's appropriate at this time to read a petition. I am just going to summarize this but it is a letter to Mayor Cubeta, which was written last September. We didn't initiate this process as a result of the letter, we had been thinking about shelters for several years now, but this helps to define what we are trying to do. Dear Mayor Cubeta, As voters of Middletown, we are writing to you to see if you can help us people of Middletown, Connecticut, to place bus shelters here where they have to pick up people standing in the rainy weather and we going to get real bad weather and we have to stand out there in the snow and the cold. I am sending my name and a list of other people's names in support and we do need your help in this matter. We have to sit on the ground across the street from Stop & Shop and stand up by Shop-Rite and with all of our bags we are tired by the time we get home. There are sixteen names off here plus somebody signed her name and my five kids, so you might consider twenty-one. But I have the original here and I'll leave that for the record. (Attached to this transcript is copy of the petition.) Are there any questions?

CHM. LEINWAND

I think this is what we asked for, we said that we wanted to open the door. We agreed that there was some need for shelters, we weren't ready to address where we were going to put them, and we certainly weren't ready to address the question of advertising and which ones if any should have them. I think that our concern was the quality of the shelters themselves and you're saying that you're talking about the rather high quality expensive ones, and all this does as you are well aware, it opens the door and says if you want to put a shelter somewhere in this community you need to come here and request a special exception, which gives us the complete control over where and what kind. Are there questions of Karen before we go to the public. Thank you, Karen

KAREN OLSON  
Thank you.

CHM. LEINWAND

Members of the public wishing to speak for this particular proposed amendment.

JOSEPH CARNEY

Good evening. I am Joseph Carney, Director of Economic Development, Middlesex

9/11/81 Karen Olson  
for your wife

Sept. 2, 1981  
Dear Mayor Custer, AS voters of Middletown  
we ~~are~~ writing to you see if you can  
help us people of Middletown, Ct. to place  
Buses shelters here in town for help of  
Very Bad weather we getting and thats why  
I am writing to you for your vote and I'll  
Be voting for you if you will help us  
out in places Bus shelters here where  
they have to pick up people standing in rainy  
weather and we are going get real bad weather  
and we have to stand out there in snow and  
the cold. I have talked to Middletown  
transit District to place Bus shelters to  
have your help to the Comissioner Vote  
on the Bus shelters we so desperately needed.  
I am sending my name and list of other people  
names in subrent and we do need your help  
in this matter and I thank you and pray  
you will help us.

Thank you for being of great help to us  
please write and let us know.

Doreen McLean  
1004 Silver St. apt. B1  
Middletown, Ct. 06457

P.S. We have to sit on  
The ground across the  
Street from stop & shop  
& stand up by shop -rite &  
with all of our bags we  
are pretty tired by the  
time we get home.

Mother and my five kids

Betty & Debbie  
Commins  
Mary Ann Nelson  
Mrs Linda Shackett  
Brenda & Daisy  
Perry  
Barbara Perry  
Fred Blackwell  
Peggy Branch  
Janice, Louisa, & Shara  
Spencer  
Barbara Young & kids

JOSEPH CARNEY (Continued from Page 4)

County Chamber of Commerce, appearing this evening as a representative of the Chamber of Commerce and of each of the following affiliated organizations: The Retail Trade Bureau, Industry for Middletown, Inc., The Middletown Industrial Development Corporation. The Chamber itself and each of the named organizations wish to be recorded as strongly supporting a process which will permit siting bus shelters at appropriate, safe, and service-efficient locations, in any zone in the City. We further recognize that there may well be specific problems or questions regarding some locations and, though possibly burdensome to the Commission and to the District, the use of the special exception technique is appropriate to protect the legitimate interests of specific neighborhoods. In order to provide a basis for objective handling of siting, we do encourage the development of a general statement of policy. Regarding the matter of advertising versus no advertising, the Chamber is aware that advertising may be a deterrent in some specific sitings. There is also a question in our minds with respect to a minimum number of units set by an advertising supplier and needs of our bus system. The preceding notwithstanding, this office would favor a non-public subsidized mechanism, if one can be identified that will fit. This position derives from two factors. 1. We believe that at \$6,000 per shelter (or something of this order) that it is unlikely that there will ever be many shelters constructed. We are operating in a climate of declining public subsidy, and shelters are clearly not first priority for any dollars that can be applied to bus operation. 2. It is our observation that care and maintenance of shelters is essential if they are to provide service and be acceptable. The advertising route assures such a mechanism and has a built-in control. The contract may be terminated if the service is not provided. It would be our estimate that the District is not now and probably will not be in the position to support the necessary maintenance effort. Our endorsement of an advertising approach would be conditional upon the specifics of a program or contractor. In this matter we would not favor a "blank check" approach. Most specifically, we believe a program should have a strong emphasis on advertising our own regional efforts or on national and regional brands. We do not believe that the opportunity inherent should be directed primarily towards attracting trade to go elsewhere. At the very least, the opportunity for local exposure should be assured, before introducing material focused on Hartford or New Haven. Thank you, and again I would be glad to answer any question, anybody has from our point of view.

