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Cc:

ADOPTED

PLANNING COMMISSION MEETING  
January 13, 2009  
REGULAR MEETING

I. CALL TO ORDER

Chairman John Loomis called the regular meeting of the Planning Commission to order at 7:06 p.m. in the Main Meeting Room of the Simsbury Town Offices. The following members were present: Charles Houlihan, Ferguson Jansen, Gerry Post, Carol Cole, Mark Drake, Julie Meyer, Susan Bednarczyk and Carl Eisenmann. Also in attendance were Hiram Peck, Director of Planning, as well as other interested parties.

II. SEATING OF ALTERNATES

There were none.

Commissioner Post made a motion to have the Chairman read a thank-you note from the Clerk. Commissioner Bednarczyk seconded the motion, which was unanimously approved.

III. APPROVAL OF MINUTES of December 9, 2008

Commissioner Post made a motion to approve the December 9, 2008 minutes. Commissioner Bednarczyk seconded the motion.

Several edits were made to the minutes. It was asked that the Clerk type these changes verbatim. The minutes were then tabled until the next meeting when the minutes could be reviewed with these changes.

IV. CONNECTICUT GENERAL STATUTE 8-3a REFERRAL FROM THE ZONING COMMISSION on proposed Text Amendment to the Town of Simsbury's Zoning Regulations, pursuant to Article Four (B), Definitions, Article Seven, Uses, (Section n), Article Ten, Special Regulations, (Section k), and Article Ten, Special Regulations, (Sections. Paragraph 2.a), for the purposes of a Continuing Care Retirement Community (CCRC).

Chairman Loomis stated that there was some discussion at the last meeting regarding the referral from the Planning Commission to the Zoning Commission prior to the public hearing, which will be held on January 26th. If the Commission cannot come to a decision tonight, then a Special Meeting will need to be held on this matter only.

At the last meeting, Commissioners Meyer and Eisenmann volunteered to research, review and draft comments and suggestions on a proposed Conceptual Master Plan, a proposed addition to Article IV Rules and Definitions of the Regulations of the Zoning Commission, and also the proposed changes to Article X, Section A. Commissioner Meyers stated that Draft 3, dated December 14, 2008, is their final conclusion of the draft.

Mr. Peck stated that the idea of the Conceptual Master Plan (CMP) was raised by two applicants who would like to develop a Continuing Care Retirement Community (CCRC); they will be coming forward soon with applications. One application is for the parcel north of the Avon Town line, which is approximately 30 acres. The other application will be for the parcel north of the existing Hartford office building, which is approximately 40 acres. He stated that the applicants have requested that these changes be made in order for them to go forward. These requests are based on the General Statutes. The General Statutes indicate that, in order for the applicant to proceed with any construction, their projects have to have at least 50% of Phase I sold. This would not make economic sense for the applicant to proceed with a full blown plan prior to finding out whether the Town has any indication of wanting to go forward. He stated that this does not mean that their final plan will be accepted, but in general, they need to know whether their idea is acceptable and if their general concept of their design is acceptable.

Mr. Peck stated that there is no specific definition as to what should be shown on the CMP. He stated that this definition was drafted after speaking with the applicants and what the Town Attorney would consider acceptable. The CMP would show roads, building, the topography of the site, general landscaping, etc. The final site plan would be a refinement of the CMP.

Chairman Loomis stated that the first suggestion that Commissioners Meyer and Eisenmann made was to insert that a plan, "drawn to scale" showing the entire site, should be included in Article IV. Mr. Peck stated that this addition was fine. It is important that the CMP is a general plan; the final site plan will be a refinement. He suggested keeping the reference to "general" in the definition. He stated that Commissioners Meyer and Eisenmann also suggested eliminating, "at a minimum" and "major". Mr. Peck suggested leaving both of these in the definition. After some discussion,

the Commission members agreed to leave in, "at a minimum". Commissioner Eisenmann feels that "major" is excess verbiage. He feels that using the word major leaves a gap and the applicant might only show certain structures on the plans.

