

**MINUTES OF PUBLIC HEARING ON AN ORDINANCE
PERMITTING THE ESTABLISHMENT OF RELIGIOUS USES IN
INDUSTRIAL ZONES**

MARCH 27, 2007 LEGISLATIVE CHAMBER

999

President Scott Slifka called the hearing to order at 7:15 p.m.

Present were Councilors Shari Cantor, Barbara Carpenter, Chuck Coursey, Mark Sinatro, Scott Slifka, Art Spada, Carolyn Thornberry and Joseph Verrengia. Councilor Maureen Kelly McClay was absent.

President Slifka: Mr. Francis do we have a presentation from the administration?

Mr. Francis: I believe Pat Alair is going to make that presentation.

Mr. Alair: Good evening members of the Council. The ordinance you have before you, and I apologize for the somewhat small font of the schedule which is the heart of the ordinance but unfortunately our ordinances are set up this way, the ordinance simply permits religious uses which we define in our ordinances as places of worship in five zones where they are not currently permitted. The four industrial zones that being IT, IE, IR, and IG and also with the last minute we noticed that they were not permitted in the BOL zone. We have one of those in town if I remember correctly. It is a fairly small one but we included that as well.

If you look on the Schedule of Permitted Main Uses, Part 1, Item 2 "places of worship" and then follow it over it is kind of hard to see but there are actually five columns in that chart where the A is underlined, and actually we also bold faced. We tried everything we could to make it stand out indicating that that language is being added, the addition to those columns.

Quite simply, recently we had an applicant come to the town wanting to lease space in a building in an industrial zone to a tenant which was a church. At which point, staff discovered, none of us had ever really noticed it before, that churches are not permitted in industrial zones. No one could figure out why they weren't permitted in industrial zones. They just seemed to always have been excluded from those zones and in the year 2000 the federal government passed a statute known as the Religious Land Use and

12/31/2011; reappoint Lisa Sadinsky as an Alternate to the Zoning Board of Appeals for a term ending 12/31/2011 and appoint Kari Enright to the Clean Energy Task Force.

Councilor Coursey: I second those.

President Slifka: A motion has been made and seconded all those in favor please say aye. On Voice Vote the motion carried.

ITEM #27: EXECUTIVE SESSION.

President Slifka: I would like to entertain a motion to enter executive session to discuss pending litigation.

Vice President Spada: So moved.

Councilor Coursey: Second.

President Slifka: A motion has been made and seconded all those in favor please say aye. On Voice Vote the motion carried.

The Council went into executive session at 10:17 p.m.

ITEM #28: ADJOURNMENT.

The Council returned to the Council table at 10:50 p.m. and on motion of Councilor Carpenter and seconded by Councilor Thornberry the meeting adjourned at 10:52 p.m.

Norma W. Cronin
Town Clerk/Council Clerk

Institutionalized Persons Act of 2000 which restricts the ability of local land use bodies to regulate religious institutions and rather than create a situation where we might arguably be in violation of this statute, given that no one seemed to have any concern about the presence of religious institutions in industrial zones, we propose this amendment to you.

President Slifka: Thank you Mr. Alair. I do have one question I think it would be a bit of a surprise that I might pose this but we got an e-mail from Mr. Visconti. It was a long question but I think the essence of it was that he was concerned that there now may be a collision of adult uses and these religious uses in the same area and it would be kind of an unintended consequence and I was just wondering if you could just address that.

Mr. Alair: Sure, I would not say that it was an unintended consequence to the extent that we recognized, when we were drafting this, that that is a possibility. As that e-mail indicated, and for purposes of the record, our ordinances for about the past fifteen years have restricted adult entertainment establishments to the industrial zones and also have imposed a 1,000 foot distance separation from certain other uses including churches, synagogues, etc., religious institutions.

It is possible that at some point, if a church were to locate in a specific location in an industrial zone, that it could impact the ability of an adult entertainment establishment to come in and locate within 1,000 feet of that area, and I suppose that eventually, if we had enough churches, you might end up with the possibility of effectively excluding adult entertainment establishments altogether from the town. That would take a significant number of churches located in exactly the right place to create that scenario which we could already create today by putting a daycare, a park, a playground, a school, a number of other uses that are already permitted in industrial zones. So I would submit to you that rather than throw out this ordinance and potentially run afoul of the federal statute which I cited earlier, if that comes to pass at some point down the road that would be the time to address it by reviewing our ordinance on adult entertainment establishments perhaps by reducing the distance separation from 1,000 feet to 500 feet or something like that but I wanted to be clear. It is not that we didn't think about it. It is not that it is an unanticipated consequence. It we did think about it and came to the conclusion that this was the better way to go for the time being.