CHM. LEINWAND

Can we get copies of that statement sent to us? Any questions of Mr. Carney? Anyone else from the public wishing to speak on behalf of this amendment?

DIR. REIF

There is one item, brief letter that has been filed with the Commission's office, The Planning and Zoning Commission, I am writing for the ladies at Barbara's Rest Home. It would be nice if a bus shelter was put on Newfield Street, Thank you, Jane LaRiviere, Barbara's Rest Home, 876 Newfield Street.

CHM. LEINWAND

Have you sent a copy of that to the Transit District?

DIR. REIF

No, we have not sent a copies to anybody.

CHM. LEINWAND

When they name a specific location, it would seem to me appropriate that Ken and Karen see that.

KENNETH BONDURANT

Just briefly, Ken Bondurant, I would like to wear two hats here real briefly if I may, one as a bus rider because I don't see anybody representing the bus riders this evening. I do ride a bus everyday, I have for seven years between here and Hartford. I ride our local system quite often, and I would just like to echo the need that I think everybody does recognize that there is a crying desire for bus shelters and they are willing to work with this organization to do whatever is best for the people of Middletown. Wearing my other hat as Chairman of the Transit District. I think you know where I stand and we stand firm as a Board of Directors in our desire to work with you and do what is best for the people of the City. Thank you,

CHM. LEINWAND

Thank you. Anyone wishing to speak against the proposed amendment? Okay. We can go back to number 3, I believe that Mr. Mickiewicz is now here. Yes. Want to go to 3.

SECRETARY GIUFFRIDA

Item 3. Proposed Subdivision of four lots located on Randolph Road and South Main Street, an R-1 Zone. Applicant/Agent. Tom Mickiewicz, representing Beatrice M. Christensen, owner.

ITEM # 3  
PROPOSED SUB-  
DIVISION  
RANDOLPH RD. &  
SOUTH MAIN ST.

CHM. LEINWAND  
Mr. Mickiewicz

TOM MICKIEWICZ

Right. First I would like to apologize for being late. Out of my control.

CHM. LEINWAND

It may have actually helped us tonight although we are still scrounging for one more person. It is starting to get.....

TOM MICKIEWICZ

Should I just go over what I went over with you last time?

CHM. LEINWAND  
Briefly

DIR. REIF

I think he should forget that he was here last time because what he says tonight counts, not what you said the last time.

TOM MICKIEWICZ  
Okay

DIR. REIF

Don't make reference to previous presentations.

TOM MICKIEWICZ

Alright. I am representing Beatrice Christensen and we are applying for a four lot sub-division on Randolph Road, at Route 17. All the lots are conforming as we have shown them, they are all minimum of 15,000 sq. ft., one of them is 38,000 sq. ft., and they all have a minimum of 100 feet of road frontage. There is city water on Randolph Road and there will be a city sewer available for the lots, we are working with the Sewer Dept. right

TOM MICKIEWICZ (Continued from Page 6)

now, and we hired Mr. Mylchreest, a sewer engineer from Middletown, and I spoke to him today regarding the sewer system. He has informed me that there is going to be a meeting tomorrow night of the Sewer Commission and at that time we will present our plan to them for ..... That is about it, all I have to say. If there are any questions?

DIR. REIF

Tom, this is certainly one item you would want to continue. There are three possible solutions to the sewer system. One is on the board as shown, one is on the reverse of that board, and the other one is the one they are going, probably have accepted, it's not, that issue has not been resolved.

CHM. LEINWAND

Understood.

TOM MICKIEWICZ

As far as we are concerned, myself and Mrs. Christensen, we are aware of the three possibilities and we are willing to go along with whatever the Sewer Commission recommends, as the best method.

CHM. LEINWAND

You ought to briefly show what the three are. The one that curves all the way around, right?

COMM. PASSANESI

The problem of getting sewer access to lot number 4 is the major problem. Correct.

TOM MICKIEWICZ

Well, there is no problem. What it is, it is just (laughter) it's what the Sewer Commission wants. No matter which way we go, there is no problem, we can get sewer to it anyway. It is just a matter of engineering. It is what the Sewer Dept. feels is the best route and I myself, not qualified to really even get into it, and I don't know what I am talking about, that is why we hired Mr. Mylchreest, who's qualified in that area.

