

PORTLAND PLANNING AND ZONING COMMISSION
SPECIAL MEETING
Thursday, August 8, 2024 at 6:00 PM
Public access through Zoom link A at www.portlandct.org

Special Meeting Minutes

1. Call Meeting to Order

Robert Ellsworth called the meeting to order at 6:00 p.m.

2. Introduction of Members and Seating of Alternates

Present: Bob Ellsworth, Robert Taylor, Chantal Foster, Carolyn Freeman, Jennifer Tellone, Tom Bransfield

Absent: Victoria Tchetchet, Joe Spada

Tom Bransfield is seated for Victoria Tchetchet.

Staff: Dan Bourret, Town Planner
Kari Olson, Town Attorney (Remote)
Dawn Guite, Recording Secretary

3. Accept Agenda

MOTION: Chantal Foster MOVED, seconded by Rob Taylor to ACCEPT the agenda as PRESENTED. **VOTE UNANIMOUS. MOTION CARRIED.**

4. Meeting Procedures

Chairman Ellsworth said that tonight's meeting will allow 5 minutes for public speaking and can circle back after for more time.

Public Hearing

5. PZC Application #23-17: 69 Marlborough Street. Request for Special Permit Modification. Application and Property of BRT DiMarco PTP, LLC. Map 19, Lot 68. Zone B-2, B-3 and TCVD.

MOTION: Chantal Foster MOVED, seconded by Jen Tellone to OPEN the Public Hearing for #23-17. **VOTE UNANIMOUS. MOTION CARRIED.**

Steve Sullivan, PE, CCA Engineers, said his charge was site engineering and landscape architecture. This application is for modification for Building A and B. B is now split up into B1 and B2. Building A footprint is revised from a 38,750 s.f. two-story building with first floor retail and second floor office commercial and 11 second story apartments to a new footprint. The new footprint is a 34,865 s.f. four-story healthcare institution with 102 independent living units, 17 age restricted apartments, healthcare institution services, a restaurant on the fourth floor and the garage level with 130 parking spaces. Building A height is revised from 43.65 ft. There is now a split up into Buildings B1, B2, a common area corridor connecting the two buildings. The footprint of B1 and B2 each are 8,004 s.f. two-story. The first floor is retail, second floor is office space. There is a central elevator tower to connect to the upper floors for each side of each building. For Building E the commercial space is revised from 3,560 s.f. to 9,418 s.f. Residential units went from 99 to 93 apartments. There are 6 hotel units. The front setback for Building B, which is the closest front setback is the elevator tower which is 2.6 feet off of that right-of-way line. It is quite a ways off the actual edge of road in that area. Side setback for Building A went from 121.2 ft. to 225.6 ft. because the building got shorter where it used to be longer in the previous approval. Rear setback for Building A was 68 ft. It is now 48 ft. Maximum lot building coverage increased from 27.4% to 29.4%. 40% is the maximum building coverage. Impervious coverage changed from 11.01 acres to 11.19 acres which is about 75.2%. 80% is the maximum MUD regulation. Required parking changed from 990 spaces required to 1,108 spaces required. 887 spaces are being proposed; 88 parking spaces. There's 29 required and 29 proposed. A parking space waiver is being requested; a reduction from 23.8% which was the previous approval to 19.5%. The current proposal for the phasing is phase 1 – Building E, D which is the Starbucks, C the Sage House, and G the Brainerd House. Phase 2 would be Building F and H – Hart Jarvis. Phase 3 is B1 and B2.

Bob Ellsworth said that he is perplexed on the request for the reduction in parking requirements. It seems to me the model that's being proposed is occupant centric as opposed to retail or office centric. That would almost drive up the demand for parking requirements.

Steve Sullivan said as far as the non-age restricted units your regulations require two spaces per unit no matter what the size; whether it's a studio, one bedroom, or two bedroom. We find in reality it's more like one for a studio, one and a half for one and two for a two bedroom is more realistic for what is actually needed for those types of unit makeups. There's some fluff in the numbers and the applicant's very comfortable with the parking count for this type of mixed use.

Dan Bourret said he will ask Jeff to weigh in on that. He hasn't completed his review yet.

Bob Ellsworth said it seems like it's a change in philosophy because the non-age restricted units really have changed the parking percent. I also think one of the rationales was of the specimen trees that need to be saved. I don't think there's any new trees that have been identified as needing to be kept.

Maura Newell Juan, Principal Architect, Seventy2 Architects, Danbury, CT, gave presentation on architectural modifications. Building E will have expanded commercial space with offices and a new long-term stay hotel. The façade of the building has been updated and refreshed. Additional commercial space will be located in Building D as well as the three historic buildings. Exterior colors for Brainerd House, Hart Jarvis, and Sage are being selected by the historic architect. A gazebo will also be installed for use by pedestrians on campus and along Marlborough Street.

The new corner building meets or exceeds the recommendations of the Portland Village District design guidelines. New England vernacular includes gabled roofs with eaves, punched openings with large double hung windows and a mix of horizontal and vertical siding. A mix of cladding textures includes clapboard and batten siding together with a panel style signage band, architectural shingles and dark bronze gutters. The undulating façade interrupts the length of the building to bring it down to human scale as the building faces Main and Marlborough Streets and the continuous pedestrian sidewalk. Architectural details on the new building include traditional goose neck lights over retail signage. Awnings over the doors mark the entrances. Large storefront glass wraps the first floor retail spaces while large bright windows bring light into the offices upstairs. A center hinge structure contains a stair and elevator. It serves as the dedicated main entrance to office spaces upstairs. The architecture is used to differentiate between the retail and the office tenants client access areas. Meters and utilities are hidden with architectural site walls and landscaping.

Rooftop mechanical units are hidden from view by the gable roofs that surround a hidden sunken flat roof area. A new rooftop restaurant is proposed overlooking the river. Guests will approach the restaurant at the west elevation. It features indoor and outdoor dining space. Indoor dining may include wraparound windows, a tall ceiling, reception area, bar, commercial kitchen, bathrooms and server stations. A south facing outdoor patio overlooking the river may include tables and soft seating. There is an independent living facility and 17 active adult units.