Commissioner Meyer stated that there was a lawsuit, and fortunately, it went in favor of the Town, but the applicant came in with a preliminary site plan, not a conceptual site plan. Mr. Peck stated that a CMP is a concept plan; a preliminary plan has a specific meaning; the two plans are different.

Commissioner Drake stated that this is all about saving the developers money. There is a cost difference between the conceptual and preliminary plans. Commissioner Houlihan stated that before the developer spends a lot of money developing something, he would get input from the Commissions. He stated that if this process was available when they were discussing the River Oaks project, he feels that they could have spared many years of controversy.

Commissioner Meyer took issue with the statement that developers consider Simsbury to be a burdensome place to develop. She stated that Avon and Simsbury have almost identical site plan requirements and yet Avon does not offer a CMP to its applicants. Mr. Peck stated that Avon has a combined Planning and Zoning Commission. The same process in Simsbury takes longer because of the split Commissions; developers may feel the burden because of time. Mr. Peck stated that the Town needs a definition that makes sense, that is enforceable and legal, and that fits the process. The Town needs to be able to move desirable projects through the process more quickly than they currently do.

Commissioner Bednarczyk stated that, in the past, the Planning and Zoning Commissions have met as a combined Commission to hear larger projects, such as Ensign Bickford. She feels that, as an error, they did not put pre-application in the Zoning Regulations. She stated that the pre-application works fine and is less costly than a CMP. Mr. Peck stated that the pre-application is a process that the Statutes provide; anyone can participate. He stated that the idea of the CMP is to get general standards.

Commissioner Meyer stated that the CMP shall serve the purpose of determining the general, reasonableness of the project. The final site plan submittal for the project as required in Article 5, Section J of the Simsbury Zoning Regulations shall serve as the only basis for final approval of the project. Mr. Peck stated that the first part is fine because that is what they are trying to do.

Commissioner Houlihan stated that the current language preserves the Town's options. They do not have to decide on general reasonability. If this is

in the definition, then any subsequent action that is taken, the applicant has the hold of saying that is was deemed reasonable. He stated that this could mean a lot of different things to a lot of people.

The Commission discussed language regarding the CMP being not binding, Mr. Peck stated he would be careful using this language. He stated that the Statutes require the developer to pre-sell, which is costly.

Mr. Peck stated that the Town Attorney did have a potential conflict of interest regarding this issue, although he did receive a waiver from The Hartford for this application. The Town Attorney can now act regarding this issue.

Commissioner Houlihan stated that they should look at the history of Simsbury and look at how the people and developers react. He stated that Ensign Bickford, The Marriott and Hartford Hospital all went to Avon when they could have easily come to Simsbury. He feels that Simsbury has a greater burden than other Towns to get developers interested to bringing Simsbury creative uses of properties. By offering input early on in the process, the Town lets developers know that if they come to Simsbury, they do not necessarily have to go through years of expense. He feels that the CMP may also give Simsbury a competitive advantage. Commissioner Meyer stated her concern with a reference made that the CMP is a forum. She stated that the CMP approval is a part of the application and may be binding. She also stated that she is concerned because she has not been able to find evidence of a CMP being used in other towns.

The Commission discussed other changes that Commissioner Meyer and Eisenmann made. After a lengthy discussion, the Commission agreed to the following language:

a. All applications under this section shall include a site plan prepared in accordance with Article Five, Section J. Alternatively, for large projects the Commission may accept a Conceptual Master Plan (CMP) as satisfying the submittal requirements for Special Exception approval. Any deviation from, or any inconsistency with the CMP in the proposed final site plan may be grounds for disapproval by the Commission in its discretion. Failure to comply with the statutorily required time limits may, at the commission's discretion, be the grounds for denial of the application. Subsequent to approval of the CMP the applicant shall apply for and obtain approval by the Commission of a final detailed site plan approval by the Commission prior to receiving any zoning permit or any building permit.

Commissioner Meyer and Eisenmann stated that they would like a Land Use Attorney to review this language, as well as Simsbury's Town Attorney. Mr. Peck stated that there is no money in the budget to do this, although he

agreed to convey the Planning Commission's request to the Town Attorney asking that someone in his firm who specializes in Land Use review the language.