DIR. REIF

There is a simple example, and it is good for the members of the Planning Commission to learn it. The first solution that they offer is to have the sewer lines run in an easement in the back of the properties with the eventual sewage tying in through lot 4 on South Main Street. Why don't you point that system out?

inaudible multiple speakers

DIR. REIF

The sewer lines that go in back of the property, the sewage will flow in the back and eventually go over here and tie with the sewer line down South Main St. The second proposal shown here as you probably can't see the lines is to have a pump out on each piece of property and this pump would pump the sewage up to a line which would be in the street and eventually tie into Maple Shade Road. However, this line would also be under pressure, the one in the State's street. That's the one Dave Mylchreest suggested first after

DIR. REIF (Continued from Page 7)

he got in the deal and the Water and Sewer Dept. won't go along with that because the City does not want to maintain a line that might be under pressure. So they are now proposing a similiar set up with pumps on each lot be provided and once the sewage got to the street it would flow by gravity into South Main St. They do not want easements in the back of the property, they want to be able to get at the sewers that the City is going to maintain.

CHM. LEINWAND

That really comes first. They have to approve a particular sewer arrangement and we are not about to be able to approve the sub-division until there is an approved system.

TOM MICKIEWICZ

Right. They have made suggestions and we are drawing up a plan adhereing to their suggestions, and I think it will be something the Town will be happy with.

COMM. PASSANESI

Under that scheme, what have you got, one pump?

inaudible multiple speakers

CHM. LEINWAND

None of those alternatives alters the boundary lines for the lot. Do they?

DIR. REIF

The problem with the lots is only one problem and that is lot number 4.

CHM. LEINWAND

Yea

DIR. REIF

Even though it does have the required frontage on a street. You really can't get to lot 4 without going over lot 3.

CHM. LEINWAND

We understand.

DIR. REIF

That is an issue no one in the review has raised that issue and I thought perhaps the Fire Department would raise it but they did not.

COMM. PASSANESI

What, it is not facing on an accepted street then?

DIR. REIF

It faces on an accepted street. It faces on South Main Street.

COMM. PASSANESI

Let me turn it over and I think they can see it better.

DIR. REIF

But there is a valley here, or ravine, you go down here and up again.

SECRETARY GIUFFRIDA

George, is any of that wetlands?

DIR. REIF

The answer to that is yes. We have checked with wetlands people and if they were across this little stream here, they would have to apply to the wetlands people.

CHM. LEINWAND

Most of the wetlands is back on the corner.

DIR. REIF

Well, there is a little stream that flows down here. But that is the only wetlands within these four lots and if they don't go near it, obviously they don't have a problem.

COMM. PASSANESI

Well, what about, you raised that point, what about fire came back there?

DIR. REIF

Well, a fire truck would have to go back this way.

COMM. PASSANESI

How is he going to get out of there, once he is in there?

DIR. REIF

Well,

CHM. LEINWAND

I think the first question is to get the sewer arranged in such a way that it works and that he can still talk about four lots in some fashion before we start worrying about the fire access and the actual lines.

TOM MICKIEWICZ

As far as the fire access goes, there will be plenty, you know there will be plenty of areas down here. This is a 38, this is the largest lot out of all of them. We only need a minimum of 15,000 sq. ft. per lot.

CHM. LEINWAND

Right

TOM MICKIEWICZ

Lot 1 is 15 plus, 2 is 15 plus, 3 is 15 plus, and lot 4 is 38,000 plus. So even though we have a long driveway to it we will have plenty of area in here to make sufficient turnaround, for any vehicle that would go down in there.

COMM. PASSANESI

Obviously, the slope is toward the rear of the lot. What percentage of grade are you going to have on that driveway?

PHILLIP BAUER, P.W.

This is the driveway, so ....

DIR. REIF

They have a line there, a profile.

PHILLIP BAUER, P.W.

This maximum grade is 15 percent.

TOM MICKIEWICZ

Right. That is as it stands right now, but once we get in there with a bulldozer we are going to change that so the grade is a lot less.

COMM. PASSANESI

I told you that you should show that on your drawing.

DIR. REIF

What are you going to change to?

TOM MICKIEWICZ

Well, we are going to take fill from the high point which is now the low point and decrease the grade.

DIR. REIF

The only proposed (inaudible multiple speakers)

TOM MICKIEWICZ

That is existing, and that is what exists, and that is what we have to work with, but that will be changed.

COMM. PASSANESI

Your existing slope is 15 percent.

TOM MICKIEWICZ

15 percent, right.

DIR. REIF

You got a narrow lot there. Is that going to influence the topography on the adjoining property?

TOM MICKIEWICZ

No

DIR. REIF

Those are the two issues.

CHM. LEINWAND

Obviously, Commissioner Garafalo

COMM. GARAFALO

George. When you said something about the Fire Dept. Have they issued a report or ....

CHM. LEINWAND

Yea, I (inaudible) I will get to that before whole Public Hearing is closed. I will get a system down by about the fourth Public Hearing we go through.

DIR. REIF

Only the ones that have any relevance are significant and this is the one that



DIR. REIF (Continued from page 10)  
has relevance.