Building A independent living spaces line the north face of the building with large storefront windows. Facilities dedicated to serving the independent living population may include a library, theater, wellness center, dining rooms, living room, lounge space, solarium, and dedicated space for healthcare tenants and their services.

Building B in line with the Portland Design District regulations is opened up and made more vertical to offer improved experience. It is configured to be taller with a narrower footprint. It accommodates parking beneath and preserves the view of the Hart Jarvis and Sages houses.

Joe Balskus, P.E., VHB, 161 Jobs Pond Road, traffic engineer assigned to the project, said he looked at the approved traffic study done six years ago and did a comparison to what traffic generation entails. 500 vehicle trips are being proposed to the previously approved 600 trips; an almost 100 vehicle reduction in the afternoon. In overall approval was an average of 672 vehicle trips being generated during peak hours. This is approximately a 20% reduction in traffic generated based on revised land uses; healthcare, assisted living, age restricted units, and change in commercial space. From 2006, 2018 to now we have less volume in peak hours. This application is providing less traffic being generated overall for each of the peak hours. Traffic volumes are steadily coming down from the beginning and from the original approval. Infrastructure is being kept as proposed as well as offset improvements with original volumes. The 20% reduction is substantial. It is good to keep improvements where they are already. It wasn't necessary to do a new analysis.

Chantal Foster asked about the changes relative to reduced volumes.

Joe Balskus said that reduced volumes are do to changes in the plan, the land, changes in commercial and residential space.

Chantal Foster asked if the decrease is attributable to the fact that people are older?

Joe Balskus said “yes” the apartments versus age restricted and healthcare related land use results in less generation of traffic. Age restricted housing is the best land use that towns like to see. It generates the least amount of traffic; less than apartments. These residential land uses have very low intensity in terms of traffic generation.

Carolyn Freeman asked if there are guidelines considered when talking about age restriction?

Joe Balskus said it’s based on studies that have been done across the country and similar land uses. The trip generation manual is hundreds of land uses; residential, marijuana dispensaries, retail, restaurants. Traffic counts have been done across the country at developments like this as well as statistical analyses. All are weighed and a number is determined that says this should generate X vehicle trips. This was used for the original approval.

Alan McKittrick, McKittrick Associates, Portland, CT, is responsible for all the design details for the restoration of the three historic buildings at Brainerd Place. He updated the commission on progress being made toward the restoration. Detailed exterior restoration drawings and specifications for the Brainerd House have been completed and are the basis for ongoing permitting of the work in phases. Work will touch all surfaces and materials of the building’s exterior. It is necessary to make the Brainerd House watertight, weatherproof, and secure prior to interior work being done. Detailed exterior restoration drawings and specifications for the Hart Jarvis House have been completed. As with Brainerd House, it is necessary to make it watertight, weatherproof, and secure prior to interior work being done. Exterior restoration specifications are also complete for the Sage House. The rear wing has been refurbished for use of a temporary site office. Windows are being evaluated for possible replacement. Most below grade utility conduits for water, electric, and gas have been brought to these buildings; an important precursor to the work that will follow. Structural, mechanical, electrical, and plumbing engineers have been engaged and interior work will be coordinated with them in the coming weeks.

Most exterior restorations start for the top down. At the Brainerd House missing and deteriorated roof rafters at the building’s 6-foot overhangs have been replaced or reinforced with new rafters. This work was necessary to correct structural deficiencies due to rot and sagging conditions. The goal was to preserve the original roof profiles and the internal gutter systems. Overhanging fascia and soffits have been restored with new crown molding and tongue and groove cedar planking replicating the original work. The building’s deteriorated layers of old roofing material have been completely stripped out and replaced with new rubber membrane material resulting in a watertight enclosure for the main block, the wing, and the cupola of the house. Marvin replacement windows have been ordered and are expected to be delivered for fall installation. There are 55 new windows some over 9 ft. tall. All will have energy saving glazing and construction by top of the line Marvin historic windows. They are all custom windows sized to match the existing 25 different window configurations of the original house. They will replace the old energy efficient windows and the non-original storm windows. Restoration of the iron balconets at the front of the Brainerd House have been scraped of rust and primed. They’re now ready for final paint coating.

At the Hart Jarvis House the unusable north wing of the building was removed and roofs secured from further water infiltration with new tarp. Deteriorated roofing was not salvageable and there was extensive damage to roof rafter ends and decorative soffits. Roofing materials including mineral roll roofing over tin plating over rotted wood decking were completely stripped off of the main house and the two side wings. The exposed structure of the roof was reinforced wherever necessary with new wood sistered to the old. New overhang fascia structure was also installed. New decking was applied throughout, ice and water shield added. The roof is finished with asphalt shingles in a color to reflect the original zinc plate roofing. Decorative fascia details such as the 14 in. tall crown molding were replaced. As with the Brainerd House, Marvin energy efficient windows will replace deteriorated, inefficient and non-original aluminum storm windows. They will be custom sized to replicate original designs. New paint colors are being selected for the exteriors of the historic buildings. The results will combine study of original colors as best as can be ascertained from building details. Colors and finishes will be harmonious with the overall Brainerd Place development.

Bob Ellsworth said that he is very encouraged by the architectural report and asked for a health check on the bones of the three buildings given exposure to elements after so many years.

Alan McKittrick said that he has looked at the buildings with a historic restoration contractor, structural engineer and the consensus is that they are in pretty good shape. The Hart Jarvis House had a fire in 1913 that destroyed a part of the roof and a portion of the east wing. These were carefully looked at to make sure that the structure was intact. The building was a post and beam hybrid building with 8 in. x 8 in. square posts and beams. Charred timbers are structurally sound and anything else was reinforced with new wood in 1913 when that portion of the house was rebuilt. That was the biggest concern when completion of some of the demolition to the interior and the basement. We'll be able to take a look at the structure there especially the sills. Because these buildings were built quite high off the ground he is not terribly concerned that a lot of damage will be found. In general they are in pretty healthy condition.