Regarding Article IV Rules and Definitions, Mr. Peck stated that Commissioners Meyer and Eisenmann would like to eliminate, "...and sealed by an appropriately licensed professional in the State of Connecticut". Mr. Peck stated that this should be left as is; the professionals do not need to be listed because this is already in the Statutes. He suggested that the Commission go back to the original wording. Commissioner Eisenmann disagreed. He feels that the broad terminology could create problems. Commissioner Houlihan agreed with Mr. Peck. He stated that if there is a question regarding someone's expertise, then the Commission could deny the application; the original wording gives the Commission the authority to turn it down if it is not professionally prepared. Chairman Loomis asked Mr. Peck to use the language, "including, but not limited to" to rework this language prior to the next meeting.

Kirsten Griebel, 7 Caryn Lane, questioned that since the CMP was written to enable the CCRC, was there any consideration to writing the CMP only for the CCRC. Mr. Peck stated that this was written for projects that would need to have a Special Exception; this is not open ended. Ms. Griebel also questioned if the CMP would need to be approved by the Conservation Commission. Mr. Peck stated that the Conservation Commission would see the final plan before it is approved. He stated that there would not be a need to go before that Commission, although they would be involved and informed. After some discussion, the Planning Commission members decided to have a special meeting on January 20th at 6:00 p.m. to continue their discussion on this issue.

#### V. STATUS OF CHARRETTE INITIATIVE

Mr. Peck stated that the Charrette Subcommittee will be meeting tomorrow to discuss the proposal that they received from Victor Dover regarding the scaled down Charrette. They will discuss if the proposal is acceptable or not, and how to move forward. Mr. Peck stated that the Town Center continues to be the focus of the Charrette. He stated that he is also looking into grants to get additional money to make the Charrette process fuller. He does not yet have an indication if the Town will receive any money, although this will also be discussed at the meeting.

#### VI. STAFF REPORT(s)

##### Land Use Law Seminar (CBA)

Mr. Peck stated that this seminar will be held in March. If any Commission members were interested in attending, they would need to register soon. He stated that anyone interested should e-mail him as soon as possible. Concord Square Planning and Development Presentation to the Board of Selectmen on January 12, 2009 at 5:00 p.m.

Mr. Peck stated that this was a grant that the Town applied for and was granted by OPM for the possible creation of incentive housing zones in Town. Incentive housing zones are higher density housing; 80% of the housing created in these zones would be market rate housing and 20% would be workforce housing. He stated that several property owners want their properties considered for this grant. He would like 6 sites studies through this grant.

The Design Review Board will be helping with the Design Guidelines in order to stretch the consultant dollars. He feels that the Town could end up having great projects that could move along quickly. The next step would be to have a public meeting to discuss this further so more people can hear and understand the process.

Chairman Loomis stated that he was surprised that throughout this presentation there was no mention of the POCD or of the Charrette. This whole initiative has to be integrated and it has to compliment the Charrette initiative.

The Commission continued their discussion regarding the presentation.

## VII. COMMUNICATIONS AND ADMINISTRATIVE BUSINESS

Mr. Peck stated that there was minor regarding at 15 Cobtail Way; this was reviewed by Town staff. They found that it conforms to the requirements that were previously placed on this property by the Planning Commission during the subdivision process.

Planning Commission's representation to CRCOG

Commissioner Meyer stated that she would like to step down from being the regular person who attends these meetings, although she will attend the meeting this month. She stated that she would also be willing to fill in for the next regular person when they are unable to attend.

Chairman Loomis thanked Commissioner Meyer for her participation. He stated that the CRCOG meetings are held on the second Thursday of each month; there are no meetings in the summer.

Commissioners Drake and Cole volunteered to share this role. Commissioner Drake committed to attend the meetings until the summer break. Commissioner Cole will attend from September until the end of the year. Commissioner Bednarczyk volunteered to be a backup if and when Commissioners Drake and Cole could not attend.

VIII. ADJOURNMENT

Commissioner Jansen motioned to adjourn the meeting at 9:20 p.m. The motion was seconded by Commissioner Meyer and unanimously approved.

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Gerry Post, Secretary