CHM. LEINWAND  
Understood. O.K. Do you want to deal with some of them now? Is that what you are saying?

DIR. REIF  
No. Only the report that brings up some issues.

CHM. LEINWAND  
O.K. Are there any other questions? Are there members of the public that wish to speak on behalf of this proposal? Against it? O.K. Tom, I think it is pretty clear that we will recess the Public Hearing on this matter for two weeks and hopefully you'll get things worked out in terms of the sewer issue and Mr. Mylchreest will be able to work on it from there. O.K. The major issue that is raised at this point from those reports is the fire access issue. The grade issue is not one that you are concerned about.

TOM MICKIEWICZ  
I think the Fire Dept.....Have they okayed it?

CHM. LEINWAND  
I just want Mr. Mickiewicz to understand just what is being said at this point.

DIR. REIF  
As far as the Fire Dept. is concerned, their comments do not show any recognition of a problem. They say, I have reviewed the print of a proposed four lot sub-division on Randolph Road and South Main St., this office has no comments at this time. However, there is a still problem.

CHM. LEINWAND  
Understood.

SECRETARY GIIUFFRIDA  
Which Fire District is that? South?

DIR. REIF  
Yes

TOM MICKIEWICZ  
I might add just to clear things up a little bit, besides fire access from the driveway, this lot will also be accessible from South Main St. in case of fire. In other words a fire truck could be parked up here and equipment, apparatus, and what not, you know, carried down to it from here. And there is also a driveway that comes right along the property line here and goes all the way back to the house that belongs to the convalescent home right next door. So that would also be a point of access for fire equipment, fire truck, the house is not backed into a corner where you can't get at it. There are three ways to go to it, the driveway from Route 17, and from this road behind the convalescent home, you can get very close to the house from all three roads.

CHM. LEINWAND  
Any other questions? O.K. Thank you.

TOM MICKIEWICZ  
O.K. Thank you.

CHM. LEINWAND

Before we get to number 5, the mobile vending units matter, I think I am going to need some help. It is clear at this point that neither Mr. Augustine nor Ms. Sbalcio will be here tonight. That means if Comm. Passanesi and myself have got to disqualify themselves, then we do not have a quorum for a public hearing on the Tri County issue. Is that correct?

inaudible

CHM. LEINWAND

Let me explain it to many of you that it is extremely embarrassing to me to have to tell you that we simply cannot legally do a Public Hearing. There was very little way that we were going to make a decision on that tonight anyway and all that I can promise you is that this commission will have a full contingent of people here two weeks from tonight and we will make every reasonable effort to make a decision on that night. There is nothing I can do except tell you that for me to vote on this matter, to ignore the issues would jeopardize any decision we made if someone decided to challenge it. The same is the case with Comm. Passanesi. I cannot in good conscious vote on something when I sit on the Board in that fashion so that there is no sense in playing games. We will simply recess the Public Hearing on that matter. If we could move to the final item on the Public Hearing, please, Mr. Secretary.

SECRETARY GIUFFRIDA

Item 5. Proposed amendment to the Zoning Code concerning mobile vending units. For the purposes of this proposal a mobile vending unit is a stand, vehicle or similar arrangement not designed to be permanent, with no utility or other attachments to the property, on which or from which merchandise and/or food is displayed and may be sold. A. Mobile vending units selling ready to consume food or drink are a permitted use in any zone. B. Mobile vending units selling unprepared food or merchandise may apply for a Special Exception to permit the use following the provisions located elsewhere in the Code. (This provision is intended to accommodate activities such as the Farmers Market, certain outdoor craft sales, and the annual Main Street sale.)

ITEM #5  
PROPOSED AMEND-  
MENT ZONING  
CODE, MOBILE  
VENDORS

CHM. LEINWAND

O.K. Let me make it clear that the issue here is the Code doesn't say anything about mobile vendors. The interruption therefore is since the Code doesn't mention it, it is not a permitted use and such mobile vendors are clearly in violation of the Code. It's clear that we need a clarification of that. The Commission requested some draft kinds of proposals. We barely discussed, we have not really discussed this in any great detail except to say let's put something to the public, let's open a Public Hearing on this matter. The proposal that is sitting before us at this moment and it certainly is flexible, differentiates between food and beverage and between non food or at least unprepared food or merchandise in the sense that it is suggesting we allow the selling of consumable food or drink as a permitted use anywhere and on the other hand that unprepared food or merchandise only be allowed under a special exception use. I leave at that although I think there is questions about the parenthetic phrase and I don't think we would build that into the Code. George, do you want to speak to this first.

