

From: Lois Laczko February 13, 2009 4:11:00 PM
Subject: Planning Commission Minutes 01/20/2009 ADOPTED
To: SimsburyCT_PlanMin
Cc:

ADOPTED

PLANNING COMMISSION MEETING
January 20, 2009
SPECIAL MEETING

I. CALL TO ORDER

Chairman John Loomis called the special meeting of the Planning Commission to order at 6:05 p.m. in Room 103 of the Simsbury Town Offices. The following members were present: Charles Houlihan, 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

Chairman Loomis appointed Commissioner Cole to serve in the absence of Commissioner Jansen.

III. Discussion and possible decision on CONNECTICUT GENERAL STATUTE 8-3a REFERRAL FROM THE ZONING COMMISSION on a 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, (Section a. paragraph 2.a), for the purposes of a Continuing Care Retirement Community (CCRC).

Chairman Loomis stated that the Commission will be discussing and coming up with a positive or negative recommendation to the Zoning Commission. He stated that the language for the Conceptual Master Plan (CMP) is the first of its kind. There is not a lot of precedent where it exists in this form in other Municipalities in Connecticut.

Chairman Loomis stated that the Planning Commission could consider the CMP to be applicable to the CCRC only, in part, because it is new. It also needs to protect the Town and they do not want to burden the applicants with too much detail. They should consider limiting the purpose; it should

not be too broad.

Commissioner Meyer made a motion to split this into three separate motions. One motion would be for the definition for a Conceptual Master Plan (CMP); one motion for the definition of the Continuing Care Retirement Community (CCRC); and one motion for modification to Article 10, Section 2.a. of the Special Regulations. Commissioner Houlihan seconded the motion, which was unanimously approved.

Commissioner Meyer made a motion that the Planning Commission make a positive referral to the Zoning Commission regarding the definition of Continuing Care Retirement Community (CCRC) as defined in the December 2, 2008 memo as recommended by Town staff. Commissioner Houlihan seconded the motion, which was unanimously approved.

Commissioner Meyer made a motion that the Planning Commission make a positive referral to the Zoning Commission, to accept revisions to Article Seven, Uses, (Section n) and to add the bold wording as written in the December 2, 2008 memo as recommended by Town staff. Commissioner Houlihan seconded the motion, which was unanimously approved.

Regarding the CMP, Commissioner Houlihan stated that this idea will allow a developer to see if there is general approval for a project, although there must be a final site plan. He stated that a proposed project rises and falls with the Land Use Commissions at a later point in time. He feels that by reserving the options, the Town should make this process available to developers before investing a great deal of money. He feels if they do not make this process available, they will lose some opportunity to give their input early on in the process. This is also a way for the Town to attract the interest of developers that might not want to come to Simsbury.

Commissioner Houlihan stated that he has attempted to combine all of the concepts that have been discussed into a single plan. It includes the detail that a CMP should have while allowing the Town to have the option for Town staff to ask for additional information. He stated that his language states what the applicant needs in order to come in with a CMP and what happens after the CMP has been granted. He stated that he is also suggesting that if the Commission allows and approves a CMP, the applicant will still need to come in with a final detailed plan. If there is any deviation, this could be a ground for denial and that the Zoning Commission can approve or disapprove an application in accordance with applicable law.

Commissioner Houlihan stated that the Chairman had stated that they could tailor the CMP just for a CCRC. He stated that he does not believe they need to do this. This CMP process only exists if the applicant wants to do it and if the Zoning Commission allows the applicant to do it.

Commissioner Houlihan feels that a CMP would be beneficial to Simsbury and it would give more options in the Land Use process to the Town.

Commissioner Cole stated that, from a planning prospective, she feels that a CMP fits well and makes sense, although it is scary because it is new and they are not sure how to set it up to give the Town what it wants. Regarding restricting the CMP only to the CCRC, she stated that she could support this. Commissioner Cole stated that she would like to see a CMP that everyone could feel comfortable with. She feels that a CMP would bring good ideas into Simsbury.

Commissioner Post stated that he is comfortable with the CMP language. He stated that there are a lot of projects that developers want to come in with; this would open the door for them. He also stated that he does not feel that the CMP should be restricted to the CCRC.