Bob Ellsworth asked if it includes looking for mold?

Alan McKittrick said there is mold in the buildings which will be abated along with any hazardous materials.

Dan Bertram apologized for being late and said that he can speak to any of the aspects of the job.

Bob Ellsworth asked for an explanation about the hotel units.

Dan Bertram said in taking away the CVS building and adding 32,000 s.f. makes some of the proportions impossible to meet the 50% of commercial completion as the residentials being completed. We were cognizant of the phasing plan and will to say that it would be nice if there was a hotel in part of the project. If we could gauge demand by taking a portion of Building E, the team reviewed where and how something like this could be done. By taking six units and setting them aside for an extended stay hotel use is technically commercial. It gives a data point to determine if there is a demand for this type of housing in town. We expect Starbucks to be fleshing out Building D shortly which is commercial. We're finishing Building E now. It's being finished from the top floor down. The upstairs is pretty well together. There's carpet to be installed in hallways and cleaning up. Appliances are in place and power will be hooked up in the building. By fall having 9,000 s.f. would get us over the 50% threshold while working through the historic work. The Brainerd House is part of phase one of the commercial allocation. We want to go as fast as we can but have to work within the climate or weather type structure. We're trying to execute well and with high quality. He feels that the Sage House will draw a higher level customer in the form of a restaurant tenant by leasing that later in the process when Building A and B are moving along. At that point Starbucks will be open and hopefully a tenant next to it. In the next few weeks Building E, the Brainerd House, Starbucks, the ecosystem and lots around it will get finished.

Bob Ellsworth said that the 17 age restricted units in Building A was news to him.

Dan Bertram said that when the adjustment was made to the E Building for the hospitality use that removed 6 dwelling units and put in an extended stay hotel use so that meant we had 93 units now in E as opposed to 99 from before. The original A Building had 11 units in the top of it so it's really those 6 catching up so the 11 plus 6 gets you to the 17 for the maximum regular apartment allocation of 240 that's governed in the regulations. We felt that in Building A because of the independent living use that it was appropriate to take those apartments and put an age restriction on them so that there was similar age demographic in that building.

Chantal Foster said it was because you wanted to maximize the number of units is that it?

Dan Bertram said we wanted to use the 240 that had no other restrictions. It's an easier building to run by having because you have no kids in the age restricted housing. What ends up happening is you end up with 223 unrestricted apartments as opposed to 240 from before. That's another incremental lesser back on schools.

Bob Ellsworth said he had a question about phasing and made a chart based on the numbers that were provided. It looks to me that residential percentage development phase one, phase two, and phase three is very close to the current allocation. It's the commercial that seems to take a big jump in phase three.

Dan Bertram said there is no question and the commercial number overall went from 115,000 or 113,000, whatever the total was, to 195. By having this amount of development we're able to open and grow with E and D as our initial use cases. It makes a more compelling case for everything else. We have a lease that's out for signature for 2,500 s.f. in Building F and it's in part because we started that foundation and we could tell someone what a delivery date would be. Because we have been working through how to best develop the rest of the site in the form of Building A and B revisions, this

is a consequence of that churn. There's no hedging on our side. We want to keep seeing it through continuing the job in a continuing effort. We're ready to go vertical on Building F and then next spring Building A and B at the same time. That's the goal.

Chantal Foster asked for the number of independent living units.

Dan Bertram said 102.

Tom Bransfield asked for an explanation regarding healthcare institution; aspect of it.

Dan Bertram said these facilities are operated through a tenant on site who provides the services to people in the building to the extent that they wish to have such services.

Tom Bransfield asked what services are being provided.

Dan Bertram said anything that you would have for in home contracted healthcare. We want the services to be available. We are looking to be servicing population in the 55 to maybe 70 range versus the 70+ range. We're not trying to contract with a partner that can do all of the services that could happen from moving in to end of life type before going to hospice. The degree that you would have nursing care is helping keep track of medications. We're trying to offer minimal services but still in that healthcare space through a tenant on site. One of the things we're trying to keep in balance is having a facility with a rooftop restaurant. You wouldn't typically put that on a hospital or convalescent home. We're trying to find a balance in an evolving space.

Chantal Foster asked if the hotel units will be managed by the leasing office.

Dan Bertram said the flow is coming into the leasing center through a door at the end of the building. The idea is that you can service that population through the leasing center which was always here to serve the entire complex and allow for the 6 units. These units would be furnished where people are able to come and go. It is a way of seeing if there's hospitality demand. We would have data to judge if there is a demand.

Chantal Foster asked if people living in Buildings E and F have access to a pool.

Dan Bertram said "yes" a pool is being excavated now at the perimeter between Brainerd and E. The pool area is in the middle of that.

Chantal Foster asked if people living in Building A can access the pool.

Dan Bertram said we'll decide what we programmed for the lower level of A dedicated to the independent living scenario. From the standpoint of allowing access there's overlap in these populations so we expect to have a gym in part of the F Building that will be programmed for a broader population. There will also be something that is more dedicated to the population in the first floor of A. We'll make that decision on who has access to what later based on the market.

Jen Tellone asked if pets are allowed.

Dan Bertram said "yes".

Jen Tellone asked if there is anywhere for them to take the pets.

Dan Bertram said "yes" the site plan is very friendly for walking. There were upwards of 40 some benches around the 15 acres all connected by walking paths. As you go around the whole site there is a walking path that goes up and across the whole frontage of the property. There are all kinds of internal things; walkways that connect the gazebo. There's all kinds of circulation. You can be taking a loop around E and F.

Public Hearing

Timothy Dansfield, 62 Prospect Street, said that the last two meetings were highly attended around the issue of the residential apartments and the expansion. It seems now that the apartments plus the new senior or assisted living is at 300 total. What is the new total residential?

Bob Ellsworth said 240 plus 102 independent living units as part of the healthcare institution.

Timothy Danfield said it seems having too many people coming in and living in Portland has been resolved. There's nobody here to object. It was quite inflammatory in my neighborhood.

Dan Bourret said I don't know if the board can respond to that. I don't know if you would want to leave that as a statement. I don't think the board is going to respond to that.