DIR. REIF

Yea, I am going to read if you will something from the Dept. of Health. Dept. as you have discussed now and in the past, the Dept. of Health was one of the great instigators of getting this into the Zoning Code. You know we appreciate their interest. Leon Vinci has reviewed what was proposed and he has sent you this message. "We would like to recommend the following considerations: 1. This section could also make reference that the Department of Health must issue license to operate in accordance to applicable regulations. 2. Phrase "ready to consume" should be changed to "professionally pre-packaged". This would include crackers, sandwiches, soda containers, etc. 3. An additional "type" of food vending operation that warrants discussion involves the "prepared and assembled" on/at the vehicle." Leon suggests for further discussion, "Additional clarification may be necessary concerning "stands". It should remain clear that a stand, i.e. a shed on cinder blocks, is a structure which might be permitted to house a temporary operation. However, an applicant should not expect to receive a one year permit to dispense foods prepared at a "stand". The primary zoning issue appears to be whether or not the City wants to have street vendors and wagons throughout the community. We would also recommend that the City Attorney review the language of the amendment before final approval." Leon Vinci

CHM. LEINWAND

Rather than approach this on a pro-con basis and given it's flexibility at this point I would just open the Public Hearing open to the public in general to speak on this. I think we welcome your input because I think that most of us share some real uncertainty as how best to handle this.

JOE MASSELLI

Hi, my name is Joe Masselli, 180 Crystal Lake Road. I think this is a, speaking specifically to certain outdoor craft sales. I think that we're forcing these people to go through a special exception, I think is making a mountain out of a mole hill. There are little or no problem in Middletown so far. There are only three of them involved, and one of them happens to be my son, who lives in Middletown and is a silver craftsman, the other is Gary Michels, who lived in Middletown all his life, who currently lives in Middletown but who comes back here every year to, for the sales (inaudible). Another one is, another gentlemen by the name of Walter who's last name I do not know. These people are causing little or no problems. I would like to see you take the certain outdoor craft shows and put it up with A with the vending units so they wouldn't have to go through a special exception. They are now under control because they have to go first to the policemen to get a slip saying that they have no criminal record, then they go down to the Town Clerk and get a license. If you want to have control of them or keep tract of them, you can just make certain that the Town Clerk notifies you that they are there. They are not fly by night businessmen, they come back, they tell their customers that they will be back after the New Year, so for a change of thing that they bought so that I think we are making too much of a thing out of this. It was thoroughly handled by the Common Council two years ago when it came up and Gary Michels got a 2,500 signatures asking that such activities be allowed on the street. As I say they are little or no problem and I am surprised that it is here again on the Agenda. I hope you would take it from B and put it up into A.

CHM. LEINWAND

I'm not sure whether we are talking about the same things in terms of craft sales. George, would you explain what you mean parenthetically here?

DIR. REIF

The effort ....

CHM. LEINWAND

You are talking about craft shows and things like that.

DIR. REIF

That is correct, right.

CHM. LEINWAND

You are saying that anything like that, a farmers market or a craft show would have to come for a special exception.

DIR. REIF

That is correct.

JOE MASSELLI

Well, you have outdoor craft sales.

CHM. LEINWAND

Yea, understood. Your talking about an individual on a particular corner selling silver, or jewelry of some sort, which in fact is now covered under B. O.K. It is, if you take out the parentetic thing altogether. O.K.

JOE MASSELLI

You mean what you want to cover under B

DIR. REIF

That is right

CHM. LEINWAND

It would be my reading of it that already is covered under.....

JOE MASSELLI

I say take it out, that certain craft sales out and put it under A

inaudible multiple speakers

CHM. LEINWAND

What you are really saying is that since right now it is not a permitted use, you would like to see the Code simply say, mobile vending units are a permitted use in any zone and not be anymore specific, food or not food. Is that fair?

JOE MASSELLI

Well, I want you to put outdoor craft sales in since that is what these three are involved in.

CHM. LEINWAND

Understood. Thank you,

JOE MASSELLI

Thank you

CHM. LEINWAND

Anyone else from the public wishing to speak on this issue?

GARY MICHEL

Hi, my name is Gary Michel, I am a vendor on the street corner and I have seen some of you before. I got short notice on this meeting so I may be a little mixed up as to what is being said etc. Several years ago I raised a petition among the people of Middletown that basically said they did not want any legislation which will infringe further upon the rights of vendors and the people of Middletown strongly believe that, the police commission believe that, the Common Council voted unanimously to not interfere any further than the present law went. The Mayor at that time was a member of the Common Council. At this point I have been told by several local merchants that the Chamber of Commerce has given up the idea of restricting street peddlers any further due to the lack of support from their own membership, and I guess Mr. Carney's lack of interest shown in the fact that he didn't stay even though this was on the Agenda. During a time of high unemployment and a nationwide movement to get government off the backs of the people, it doesn't seem that the Planning and Zoning Commission should see fit to take it upon themselves to go against the will of the people. The Community I don't think wants you to make decisions against things they have already decided for themselves. If this regulation would prohibit or interfere with the regular operation of mobile vendors I think as representatives of the public it is your duty to vote against it.