Commissioner Bednarczyk stated that she went to the North Branford website where she found that they have a General Development Plan, which is similar to the CMP. She stated that Simsbury does not have the level of detail in their language that North Branford does. She stated that she spoke with a Land Use Attorney who stated that since they will not have a public hearing for site plans, this will make it challengeable. Commissioner Bednarczyk stated that North Branford has a Specific Use section regarding elderly developments along with unique sites. She stated that there is also a great deal of references to their POCD in the North Branford language.

Commissioner Bednarczyk stated that she does not feel that the language Town staff has come up with is adequate. She feels that other options should be looked at that exist. She also recommends that the Commission look at the General Development Plan of North Branford with more detail prior to making a referral. She stated that she cannot vote favorably for this definition when language like what North Branford has is out there.

Commissioner Drake stated that he feels the CMP is a good step forward in simplifying the process in Simsbury as long as the Regulation holds harmless to the final outcome. He stated that this would be an approval to a concept only. He feels that this kind of regulation will bring new ideas to Town; this is what developers are looking for. The economic times for the next decade will be hard; they need to simplify the process and not make it any tougher. Commissioner Drake strongly suggested passing the CMP language.

Commissioner Eisenmann stated that if the CMP language is adopted, he would like the terms, "general" to be taken out because he feels this will leave a hole that can be enlarged. He discussed all of the "general" terms that he would like taken out. He also stated his concern regarding the

language, "...signed and sealed by an appropriately licensed professional..." Commissioner Eisenmann stated that there are 80 different professionals listed in the Statutes; there are only four that are suitable for signing off on a site plan. He feels that they should include language that makes this clearer.

Commissioner Meyer stated that she agrees with Commissioner Eisenmann. She stated that North Branford lists the professionals. She feels that if other Towns spell out applicable professionals, Simsbury should also. Commissioner Drake agreed also. Listing the professionals will only clarify the language.

Commissioner Meyer stated that she is in favor of a CCRC and is comfortable with the concept of a CMP, although she is not comfortable with the language. She stated that if an applicant gets a CMP and it is approved, the developer will then be vested; it is binding. She stated that she recently spoke with a Land Use Attorney who stated that when a Special Exception is approved, the developer is vested. Mr. Peck stated that this is different; this is not a Special Exception. Commissioner Meyer stated that she will not be comfortable with this language until a Land Use Attorney has reviewed it; Simsbury needs to spend the money to do this.

Regarding the language that was created by Commissioner Houlihan, Commissioner Eisenmann stated that he would like to add that, "no interest is vested in the applicant until the Commission issues a final approval". Mr. Peck stated that he would need to have the Town Attorney review this added language. He suggested not adding this language and letting the law speak for itself.

Regarding the language that was created by Commissioner Houlihan, Mr. Peck stated that the Zoning Commission and the Town Attorney will need to look at the Planning Commission's recommendation to see if the structure of the language can fit into what has been proposed. He feels that there could be problems taking the terms, "general" out of the language. The Commission continued to discuss the other "general" terms and if they should be left in or changed to other wording.

Chairman Loomis stated that there is a general consensus on the Commission regarding: having a Land Use Attorney review the language; using Commissioner Houlihan's language; spelling out the language from the Statutes regarding the four licensed professionals. There may also be a consensus regarding Commissioner Eisenmann's additional sentence regarding that the applicant is not vested until the Commission has issued a final approval.

The Commission discussed recommending a public hearing. Mr. Peck stated

that, initially, there is not a public hearing, although the Special Exception requires a public hearing. The final site plan would go to the Wetlands Commission, the Zoning Commission and it would be referred to the Planning Commission for recommendation; there is no formal dialogue with respect to a public hearing. Commissioner Meyer stated that she feels a public hearing should be a part of this process. Commissioner Houlihan agreed. Commissioner Cole stated that there are benefits to hearing the public. Mr. Peck stated that having a public hearing could extend the process, which is not constructive. The Commission continued their discussion regarding including a public hearing in the process.