Ben Srb, 139 West Cotton Hill Road, said he has a number of questions.

Dan Bourret said to throw out the questions and then the board can ask the applicant to respond.

Ben Srb said the town attorney was reviewing the brick façade, the brownstone façade, the metal roof, and the sidewalk. Originally this was approved with brick façade, brownstone on the Starbucks, metal roof. Our regulations state there is supposed to be a theme throughout and I'm curious how we're getting away from that or why we're getting away from that. The traffic guy Joe mentioned, I'm not sure if he was referring to the 17 units or if he was referring to the new 102. He mentioned age restricted housing. Keep in mind the 102 needs to be spelled out as assisted living. You really need to define what the assistance is. It says on-site staff. That needs to be spelled out. Section 9.1.17.8 says after approval of a MUD, no subdivision, resub division, merged single parcel as approved shall be permitted. Changes in approved plan shall be in accordance with Section 10.4E of the zoning regulations. That's a very clear statement. We need to be in conformance with 10.4E which I will now read. 10.4E states any substantial change in facilities or use in a special permit application shall require a new application and approved by the commission; not a modification. So even if you wanted to go down this road our regulations state this needs to be a new mixed use development application. If Kari can hear me I would love to immediately get because that's what it says. If I'm not right I am going to put on the record somebody needs to explain to me what that means. I'm hoping the Chairman will ask Kari Olson because it obviously needs to go through the Chair. I think that's what it states. If anybody disagrees with me please say so and if the town attorney could chime in. If not then I'll come back up with all my other questions about this exact application. I hope the town attorney can say "Ben, you're wrong and then I'll come back up and ask questions.

Bob Ellsworth said I'm not sure we'll have an answer for you on that tonight but we certainly can bring it to our attorney's attention.

Dan Bertram said Bright Ravens would operate the hospitality use and the other uses proposed as property manager. The review of the aesthetics I can't articulate enough how much time we spent trying to get that all right. I'm very pleased with what has happened in the field. The balance of the brownstone elements you can now see. In earlier meetings you couldn't really catch that on the larger buildings because it hadn't been done yet. If you go by the E Building there are some stone elements there. If we go inside the complex there's a whole wall of things that incorporate those elements. These jobs evolve over time. In the past few weeks we put in courtyards and have 30 x 30 brownstone colored sitting areas. Throughout the whole project you have all kinds of brownstone. Now Ben would say potentially that this change is substantial, another change isn't. I would argue that this whole project is a large scale project. It is nearly identical to the day one proposal and we are improving something in a later phase. I would argue all day long about the need for a new application because this is a revision to a final phase. It's not what it was characterized a moment ago. On the aesthetics the brick in some of the initial presentations didn't look good when it came down and got close to the brownstone. The trick is making these things look good with the historic buildings. I think it's coming together nicely and so I'd encourage you between meetings to drive through the place and you'll start to see how some of these elements are integrating with each other. A lot of aesthetic design went into this.

Bob Ellsworth said I just want to understand the public is allowed on this site.

Dan Bertram said there's nothing stopping anybody so from the standpoint of in your car I wouldn't say you get out and walk into random buildings but you could loop in and back out. It would be a safe exercise and I think it would be very descriptive to see what's going on there.

Rob Taylor said the last couple of times we've had a lot of people come up and ask about the Welcome to Portland sign that kind of went missing because of the state. Has there been any conversation at all about it getting put on the property?

Dan Bertram said I'm game for whatever everybody wants. We have a monument sign location in the site plan that will have a brownstone base. I think the conversation will be where do people want it and we work that out.

Dan Bourret said that the sign is at Public Works.

Bob Ellsworth said several times we've heard about this theme with a brownstone façade and this review of aesthetics. Can you help me understand where the wording is in documents that say this site must have a brownstone theme throughout.

Dan Bourret said it doesn't specify theme. I believe it's in 9.1.17.8 and I'm not sure of the number but after that it does talk about the overall site having a theme. It doesn't have to be specific like brownstone or brick but all the buildings are supposed to have a theme.

Bob Ellsworth said that he wants to review that.

Dan Bourret said it's supposed to be more of a unified site rather than a bunch of different things where something might stick out like a sore thumb.

Dan Bertram said that the signage program has some cool features that mimic the top of the Brainerd House where it has a tea top to it. So it's clever.

Dan Bourret said that the brownstone part is a nod to Portland's history. The prior Chair always liked to see something incorporated into projects. I think that's the genesis of it. The overall site should follow a unified theme.

Bob Ellsworth said that the last item was for Kari.

Dan Bourret said and also the on-site staff question as well.

Bob Ellsworth said I think Dan Bertram spoke to Tom's question about services being provided. It's a bit vague right now.

Dan Bertram said a lot of this has to do with liability and how things operate. As it's been explained to me if you actually touch the person you crossed a threshold to a healthcare type of role. That's why that has to be provided by a service provider who's licensed and can do that. That addresses sort of a piece of the medical answer. There is a dining facility to cook for people. There are all kinds of things that can be done and services that can be delivered to that population that wouldn't be in a conventional apartment complex. There are other services that are contemplated and what we're presenting.

Bob Ellsworth said we want to ask Kari if she has any opinion on Section 10.4.

Dan Bourret said in Section 9.1.17.8 it refers to going through the approval process and it points to our special permit section 10.4E of our zoning regulations. I'm paraphrasing. The question was it states that it shall require a new application.

Rob Taylor said Section E says changes; any substantial changes in facilities or uses to that approved in the special permit application shall require a new application to and approval by the commission.

Dan Bourret said I guess the question is whether this would require a new application or whether the modification is the new application. The approval points to 10.4E of our zoning regulations. I can certainly go through that with you, Kari.

Bob Ellsworth said a minor correction. I believe it's Section 97.8.