CHM. LEINWAND

Well said. Mr. Tewksbury.

WAYNE TEWKSBURY

My name is Wayne Tewksbury and could you please go over that once more? inaudible I didn't understand it cause it went so fast, really, about the Health Inspector with the prepared foods.

DIR. REIF

The issue is well taken and

CHM. LEINWAND

It certainly is .....

DIR. REIF

Leon is making .....

CHM. LEINWAND

What he is doing is basically subverting part of it and I think we understand that. The Public Hearing tonight that affects you in particular says mobile vending units selling ready to consume food or drink are a permitted use in any zone. The Director of Health has suggested that the phrase ready to consume which I think we all understand what that means should be changed to "professionally pre-packaged" which would include crackers, sandwiches, soda, soda containers, etc. I guess that it is pretty clear that would take something like hot dogs out of the category of ready to consume and into the category, well you know what I am saying.

DIR. REIF

Put it into the category of prepare and assemble at the vehicle which that is what you do .... (inaudible multiple speakers)

WAYNE TEWKSBURY

You sell potato chips in a bag or so .....

DIR. REIF

Potato chips in a bag would be professionally pre-packaged. What you do is you assemble, prepare and assemble at the vehicle and he wants a special category for that.

COMM. PATTAVINA

He is not calling you a professional. (Laughter)

DIR. REIF

And of course the health issue does deal with sanitation, washing hands, and that kind of stuff.

WAYNE TEWKSBURY

Human hands does not touch these hot dogs, you know. The license that I'm applying for no human hands touch the food and I guess that has to go through the Health inspector anyways.

CHM. LEINWAND

Commissioner Garafalo

COMM. GARAFALO

Is that sort of causing a paradox that if we put down specifically what type of preparation of foods we are talking about, we are really in effect taking on an edict of the Health Dept., or the Health Board. That is not our concern really, our concern is with mobile vendors. If there are certain restrictions the Board of Health would like to place on the individual vendors and I think they should ask for some sort of ordinance or ruling in which they would have that option to go out and inspect these. I think we are going to get into so many categories that we are going to lose sight of the fact what the original intent was, and that's whether we want mobile vendors or we don't.

CHM. LEINWAND

Yea, I would agree with that.

DIR. REIF

The Commission is dealing with that as a land use.

COMM. PASSANESI

Good

COMM. GARAFALO

That is what I mean. I think to go beyond that we are getting into, and being a member of the Board of Health, I'm probably asking for more work, but I don't think that is our situation here this evening.

CHM. LEINWAND

Let's continue the Public Hearing and I think there is lots to talk about.  
Sir

CHARLES CUBETA

My name is Charles Cubeta and I have been a street vendor in Hartford for approximately about 6 years. I moved back to Middletown recently last year and my grandmother called me and told me what was happening as far as Middletown that there was discussion as far as mobile vending and such. The reason I stopped tonight was to say to you to be very very careful in how you proceed

CHARLES CUBETA (Continued from Page 16)  
in your matters of City Ordinances requiring certain restrictions, placement of zoning. I have dealt in Dallas and New York and there are many proposals to be taken. Hartford, for one is a non-workable City Ordinance package as far as mobile vending. To be very open about it and not be very precise in what you say could warrant many problems in later years. Right now you have a very small situation with a few vendors on the street as far as jewelry and such. But as you say Reagan wants everybody out of everybody's pockets, everybody is going to be looking to make a dollar and make a living for themselves. They see one person, there is going to be another person, there is going to be another person. I, myself, can submit to you some different programs that have been proposed in different cities and you might want to take a look at them as far as Health codes, as far as City codes. The streets of the City are the streets of the City. They belong to the City and they should be regulated as such. I know myself as a vendor what can happen in the frustrations between retailers, between vendors, between police. It should be all cut and dry. It should not be any questions after discussion is closed and the process is put into use. That is basically all I have to say and I think you should touch on this matter very delicately due to what could be of tomorrow.

CHM. LEINWAND

Do you have any suggestions? On one hand.....

CHARLES CUBETA

I have proposals. I have proposals from different cities.

CHM. LEINWAND

You say and you are right that we ought to be very careful, that you do not want to over regulate and at the same time you recognize .....

CHARLES CUBETA

You don't want to be too lenient, you can't be too lenient is what I am really trying to say to you.

(inaudible multiple speakers)

CHARLES CUBETA

Right now there is no really set plan of City Ordinances in regards to mobile food, vending units, any kind of vending unit. Right now you don't need as I see it, possibly a jewelry man can stand on the corner of such and such a zoning part of the City. It is not really, it is not a set plan of laws whereby the police know exactly where they stand. It is questionable. What I just propose is that maybe through some of the knowledge that I have, also I would just like to submit some of the plans that you can look over as far as what other cities have done in regards to vending in itself.