President Slifka: Thank you. Does anybody else have anything for Mr. Alair or anyone else? **Dr. Thornberry.**

Councilor Thornberry: Mr. Alair there is a difference between something that is not allowed in a zone and then something that was not included so when you say that the church, churches are not specifically not allowed. They just were not, are you saying that they were just not thought of as being included?

Mr. Alair: No, when our ordinances, in their current form, that schedule that we have, the Schedule of Permitted Main Uses, was established, and we have had predecessors to that going back at least into the 1940's. Beyond that I think we used a different format. Religious uses, or places of worship rather, were always in there as a specific class of use and they were always permitted in specific zones. They were excluded by their deliberate omission from the schedule in the industrial zones as contrasted from, for example, dare I mention a sore subject, pawn shops where we don't specifically mention pawn shops in our zoning ordinances but would treat them generally as a retail establishment. We don't mention nuclear waste dumps either as something that is specifically excluded and not reasonably falling into another category, excuse me is not specifically included, and as not falling reasonably within some other category we would say they are not permitted at all. So, in this case it is actually there and deliberately excluded as opposed as to simply omitted.

President Thornberry: Thank you. If that is the case then, I think what you were saying before is can you think, at some point in time, if that is the case that at some point in time there was a deliberate action taken to exclude them from the use on those zone areas, it could be as simple as the fact that the zoning categories expanded from before and somehow they kind of fell into it in a sense without anyone making an affirmative decision one way or the other, but can you think of any downside to this use in the industrial zones mentioned?

Mr. Alair: The short answer is no. We couldn't come up with any. I think you have to recognize that our first zoning ordinances were written, I want to say in 1926, and in 1926 an industrial zone was a very different place from what it is in West Hartford in 2007, and there were probably many good reasons for not wanting to have churches, schools, synagogues in an industrial zone at the time. Times have changed. The way our town has

developed has changed and those reasons simply aren't there anymore, but to the extent that at a specific location in an industrial zone a church might be an inappropriate fit, this ordinance does provide that they are a special use permit use as they are in every other zone in town and the TP&Z would hold a hearing and look at that and could theoretically say no this is not the right location for you.

Councilor Thornberry: If I might continue, well that is an excellent point to make if they are going to go in on a special use permit and this was what I kind of suspected, too, is that any kind of, at the time an industrial zone did mean something, and any kind of coming together of any group of people would not have been advantageous to them and could actually have done some harm to have a group of people assemble, whatever time it was for any purpose, so that answers the question. Thank you.

President Slifka: Thank you Dr. Thornberry. Anyone else? Thank you Mr. Alair.

Vice President Spada: Mr. Mayor to be read into the record two letters. First letter dated March 7th, 2007 from Robert W. Roach, TP&Z Chairman recommending approval for the ordinance permitting the establishment of religious uses in industrial zones; the second letter was dated March 16th, 2007 from the Capitol Region Council of Governments finding no apparent conflict with regional plans and policies or the concerns of neighboring towns for the ordinance permitting the establishment of religious uses in the industrial zones.

President Slifka: Thank you Mr. Spada. We will go to the public forum now and on the sign up sheet our first person is Reverend Albert Thompson and Reverend Thompson I see you are from Wethersfield so I am going to have to move to suspend the rules to allow you to speak but keep coming up while we are doing that. Could I have such a motion?

Vice President Spada: So moved.

President Slifka: A motion has been made and seconded all those in favor please say aye. On Voice Vote the motion carried. Reverend Thompson.

Reverend Thompson: Good evening members of the Council and friends and neighbors. I am as the sign up sheet indicated Reverend Albert

Thompson. My wife and I are Co-Pastors of Trinity Christian Fellowship. We are currently leasing space for religious services in the Elmwood Community Center and we have been there for I guess close to four years now. During that time, we have, there is nothing to indicate that it was any negative changes in the complexion or the traffic of the area. Our track record pretty much speaks for itself. We have impacted the neighborhood leading many people who were addicted to substance abuse into rehabilitated facilities. We have, I think we have done a great work and we are looking to continue it but we need space for ourselves. There are times such as the upcoming Resurrection Sunday that we desire to have services but the Center is closed so at times like this we are displaced to look for some place else to temporarily lease for the day. This is our purpose and we were notified by a realtor that this meeting was taking place and to come up and express our position.

President Slifka: Thank you very much Reverend Thompson.

Reverend Thompson: Thank you.

President Slifka: That actually concludes the sign up sheet. I see there are others in the audience, does anybody else, who did not sign up wish to speak to this? Okay, thank you. Anything else from the Council? Seeing none we will close the public hearing.

The hearing adjourned at 7:29 p.m.

Norma W. Cronin
Town Clerk/Council Clerk