Elwin Guile, Middle Haddam Road, said that I hope every citizen in the Town of Portland appreciates the benefit of the contributions of Alan McKittrick to the oversight of the restoration of the buildings on the Elmcrest site. I'm incredibly impressed and not at all surprised with the detail and professionalism of that aspect of the project. As I look at what's been presented tonight it seems like déjà vu all over again. I thought we had already covered all of this ground and you as commissioners had rendered your decision. What you are now confronted with is what Town Attorney Kari Olson was very concerned about in our last engagement. When she was speaking to you about the appropriateness of your concern or focus on what is meant by the term medical institution or this whole area that we're now dealing with. She said to you repeatedly that you deserve time to think through what that is because the whole field that terminology represents is unclear and I'm hearing you say that again tonight that there's not a lot of clarity to what is meant when you get into this realm of assisted living or elder care or medical institution. I just want to remind you of the Town Attorney's suggestion that this needs to be thought through and handled appropriately what I see and what all the citizens of Portland see and that's why we don't have a full house tonight is what we read in the RiverEast our weekly little bulletin and what one gains from reading that in terms of what is transpiring tonight is not very helpful. Rather confusing and so the house is empty as opposed to being full as it had been. Nonetheless I think the issue is the same as it has been when I look at tonight's proposal. I see exactly what we've seen in

the past and that you have made determination on with the exception of now this over 55 restriction on the leasing of an apartment. I think that's what's changed. It's the same proposal essentially except you have to be 55 years old to avail yourself of the apartment. I don't know whether that means that the person signing the lease has to be 55 years old or that there has to be a resident in the apartment that has to be 55 years old. I don't know. Not to be cute or not to be clever but my summation of tonight's presentation is it's exactly what we've had in the past we just update. I'm still a proponent of the original commercial development plan. Yesterday's Middletown Press an article on the very third page that talks about retailers expanding in Connecticut: Milford, WestFarms, four new stores open at Evergreen Walk in addition to six that have opened at Evergreen Walk since January. There's no lack of retail and commercial development prospects. It depends on the capacity of the developer.

Tim Dickerson, 12 Bell Court, said he likes the idea of a hotel but not where you want it to be. By definition under Section 2.4 this building is not primarily for transients so you're not building right. If you want to build a separate building, go for it. If you want to call it a motel, the definition under 2.4 states it's a building or group of buildings that provide temporary sleeping accommodations primarily for transient motorists. The commission cannot say that it is a hotel. It's not true to the definition. The healthcare institution the purpose by definition is to be used for healthcare. Definition states any multi-family dwelling with units designed for a particular population that requires on-site staff shall be considered an institution. If you want to put a true healthcare facility, go for it. But that's not what he wants to do. And to answer why no one is here tonight is because the text amendment passed a few weeks ago was only advertised in the Middletown Press. Nobody saw it. The board never got it out. Advertising for tonight's meeting was a little blurb saying modification to permit #. This is insufficient in letting people know what the modification is and the scope of the modification. In this case it is 150,000 s.f. for a medical care facility which was not originally in the plan. That's why nobody is here. You need to publish it properly in the press and in agendas. What is going to happen and what the topic is need to be stated properly. He can't put a hotel in because of the definition.

Kitch Springer Cziernacki, 435 Main Street, said that her concerns have to do with an extended stay hotel. I don't know what that means. And then the traffic study. We don't have the lights on yet. I go across the bridge to work and that's around just after 8:00 a.m. I come back most days at about 3:00 or so. I think those numbers aren't true. Sometimes I'm the 14th car at the light. Sometimes I'm stuck on the bridge on the light to come back to town for a period of time. I have trouble thinking that those numbers for the traffic study were correct. The healthcare institution piece of it seems to me a little bit undeveloped as far as the licensing of the people that will be taking care of people in the healthcare institution. I would like to know if we're talking about nurses on staff, doctors on staff, their level of training. The other thing that makes me think about what goes on is the food delivery other than provided by the restaurants other than the rooftop. And I guess the emergency call system. If we're going to have this dedicated healthcare institution how does the emergency call system work and how quickly will somebody get to a person that needs help. How trained will that person be. It's that whole healthcare piece. My two biggest issues is how the healthcare piece is going to work and the truthfulness or the accuracy of the traffic study that's been done. I don't think that is a true reflection of what's going on. I had made notes at some of the other meetings. The emergency call system how does that work if I live there and I need to make an emergency call. How quickly will someone get to me. That's what I would want to know. I would want to have a feeling that I'm going to be cared for or my need is going to be met pretty quickly. I think that if we're going to have that here in town that you all should be concerned about that. I just need to understand the extended hotel stay because that sounds like just more housing.

Dan Bertram said the extended stay hotel concept is just duration of stay and so if you look at different brands that are out there, Residence Inn, that kind of thing versus a Days Inn, somebody typically stays for a night or two or they stay for longer. We're not saying that we know that we'll operate this as an extended stay hotel versus a shorter stay. We're just willing to put this use into operation and experiment with it as hospitality and that's a thing we'll have to operate a certain way. It's not a lease that somebody comes in like a typical apartment and signs up for a year and then renews. It's a shorter stay and there are different taxes. There's all kinds of things you have to comply with to operate hospitality versus apartment complex. There are external regulations on that and we'll comply with those.

On the traffic side of things a developer as a developer we're always talking about traffic and everyone who drives is an expert on traffic. So you have to go back to the science and that's what Joe spends his time doing. Often what's talked about is the existing condition. We're not in operation right now nor are the improvements that we made. All you have is a flashing light. It's not actually in full operation. It's all this infrastructure is in and it's being slowly turned on as they allow us to do. I don't want to speak for Joe. He's saying that the plan for this development has less traffic impact now than what is already approved. That's I think as far as I can take that part. We expect the systems to work as they

were designed to and that will roll out as the buildings get occupied and the uses. We'll put that to the test. We believe that it's been done professionally.

On the food delivery side of things, a lot of those things are worked out with a commercial building. There are areas for taking deliveries. We have a few of those things that are worked out in Building A that we could go through. You have different restaurants on this site so I think we can well accommodate that side of things.