CHM. LEINWAND

Let me direct it to more than just you. The dilemma that we have gotten, the reason that this thing is here is clearly two fold. One everyone agrees that any mobile vendor right now given the way we have our code is operating illegally. No one questions that. So we can either ignore that or we can try and deal with it. I have real problems with leaving a loop hole like that that allows people with everyone's knowledge to operate illegally because it calls into question the validity of any Code and any enforcement this City wants to do, so that I think that it ought at least be addressed. The other issue is that at least one person in particular has been told he can not get a license to operate a mobile vending unit in this City on the basis of the fact in part that the Code doesn't allow it. So that certainly is what brought some of this to a head at this point.

CHM. LEINWAND (Continued from page 17)

It suggests to me that on the one hand that we can not ignore it, on the other hand we walk that tight rope of how do you build it in so that you do not affect what is indeed happening now and happening with next to no detriment.

CHARLES CUBETA

I agree. That's probably why I am speaking on that behalf, so you don't have to walk those tight ropes. You should be able to look at tomorrow at what could happen to your streets and you have to consider your retailers on the streets and keep it all in progression. You don't want to deny the individual his right to earning a living naturally. But then again you don't want to have a question as you have a question right now. You have an illegal guide. But I just wanted to forewarn you that before you pass anything you should really take into consideration what could come about from having no set plan. Is there a set plan of City Ordinances right now for street vending?

CHM. LEINWAND

No. We are talking land use.

Voice from the audience. (inaudible)

CHM. LEINWAND

Let me ask you to wait and speak during Public Hearing if you would. George, did you want to say something?

DIR. REIF

I want to say that the Planning Commission is the organization that is authorized under State Law to deal with land uses and none other. There are probably many occasions where other organizations have made decisions and regulations about land uses incorrectly.

CHM. LEINWAND

Anything else?

CHARLES CUBELA

No, I guess that I just suggest that maybe a committee be formed to propose and throw the whole idea around. Obviously the City Ordinances that are in effect now are not in effect. They are not very workable ordinances.

CHM. LEINWAND

If you could send copies of what you think are the most workable proposals around, whether it is Dallas or Hartford, care of the Director of Planning, we would appreciate that.

CHARLES CUBETA

Good. Good. I will do just that then.

DIR. REIF

Glad to look at them.

CHM. LEINWAND

Other members of the public wishing to address. Gary, Gary, let me just ask if there are other members and I would be happy to let you back to the microphone.

ARTHUR MICHAEL

My name is Arthur Michael, I am a life long resident of Middletown presently reside on Congdon Street in Middletown. The City is entitled to make rules

ARTHUR MICHAEL (Continued from Page 18)

regarding the vendors by virtue of State Statute, Section 2137 of Chapter 408 Statutes of the State of Connecticut, specifically empowers towns to set reasonable Ordinances regarding the vending or hawking of goods upon the streets. The Statute also very specifically states and I quote, "This section shall not apply to sales by farmers and gardeners of the produce of their farms and gardens." It additionally continues to disallow interference in several additional areas. I ask that you review the authority granted to you and act in a manner that will not place you in a possible illegal position with respect with the authority granted to you by this Statute.

CHM. LEINWAND

Ten, dash, not ten dash, what .....

ARTHUR MICHAEL

Twenty-one, thirty-seven, Chapter 408, I have a copy here of the latest if you wish to copy for your own use. With regards to the exclusion of certain classes of merchants I ask that where might your attentions be drawn next. Why stop with pesky street vendors? Why not disallow the sales of hot dogs or blue jeans some time in the future? But the potential customers of these vendors vote with their purses. If the public doesn't appreciate their presence they won't support the vendors. The vendors will soon part for greener pastures. And the third point, perhaps you are not aware that Chapter 19 of the Middletown Code of Ordinances, in fact, prohibits the sale of souvenirs at the annual Memorial Day parade. I mean that is kind of ..... if you read the laws there. O.K.

CHM. LEINWAND

Where is that?

ARTHUR MICHAEL

That is in Chapter 19 of the Code of Ordinances of the City of Middletown, which states .....

DIR. REIF

While you are looking up that number, there is no question that there is a tremendous confusion and that is one of the things we are trying to sort out. The confusion that now exists.

CHM. LEINWAND

Sir

ARTHUR MICHAEL

I just ask that you act responsibly. That's all.

CHM. LEINWAND

Okay

SECRETARY GIUFFRIDA

I think it all goes back to what Seb had to say, you know, what the realm of the Health authority or the City as far as laws are concerned. We have to deal with the land use question of it. Whether Mr. Michael's neighbor on Congdon Street can set up a stand right next door to him and if he would be happy with that. That's the thing and if that particular land use is something as to whether the Health Dept. or what have you, that comes under

SECRETARY GIUFFRIDA (Continued from Page 19)

a different realm, and to mix all that into this Commission is getting everything confused, in my opinion.

