

From: Lois Laczko March 16, 2009 1:26:10 PM
Subject: Planning Commission Minutes 02/24/2009 ADOPTED
To: SimsburyCT_PlanMin
Cc:

ADOPTED

PLANNING COMMISSION MEETING
February 24, 2009
REGULAR MEETING

I. CALL TO ORDER

Chairman John Loomis called the regular meeting of the Planning Commission to order at 7:05 p.m. in Main Meeting Room of the Simsbury Town Offices. The following members were present: Charles Houlihan, Gerry Post, Carol Cole, Mark Drake, Julie Meyer, Ferguson Jansen, Susan Bednarczyk and Carl Eisenmann. Also in attendance were Howard Beach, Environmental Compliance Officer, Town Attorney Robert DeCrescenzo, as well as other interested parties.

II. SEATING OF ALTERNATES

Chairman Loomis appointed Commissioner Cole to serve during the initial absence of Commissioner Houlihan.

III. DISCUSSION AND POSSIBLE DECISION

Application of HARCO Property Services, Inc., Owner, John R. Mallin, Agent, for a subdivision of land located at 200 Hopmeadow Street, Assessor Map-F-16, Block-153, Lot-009. I-1 Zone.

Chairman Loomis stated that there has been a request from the applicant to postpone this application until the March 10, 2009 meeting.

Chairman Loomis thanked Attorney DeCrescenzo for the manner in which he dealt with source materials, including the Statutes and Simsbury's Subdivision Regulations at the last meeting where he answered many of their questions.

Attorney DeCrescenzo stated that tonight's discussions should be limited because the applicant is not present, although he stated that the Commission should address if a public hearing is warranted for this

application. He stated that it could be scheduled if they feel it is necessary, but that they should keep in mind that the 65th day for this application will be on March 18th. If the Commission would like to hold off on making this decision until the next regular meeting, they would need to get an extension from the applicant.

Attorney DeCrescenzo stated that the reason for the postponement of this application is that the applicant would like to be prepared to come in with responses to the Commission's questions, especially regarding the open space issue.

Commissioner Jansen questioned that if an applicant was asking for permission for a subdivision, could the applicant agree to give 20% open space, but not show where it will be located. Attorney DeCrescenzo spoke not specific to any application, and stated that case law states that the Commission can condition a subdivision approval, as long it is done correctly. This can be done by making it a modification of the application.

Commissioner Meyer questioned if this would allow the Planning Commission, when the application would come back in, to set the easement or open space, or would this be the responsibility of the Wetlands or Zoning Commissions. Attorney DeCrescenzo stated that this would not be the way to handle this. He stated that when an application comes to the Planning Commission for a referral, this does not give the Commission the ability to change the subdivision at this point. He stated that the Commission would need to condition and create a modification such that, prior to a trigger date, the applicant would be required to submit a revised subdivision plan to the Planning Commission showing the conservation easement or open space.

Commissioner Bednarczyk stated that she has been told that there could be an easement and futuristically put things on it, although it would need to be placed. She asked Attorney DeCrescenzo if he had any case law that states this does not need to be placed. Attorney DeCrescenzo stated that the Commission would need to waive the open space requirement and in lieu of this, substitute a conservation easement. Then, prior to a trigger date, the applicant would have to present a conservation easement of 20% of the total land area.

Chairman Loomis questioned why a conservation easement might be more appropriate than open space regarding the HARCO application. Attorney DeCrescenzo stated that this is a 40-acre proposed lot in an I-1 zone. This property will be subdivided for commercial purposes, so he does not feel that public open space with public access would be appropriate.

Commissioner Bednarczyk stated that the Planning Commission did not get a

complete staff report for this application. She feels that this is very important to have and stated that the report is needed prior to the next meeting. Commissioner Meyer agreed.