On the emergency call system there's a fair bit of technology that goes into all these buildings. There's more that will go into the independent living. There are access control systems, there are fobs to get into all kinds of areas, there are cameras all over the place. There's a lot of intelligent building stuff and multi-family in general that you're forced to do. I can't tell you how quickly our monitored fire system. They will send off an alarm that is connected to the fire department. How quickly the fire department responds is a town question. Our systems will be in place and the integration will be there and those things are test annually in all these high density buildings. There's no difference on the independent living as it relates to if a unit gets fitted up with certain technology like a call thing in a bathroom or something like that. Those things can be integrated to the systems and we would be getting into that level of design when designing the building itself and going through the building review construction documents. We will be pulling building permits. There's a lot of technology going into the buildings even without addressing that population. I can assure you they'll be more.

I want to touch on one thing that Mr. Dickerson said. Our argument would be that these are mixed use buildings so you can have different uses in different spaces within them. The MUD is mixed use development floating overlay zone. We're trying to have different uses and from our perspective it's wholly appropriate the hospitality and Building E. As it relates to the healthcare institution as part of that text amendment discussion the regulations are very broad. We want to offer assistance to seniors in a limited way but not in a whole holistic way. I think I have been very transparent about that. I talked about the spectrum of care. There's an age restricted active adult definition which has no real services associated with it. Independent living is the first click towards services where some of these things are available on site. Under that same umbrella you have assisted living and that gets out to all kinds of levels of care, convalescent care and more and more services offered on site. We do not want to offer convalescent care levels of services for this development. The goal is more limited services and that is something in the healthcare living space that is evolving. That's as far as I can take it in the explanation. It is absolutely meeting the letter of the regs. We believe that this is an appropriate site plan modification. I'll wait on that other topic.

Public Comment Round 2

Ben Srb, 139 West Cotton Hill Road, said I want to point out again that it's so important that the population requires on-site staffing. You guys really need to get this right because a lot other people could come in and put in a lot of 55 and older communities and basically have Uber Eats and Merry Maids and call it an institution. You really really need to get that right. Nobody really talked about how many bedrooms are each one of these going to be. That's so relevant on our sewer. It's so important if you're going down the healthcare institution route that probably or should be all single bedroom. That is so important. We need to get that on the record. We need to know why you wouldn't have just a single one. It's a healthcare institution type living. Keep in mind that's what this is. If we go down this road there's many other spots in town where people are going to say "hey Merry Maids, Uber Eats. We're all set. Maybe a visiting nurse healthcare institution you can't touch it." So be very very careful. You have to get this defined. You have to get it right in the phasing. Currently Building B, the CVS building, I believe is required to be built in phase 1. Dan now wants to push it to phase 3. We're getting very little almost none retail. This is not what we all signed up for years ago. I think we all can realize that now there's 65,000 s.f. commercial give or take and if you start taking out some of the uses he has in the actual building for the residential there's very little. If you take out the 15,000 s.f. in the historic homes you're down to about 50,000 s.f. in new commercial. Everybody keeps talking about how it's now 195,000 s.f. Unless we start seeing more of how this is institutional living, I'm not buying it. This is a 55 and older with a little bit of assistance. There's a difference there. Keep in mind our regs. require on-site staffing. They require you guys to determine what that's going to be. You're going to open Pandora's Box whether and I want this project completed. I'm not trying to completely stand up here and kill it. I think we do need to make sure you get it right as far as traffic, as far as sewer. I think a lot of people calmed down when the questions were answered about people in the school system. You have to at least acknowledge Dan is accurate on these type of units as long as it's healthcare institution would not impact our schools and he did throw a bone for 17 units that he currently has fair market putting him over that does help. You still have sewer issues, you still have traffic issues and we need to get the institutional care right. I do think back to the brick. If you go to section 9.17.4B1 specifically does say you provide by a licensed architect the architectural details and the overall theme of the development. That was presented in the original one and it did have the

brick and brownstone and this commission was satisfied that it met the theme throughout. We've now just let that go and if you're comfortable doing that so be it and if you're not you have to speak up in this application, for the phasing you have to speak up, you have to speak up on the finishes. One thing that didn't get answered no matter what the five foot sidewalk can't be waived. Our regulation doesn't allow that. Unless you're saying something different the sidewalks along the state road have to be five foot. I don't know if you got that answer from Kari.

Dan Bourret said remember we talked about this about the scaling on the approved site maps.

Ben Srb said there's no scaling. Our regulations state it needs to be five feet along the state road period. They're getting ready to pour a new section from Building E. Do what our regulations require and do what you know was approved.

Kitch brought up some pretty good stuff and Dan's rebuttal was well they'll call 911. We had another person come in with a similar health care institution that they withdrew and one of the things that lady stood up here and said was you can curtail a lot of the stub to toe, not a big deal, you don't need a 911 call because they had onsite staff. That was so important. What we heard tonight is nope, alarm goes off, 911. What's the impact on our fire department. How many calls does this typically bring in an institutional living situation because that's what we're going to have. I don't want to hear hey just call 911. I want to know that there is staff on site so we're not getting a big impact. We have a \$4M problem with our sewer plan coming up and that's why I brought up the bedrooms and I think it's so important that you guys have the discretion. Get the bedrooms right. Don't get this wrong. This is not another apartment building. It's proposed for a modification to a healthcare institution. You guys have the discretion on what that definition is. There's a lot of things that you may be giving up that you don't know you are. You're in the driver seat. Let's get this right. Let's make sure this project gets completed properly and isn't just more housing and we have room for other retail which I don't see once this goes through at this scale.

Dan Bertram said all the plans show five foot wide sidewalks. As it relates to the unit mix it's a similar 70/30 mix towards that studio and one bedroom in the independent living. Historically that does fit. There are a little more two bedroom units at 30% of the allocation but we have looked at the space and think that's a logical thing to provide. We think there's good demand for some who wants an extra bedroom even if they just use it as an office because we do expect couples where one person may need service and the other may not. Having a little extra space versus this. This is one of the things that makes it more independent living than a convalescent care type thing where I would agree you have very small units and a lot more of them than we're proposing. So that's one distinction. The onsite staffing that's what the regulations say and we will comply. Those are my responses for now.

Tom Bransfield said Dan you keep referring to a regulation. What regulation is that?