Chairman Loomis stated that he feels a public hearing opportunity should be created. The public hearing would give the public an opportunity to tune into a project early on in the process. He stated that they could recommend restricting the CMP to the CCRC only, or, if they make it broader, a public hearing could be introduced prior to the CMP being issued.

Regarding recommending that the CMP be applicable to the CCRC only, Chairman Loomis stated that there are vulnerabilities and there are also opportunities. Commissioner Drake stated that they would not only be talking about development but re-development in the future as well. Commissioner Meyer suggested applying the CMP only to the CCRC to see if it works and is proven. If it is, they can then take it out of the language if they would like it to apply to more than just the CCRC. ‘

Regarding the language that was created by Commissioner Houlihan, the Commission discussed the word, “permit”. After some discussion, it was agreed to change that sentence to read, “...Commission accepts and, following a public hearing, approves a CMP, the applicant shall thereafter...” The Commission also discussed changing the word, “shall” to “must”, although after some discussion, the Commission agreed that “shall” was definitive in this sense. The Commission also agreed to add, “Approval of a CMP does not vest any rights in the applicant” in the language.

Commissioner Houlihan made a motion that the Planning Commission make a positive referral to the Zoning Commission regarding the following language:

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.

A CMP is a plan drawn to scale showing the entire site and the proposed future development of the site in conceptual terms. This plan shall include, at a minimum, proposed uses, buildings and major structures

layout, road and parking plan or pattern, access drives, roadways, and other impervious areas, overall site and building coverage, general building architectural designs with proposed building heights, setbacks and proposed landscaping, topography including flood zones and inland wetlands if any, conceptual drainage, proposed open space and proposed street widths. The CMP shall be drawn to scale, signed and sealed by either a current and duly licensed architect pursuant to Connecticut General Statutes (CGS) Chapter 390, or a professional engineer or land surveyor pursuant to CGS Chapter 391, or a landscape architect pursuant to CGS Chapter 396, with the signer's raised seal affixed. If the Commission or its staff determines that the CMP lacks sufficient detail, additional information may be required. Approval of a CMP does not vest any rights in the applicant.

In the event that the Commission accepts and, following a public hearing, approves a CMP, the applicant shall thereafter submit a final site plan for consideration and approval by the Commission. Any deviation from, or inconsistency with, the CMP in the proposed final site plan may be grounds for disapproval by the Commission in its discretion. The Zoning Commission may approve or disapprove the application in its discretion consistent with applicable law. No zoning or building permit shall be issued to the applicant until the Commission approves a final site plan.

The Planning Commission recommends that this modified language be adopted and that the language of the proposal be reviewed and approved by a Land Use Attorney. Commissioner Post seconded the motion.

Kirsten Griebel, 7 Caryn Lane, stated that in Article Ten, Section a, when the added sentence is read, it states that once the CMP is approved, the applicant has a Special Exception. She stated that once they have the Special Exception, they are vested; it is recorded in the Land Use records. They would then have the right to develop that land under the CMP. When they come back with the final site plan, the only thing that the Town would have to hold them to is what was presented in the CMP. She stated that she feels the Planning Commission does not have all the right information in front of them tonight.

Commissioner Houlihan stated that the applicant would need to submit an application to get a Special Exception; the applicant would then need to go through a public hearing process and submit a final site plan. This CMP language states that the applicant can start their application by going the CMP route. This is only an option that a developer can exercise. This is sufficient to start an application; it does not mean that it grants the Special Exception.

Commissioners Houlihan, Cole, Loomis and Post voted in favor of this motion. Commissioners Meyer and Bednarczyk voted in opposition.

IV. COMMUNICATIONS AND ADMINISTRATIVE BUSINESS

Commissioner Post stated the importance of all Commission members using their Town e-mails. He stated that they should be communicating in this way only.

Mr. Peck stated that he would create a Planning Commission category so that it would be easier for members to e-mail the Commission as a whole.

V. ADJOURNMENT

Commissioner Post motioned to adjourn the meeting at 8:36 p.m. The motion was seconded by Commissioner Bednarczyk and unanimously approved.

Gerry Post, Secretary