Commissioner Bednarczyk stated that since open space is regulated by State Statute 8-25, in the Connecticut Land Use Law it states that open space, Section 8-25, allows regulations to require set-asides for open space, parks and playgrounds. It also states that regulations should set specific standards if such set-asides are required. Set-asides are constitutional. She questioned if, at this point, it would become an administrative function. Attorney DeCrescenzo stated that the Connecticut courts have found that the inclusion of open space set-asides with an 8-25, is constitutional as long as it serves a public purpose.

Referring to Regulation 13 in the Subdivision Regulations, Commissioner Meyer stated that if the Commission were to waive open space requirement on an application this would need a 2/3 vote. To take a conservation easement in lieu of open space, this would need 5 out of 6 members to do this. Attorney DeCrescenzo stated that, referring to Subdivision Regulation 9b, it states that unless determined upon the affirmative vote of two-thirds, once the Commission waives the open space requirement, there is no requirement to provide any, although they could accept the conservation easement proposal by the applicant. Commissioner Bednarczyk stated that what this Commission has done in the past sets precedents.

Chairman Loomis stated that the Commission needed to decide if a public hearing should be held on the HARCO application. He asked each Commission member for their input.

Commissioner Drake stated that until he hears from the applicant, he does not feel that a public hearing would be necessary. This application is only for subdividing, not for a specific use of the property. Commissioner Eisenmann stated that he agrees with Commission Drake.

Commissioner Meyer stated that she feels a public hearing is needed because the Planning Commission will be changing the way they handle open space and conservation easements with this particular application. A public hearing is needed because they will be waiving open space and allowing an easement in a different method than what they have done in the past. She stated that the application is regarding a large parcel and, as planners, this Commission needs to consider the impact of what the applicant will be doing along the corridor and also to get public comment.

Commissioner Meyer stated that the POCD focuses heavily on maintaining the view sector in this corridor and making sure that the rural aspect and "feel" of the Town are maintained. She stated that the last property in

Avon, abutting Simsbury, that building is set back at 125 feet. The CL&P property in Simsbury is set back 325 feet. She stated that the Planning Commission's job is to plan the look and feel of the community for the future.

Commissioner Bednarczyk stated that she agrees with Commission Meyer that a public hearing is necessary for this application.

Commissioner Post stated that he does not feel the need to have a public hearing until the Commission sees a plan for the property. Commissioner Cole also agreed that a public hearing was not necessary as long as, at some point, the Commission will be able to determine the conservation easement.

Commissioner Houlihan stated that he does not see a real purpose at this point for a public hearing. He feels that this Commission should leave this property burdened with the open space requirement, which would be the easiest resolution. If the applicant wants to change this later on, they would need to come back with a modification. At that stage, he feels that it would be useful to have a public hearing with public input.

Commissioner Jansen agreed that a public hearing was not necessary at this time. Chairman Loomis stated that he also agrees with not having a public hearing, but if the applicant proposes a treatment of open space/conservation easement in a way the applicant finds acceptable, then the Commission can consider that at that time.

Commissioner Meyer questioned that if the Planning Commission were to modify their regulations, would a public hearing be necessary. Attorney DeCrescenzo stated that they would absolutely need to hold a public hearing. Commissioner Meyer stated that she views this as a modification of the Subdivision regulations. She feels this Commission, for this application, would be changing the way they typically handle an easement in lieu of open space. She stated that the Commission would allow the applicant to waive the requirement for open space and let the applicant come in with an easement request that has conditions. She stated that this is not how the Commission has done things in the past. Commissioner Houlihan stated that the Commission is not waiving anything; they are not talking about a waiver at this point in time.

Commissioner Post made a motion not to hold a public hearing regarding the Application of HARCO Property Services, Inc., Owner, John R. Mallin, Agent, for a subdivision of land located at 200 Hopmeadow Street, Assessor Map F-16, Block 153, Lot 009. I-1 Zone. Commissioner Houlihan seconded the motion. Commissioners Houlihan, Post, Jansen and Loomis voted in favor of this motion. Commissioner Meyer and Bednarczyk voted in opposition to this

motion. The motion passed 4-2.