CHM. LEINWAND  
Commissioner Garafalo

COMM. GARAFALO

Well, one of my concerns would be almost said that supposing we have an R-1 zone and we say that mobile vendors are allowed in any zone in the City of Middletown, and somebody doesn't take a van and drives it up on his front lawn everyday and sells something and drives it off at night. It's mobile. You know, are we opening up a can of worms, I am talking in residential now in particular.

CHM. LEINWAND  
Right

COMM. GARAFALO

You may want to look at limitations in a commercial area and if businesses can be conducted in a commercial area then that is something we have to look at. Land use, that's, you know, these other things that are coming up are ordinances that go beyond our realm, which is the inspection of the food and how the food be sold. I think it goes beyond our authority or our responsibility.

CHM. LEINWAND  
Gary,

GARY MICHEL

Just one thing I am trying to straighten out in my head, are you saying if it is not covered in Planning and Zoning Laws per se then it is illegal for the fact that is not mentioned.

(inaudible multiple speakers)

GARY MICHEL

There is some confusion that I am having a time sorting out.

DIR. REIF

You're not alone.

CHM. LEINWAND

In fact, the way we in which we interpret our Code, it is a permissive Code. Everything that we will allow is spelled out in the Code and if it is not in there, then we really don't recognize it as a legitimate use. That is why we have the opportunity to consistently and constantly change the Code, or up date it, or allow things in different kinds of uses, or go a special exception route.

GARY MICHEL

Even though there are ordinances that permit, even though, there is an ordinance that does permit something but it is not mentioned in the Zoning....

CHM. LEINWAND

I'm not sure that the ordinance ever permits it, the ordinance says if it

CHM. LEINWAND (Continued from Page 20)

comes, this is what it has to do. Alright, but yea I think we all agree that there is some real contradiction there when you have something in the City Code of Ordinances that speaks to a use that we are saying that isn't even allowed.

GARY MICHEL

There is something in the Ordinance, I don't know if it is in the section I have or in a separate section. Let me see.

COMM. GARAFALO

Is that the City Ordinance or the State Statute?

GARY MICHEL

This is the City Ordinance here, this is part of it. Okay, this gives time,

COMM. GARAFALO

Yea, that's our concern,

GARY MICHEL

Locations, as far as I know, other than the times that are listed in the City Ordinance which is Chapter 19, Section 19-5 and 19-6 as far as I can recall and what is written here was to be allowed anywhere except on Main Street during given hours and it did differentiate between peddling, hawking, and I don't remember exactly what else. One other point it seems, somehow just it doesn't seem said right that food peddling would be allowed anywhere when that presents probably a greater menace to the public health than the sales of jewelry or to the public well being than the sales of clothing or jewelry or anything else. It just seems interesting that you would try and separate the two in that manner. I guess I have nothing more to say unless anybody has any questions of me.

CHM. LEINWAND

I need a clarification. I sense a need to talk about this and I sense also a Public Hearing is not the right time. Can we bring this up under new business and talk about how it might be changed or what.

(inaudible multiple speakers)

COMM. GARAFALO

Yes, we get some background information about it. Some things were mentioned tonight I wasn't aware of, the Code of Ordinances, the State Statute, and possibly any Health ordinances that affect mobile vendors, because that is what brought it here. I think we should look at all of them at the same time before we make any kind of decision.

DIR. REIF

That was the basic concept and you are 100 per cent right, and there didn't seem to be any end to the number of things that were or weren't controlling it.

CHM. LEINWAND

That's right, which is also why we said let's bring it to a head and put in on the Agenda under a Public Hearing.

DIR. REIF

Yea, when you do that you risk what you are getting tonight and that's why,

(inaudible multiple speakers)

CHM. LEINWAND

I think so. I guess that I would like to come back to this during new business and at least talk about it for awhile, because I think this needs to be resolved within, you know, the outside a month. I just think people have been kept waiting for too long and it ought to congeal in one fashion or another. What I would like to do is to suggest that I would like to close the Public Hearing on Items number 1 and number 4, that's Mr. Rak's, Bretton Rd. proposal, and the Transit District proposal. O.K. And recess the Public Hearing obviously on number 2, number 3 because we need to hear more, and on number 5. Does that meet with any objection? O.K. Public Hearing is closed on Items 1 and 4, recessed on items 2,3, and 5, obviously that still means that we could deal with any of those recessed matters at our next meeting, but the clock goes for some 65 days.

ADJOURNMENT 8:15 P.M.

*Hope Kasper*  
Hope Kasper  
Transcriber

Steven J. Leinwand, Chairman  
PLANNING AND ZONING COMMISSION

RECEIVED AT THE MEETING OF \_\_\_\_\_