Dan Bertram said the healthcare institution defined in the local regulations we're proposing. This site plan we believe conforms to those regulations and with the site plan modification that allows the healthcare institution to be a use in the MUD.

Tom Bransfield said I go back to the last meeting for the text change. Your lawyer referred to the minimum requirement that you have to meet and there was a federal regulation you guys referred to. I never heard a number stated or what is the actual regulation that you're meeting. You're calling it independent living, we've had residential care presented recently, we've got assisted living, we've got convalescent care. They're all different things for the state health department. What exactly are you guys providing and where do you fall in that spectrum.

Dan Bertram said through a tenant relationship where you will have health care services provided by a service provider along those lines. That's how we intend to handle anything medical. The onsite staff and the local regulation we could play ping pong on that all day. I don't think that serves a purpose because I think we all are looking at this as the medical piece and that was part of our debate when we were talking about it before it was adopted into the regs. As it related to the narrowing in the population we called it 55 and older pursuant to the housing for older persons act. That got incorporated into the regs. You have a defined population that you're serving and it's based on age but not condition. We are hoping to have vibrant seniors who might want some of these services as our population we're serving. It's an evolving space. We have an aging population and so it's a moving target. My feeling is that we have very creatively come up with a nice solution that balances all these different things. The criticism is about what the deliverable spaces are for retail and commercial. I think we've probably beaten that one to death. We certainly think the Gildersleeve Building, the B Building will address the demand in the area as well as the other portions of these buildings. We can talk about that for the next meeting because it's not going to close tonight. It really just has to do with this question of services. We did try to show that in the layout, in the architecture. There's a narrative

in there and we make reference to having staff but one thing we said in our internal debates is if we get too highly detailed some of these facilities. I think it's a slippery slope if we try to over regulate this. We will comply with the healthcare institution but this is an evolving space. We are certainly going to provide more senior services at Building A that will be tailored to that population. We think it defines a need, it fulfills a need and that it complements the rest of the project. I've heard in a lot of these meetings commercial, commercial, commercial. Get as much commercial as he can. It almost sounds like there's a criticism that we've added too much commercial. This is a great economic performer. The overall plan as it's come out at the end of the day is going to be a big taxpayer. It's going to be a great benefit to the town.

Elwin Guile, Middle Haddam Road, said I wanted to revisit traffic one of the concerns that several of the commissioners brought up. I guess I should call it the traffic impacts of the proposed change. My thinking under the proposed for 55 and older would be that in that kind of population you would have some greater level of infirmity where persons would be more dependent on delivery services that ordinarily would not be present in the normal apartment population. I think your skepticism maybe that's the right word about the traffic impact is warranted. You might look into that more fully. That's all I really wanted to add.

Fred Nash, (address?), said as I look at the proposed number of new units for assisted living which is one person over 55 I was thinking how does that differ from the units that have already been approved. Obviously age 55 is one thing but as the speakers were talking about what are the services offered. I'm thinking if Fred is now in assisted living and needs certain amount of care; time goes on Fred needs more care. What does this facility actually provide? Those questions I think were asked by people. There were some answers but there wasn't a whole lot of clarity in my mind at least as far as what services would be available. It's important that in as far as a town's benefit, it's important that we have a pretty good idea what services can be expected if in the facility. The town also needs to know that as they weigh this, if this goes forward as an adopted proposal, it needs to know what really is here. Staffing was brought up. Staffing is huge. Are there going to be permanent staff members, how many, what's their role. Are there going to be medical people there; what's their role going to be. The other thing I thought of was the scale. If you have 102 units proposed, is that scale going to be sufficient to provide the kinds of things that a lot of people would be expecting in an assisted living facility. As time goes on everybody's health changes and usually not for the good. What at that point can the facility really provide or will be able to provide and is it going to be a minimal kind of thing or is there going to actually be more services. That's the importance of having them spelled out so those are just a few comments and I do appreciate your time and your service to the town.

Tim Dickerson, 12 Bell Court, said as Dan mentioned if you think that the senior people coming in these 100 units are not going to have an impact on the schools, you're sorely mistaken. I anticipate at least 10% or 10 of those units will be seniors from Portland who want to stay in town and they're going to sell their one, two, three, maybe four bedroom houses and you're going to backfill 10, 20, 30 kids into the school system and that's if there's only 10%. If you double that we could be up to 60 or more kids coming into the school system. You have to look at the back field. You can't just look at what's going to happen in the actual units themselves. And finally I would like to say to the commission you fail to properly notice the nature of the modifications to the public. The hearing should be maintained open while you re-notice this meeting properly for the public so they can come and provide public comments now that we know what is really entailed in this modification which is very substantial. When you look at the square footage as trying to be claimed to be medical facility institutions now which never was one of the uses being proposed before and the hotel which shouldn't be anyways because it doesn't meet the definition.

Public Hearing Round 3

Elwin Guile, Middle Haddam Road, said following up on Fred's testimony he made a really really significant point that I don't think got sufficient underscoring when he was talking about services and its various forms, levels of need. The service being provided makes it commercial. Otherwise it's an apartment house that you can call 55 or whatever. It's still an apartment house with restaurant on its roof. The difference here is service and all of a sudden it becomes another animal. Is the service significant here. Is this really significant business service commercial or is it an apartment building with a couple of rooms that have a library, a theater, a kitchen, and maybe space for someone to visit and do your toenails. I just wanted to connect the service is the key to this whole quick sand of definition of what we are talking about with medical institution.

Chantal Foster she had a question amongst the commissioners. You had sent us the definition for the healthcare...

Dan Bourret said I don't want to talk about that because that's a pending application, the new definition that you would potentially discuss.

Chantal Foster said how is that going to work then? I have to understand how this is.

Dan Bourret said right now the applicant is under the current definition. If you were to change the definition while this public hearing was going on they could avail themselves of the new definition or they could still use the old definition that their application was submitted under. It's under Institution Healthcare and I'd like to also change that order of words. Certainly if you have questions let me know and we can try to provide you some guidance and answers.

Chantal Foster said at some point we have to decide what meets the definition. When do we do that?