Attorney DeCrescenzo stated that he will continue to work on these issues and will be available for any other questions the Commission may have. He asked that any comments or questions be sent on the Town e-mail through Mr. Peck.

IV. APPROVAL OF MINUTES of February 10, 2009

Chairman Loomis made one edit to the minutes.

Chairman Post made a motion to approve the February 10, 2009 minutes as amended. Commissioner Meyer seconded the motion, which was unanimously approved.

V. STATUS OF THE PROPOSED PLANNED AREA DEVELOPMENT (PAD) ZONE

Mr. Beach stated that a draft of the PAD has been sent to Boards and Commissions looking for their feedback. He stated that there will be a joint meeting to discuss the Planned Area Development Regulation (PAD). Chairmen of Commissions, as well as Commission members, are welcome to attend this meeting. It will be held on March 10th at 6 p.m.

The Commission discussed holding their next regular meeting right after the joint meeting. The Town Attorney and HARCO will need to be notified.

VI. STATUS OF CONSULTANTS' PROPOSALS FOR A TOWN CENTER CHARRETTE

Chairman Loomis stated that Mr. Peck has written several grants. The Town could receive in excess of \$40,000, which is the current funding, is an inadequate amount of money to do a proper Charrette.

VII. STAFF REPORT(s)

There were none.

VIII. COMMUNICATIONS AND ADMINISTRATIVE BUSINESS

Report on Capital Region Council of Government (CRCOG) meeting held on February 19, 2009

Commissioner Drake stated that CRCOG is putting on a second round table discussion. Mary Glassman will be one of the speakers that will be talking about regionalization regarding economics, natural resources, sprawling, transportation, quality of life issues, and more. The roundtable will be held on February 26th at 11:30 p.m. - 2 p.m. in Hartford. He stated that

all are welcome to attend.

Commissioner Drake stated that the main topic of discussion at the CRCOG meeting was regarding a Tri-State Charrette. He stated that this will be a 2-day seminar, which will be held in May. This has to do with the growth of the Metropolitan area from a New York point of view and how to enhance the same issues, although on a larger scale. He stated that Town Planners from here to New Jersey will be involved. Mr. Peck will be giving more information out regarding this seminar.

Commissioner Drake stated that CRCOG is still in the process of editing the regional maps.

Commissioner Bednarczyk stated that this Commission usually reviews capital projects in November; they did not do this. Chairman Loomis stated that this Commission usually looks at capital projects twice a year. He stated that he would like an update with Mr. Sawitzke as soon as possible.

Commissioner Bednarczyk stated that she would like the Planning Commission to have a discussion regarding the possible uses for Meadowood from an 8-24 perspective. Chairman Loomis asked that Mr. Peck be ready to give the Commission an update at the next meeting regarding the proposed uses for the Triangle.

Regarding the Board of Selectmen meeting last night, Chairman Loomis stated that Mr. Sawitzke presented plans showing the Triangle and east of Barndoor Hills Road. He stated that the plan showed most of the Triangle as agriculture, except for three acres at the northern tip, which is the wetlands, vernal pool area. He stated that the plans showed largely a wildlife corridor to the east, with a "to-be-determined" provision to close off Barndoor Hills Road leaving short entrance areas to consider athletic fields and necessary parking. He stated that no decisions were made; this is still in the recommendation stage. Chairman Loomis stated that the Parks and Recreation Department will have input into this regarding the need for athletic fields. Chairman Loomis stated that there was a 4-0 motion by the Board of Selectmen to send out an RFP to farmers in the area to apply for agricultural uses.

IX. ADJOURNMENT

Commissioner Jansen motioned to adjourn the meeting at 8:46 p.m. The motion was seconded by Commissioner Meyer and unanimously approved.

Gerry Post, Secretary