Dan Bourret said in this approval process.

Rob Taylor said Emergency Services were brought up and the impact on that. Can we get an opinion?

Dan Bourret said absolutely. I can certainly try to get feedback from our fire marshal as well as the fire chief. I'll ask him as well.

Chantal Foster asked if there is any kind of state review that's required for an independent living facility?

Dan Bourret said that I know from the other application that was withdrawn they did have to get state approval after local approval.

Chantal Foster said because that was truly assisted living onsite. They were making their meals. There were no individual apartments what we have here as well.

Dan Bourret said they're individual bedroom units but not apartments.

Chantal Foster asked what kind of overview the state has because there are independent living facilities.

Tom Bransfield said there are state regulations on assisted living.

Dan Bourret said he will put that question out there.

Rob Taylor said not to try to touch on that pending application definition that was passed around is from statutes and a lot of your questions would probably be answered by looking at those definitions. They have a lot of variations of different terms like residential care.

Chantal Foster said I couldn't find something on independent living.

Dan Bourret said I can try to find a better answer for you. I'll probably send several of these questions to Kari. Unfortunately we are both on vacation next week so we will try to get those answers to you as soon as possible.

Tom Bransfield asked for whatever regulations were referenced during discussions; federal regulations.

Dan Bourret said I think it was twofold. He was reading from our healthcare institution definition.

Tom Bransfield said I would argue it doesn't meet our healthcare regulation definition because our definition has a very specific list of items which this isn't one of. It references multifamily dwelling with a structured program for residents. Somehow we seem to be interpreting that as 102 units but if you go into our definitions a multifamily dwelling is no more than a four family house. Somebody needs to explain to me how we got from four family to 102 units.

Dan Bourret said I think there's language in the MUD district regulation that passed that talks about bedroom count and I can certainly provide that text to you.

Tom Bransfield said we need clarity on that definition. One of the discussions from the text amendment meeting was that we needed to address that definition. It's very problematic.

Carolyn Freeman asked if we also need an opinion on the hotel or hospitality?

Dan Bourret said that's on my to do list as well.

Tom Bransfield said I think we need a list of amenities or services that are going to be provided even if it's the minimum. It may do more but what is the minimum?

Dan Bourret said I would put that to the applicant and his team to respond at the next meeting. Would that be sufficient.

Chantal Foster said I have an idea about how we categorize things as residential versus commercial because we're really the ones that are doing that. We would make the determination that this is a commercial entity as opposed to a residential.

Dan Bourret said that was part of the debate at the meeting on the 10th. This use is in the residential. This use is in every zone except industrial in town. It's in both residential and commercial. At the meeting on the 10th I think part of that regulation, the MUD district change that we made, codified this as commercial and many of the uses there.

Chantal Foster asked if the healthcare institution would be a commercial?

Dan Bourret said I'll provide you guys that text again.

Chantal Foster said I'm just thinking about how you make that determination. If it is an organization that's providing this care for these people that are living there but an organization. There's staff supporting it so that makes it a commercial entity. If there isn't all that other stuff then there really is no commercial entity. I know that's what we're trying to figure out.

Dan Bourret said it's to be fair to you that it's not an easy task. There's a lot of components to this to consider. The notice on the 10th in the press was simply timing. You have to get things into the Rivereast on Wednesday for only two different days of publication so it's a bit rigid. Historically the town has used either the Rivereast, the Middletown Press, or the Hartford Courant. The Rivereast is the cheapest. The circulation of the other two papers has dropped. As long as I've worked there since 2016 and all of my predecessors, those are the three papers that we have used. I intentionally did it broad. I didn't want to pigeon hole the application into one thing. The purpose of the noticing is to make you aware that something is going on at the site. If you have questions certainly reach out to town staff or call me. I know there's a debate about this in town so people are aware. Certainly it's something I can work to do better. I apologize if anyone feels they weren't made aware enough. The state requires us to do it in a newspaper. I apologize that people feel that they were not as well informed. I certainly expect another article in the paper regarding this and I do know it's a topic of discussion out there.

Rob Taylor said part of it too is because our state legislators don't want to change that and don't want to allow the towns to actually publish this information on those websites where most people will go for information.

Dan Bourret said that I think the reason that maybe people feel they're not as well informed is we don't have the signs that we did for the first round. I think that did generate a lot of buzz in the public.

Ben Srb said Chantal you triggered me to think that you brought up an excellent point. You guys should maybe ask Dan to produce any health care institutions that have been approved in Portland and see what they were and what the conditions of approval were. I think that would probably be helpful in this application and give some insight onto what you've done in the past and what the regulation actually means and doesn't mean. Tom, spot on. No more than four family spot on.

Dan Bourret said certainly I can do that. I think we only have the two convalescent homes in town and then Atrium which I don't think provides many services. I know it's 55. I don't know if they provide any services. I can certainly look how that was approved as well. I do believe there is something in the MUD district regulation we passed that does speak to the bedrooms and the bed count. I will provide that text back to you so you can review it.

Bob Ellsworth said we are waiting feedback from our town engineer on this application so there will be no action taken on it tonight. I believe we do have a motion to continue.

RECORDED VOTE

DATE: August 8, 2024

COMMISSION: PLANNING & ZONING COMMISSION

MOTION

To **Continue** Public Hearing for Application #23-17: 69 Marlborough Street. Request for Special Permit Modification. Application and Property of BRT DiMarco PTP, LLC. Map 19, Lot 68. Zone B-2, B-3 and TCVD.

Made by: Bob Ellsworth

Seconded by: Rob Taylor

IN FAVOR

IN OPPOSITION

Tom Bransfield
Chantal Foster
Rob Taylor
Bob Ellsworth
Jen Tellone

IN ABSTENTION

Recorded By: Dawn Guite

6. Adjourn

MOTION: Chantal Foster MOVED, seconded by Jen Tellone to ADJOURN the meeting at 9:50 p.m. **VOTE UNANIMOUS. MOTION CARRIED.**

Respectfully Submitted:

Dawn Guite

Dawn Guite, Recording Secretary