

From: Carrie Vibert March 16, 2012 10:49:08 AM
Subject: Planning Commission Minutes 02/28/2012 ADOPTED
To: SimsburyCT_PlanMin
Cc:

PLANNING COMMISSION MINUTES
FEBRUARY 28, 2012
REGULAR MEETING

I. CALL TO ORDER

Michael R. Paine, Chairman, called the meeting to order at 7:04 p.m. in the Main Meeting Room of the Simsbury Town Offices. The following members were present: William Rice, Tina E. Hallenbeck, Richard Cortes, Robert Kulakowski and Mark Drake. Also in attendance were Hiram Peck, Director of Planning, Janis Prifti, Commission Clerk, and other interested parties.

II. SEATING OF ALTERNATES

Chairman Paine appointed Commissioner Kulakowski to serve for Commissioner Prell and Commissioner Cortes to serve for Commissioner Jansen.

III. APPROVAL OF MINUTES of February 14, 2012

The minutes were amended on Line 197 to delete "reasonably" after "conflict"; and on 336 to change "Commissioner Schoenhardt" to "Commissioner Kulakowski". Commissioner Hallenbeck made a motion to approve the February 14, 2012, minutes, as amended. Commissioner Rice seconded the motion, and it was passed unanimously.

IV. Discussion and possible decision items:

A. CGS 8-24 REFERRAL FROM BOARD OF SELECTMEN regarding a proposal by Simsbury Land Trust to purchase Pharos Farm from the Town of Simsbury as a plan to preserve George Hall Farm

Mr. Peck stated the Commissioners were provided with a letter with information on what the Land Trust has in mind, as well as the Town Attorney's letter. Chuck Howard, President of the Simsbury Land Trust, appeared, accompanied by Dick Davis, the former Land Trust President and present Chair of the Acquisition Committee. Mr. Howard reviewed recent activities of the Land Trust in preserving farm land in Town, including the

purchase of development rights for Rosedale and Tulmeadow Farms. He said they are now focusing on the 11-acre George Hall Farm, which is too small to qualify for federal grants to preserve farmland, but Mr. Hall has also done organic-certified farming since the early '70's on the 40-acre Pharos Farm at Terry's Plain and Quarry Roads. He said the difficulty is that the National Resource Conservation Grants Program would not qualify because it is owned by the Town, but with no restrictive use. He said they would like to put both parcels together to put it over the 20-acre threshold for the grant program; they had preliminary discussions with the NRCS and have been led to believe it will be considered favorably; then they had discussions with the First Selectmen and Mr. Hall to see if he would be interested. He said they put together a proposal presented to the Town Open Space Committee which endorsed it and then, at the First Selectmen's request, they spoke to the Board of Selectmen and where they were referred to the Planning Commission. He said it would be a 3-part simultaneous process with: 1) the Town selling Pharos Farm to Mr. Hall at market value and the Town receiving funds; 2) Mr. Hall would sell a development rights easement to the Land Trust to preserve the agricultural purpose of his property for both his 11 acres and the Pharos Farm 40 acres; and 3) the Simsbury Land Trust would provide Mr. Hall with the funds to pay the Town; the Simsbury Land Trust would obtain those funds by applying for grants, donations and a contribution from Mr. Hall.

Mr. Howard said it provides the Town fair market value for the farm, relieves the Town of having to lease the property each year, and provides cash to the Town; Mr. Hall would have a sustainable size farm, consistent with what he has been farming for the last 40 years; and the Simsbury Land Trust would achieve a goal of preserving farmland. He added that the Plan of Development identifies Pharos Farm as ideal for preservation with some of the best farmland in Connecticut. He stated all parties will benefit from this proposal and the total dollars are significantly less than what was required for Rosedale and Tulmeadow.

Mr. Peck confirmed this would fall under 8-24 "Town Owned Properties," which includes owning, leasing, and selling Town property. Mr. Davis stated the Town bought Pharos Farm in the '60's and Curtis Park was originally part of it. Mr. Howard reiterated that in the end the Town receives money and the use of the land does not change; the cost will be covered by grants, donations, and a contribution from Mr. Hall. He said Pharos Farm is in the floodplain but is not wetland. He stated the farm can be sold to someone else, but the land would not go into development. He said from the federal government's perspective, since this is such high quality farmland, they would like to see it preserved. He stated if it were used for playing fields, the agricultural use would be destroyed and there may be other areas where land is more amenable to playing fields. Regarding any downside, he said a grant for half the cost could be denied

by the federal government, but that is unlikely; another is this is a proposal involving the sale of Town land and they will have to go to a Town Meeting with it. He believes they will be able to raise the other half of the cost from generous donors in Town and the transaction could close soon. He said they already have an understanding/consent of Mr. Hall.

Mr. Peck said that under the Plan of Conservation and Development in Agricultural Resources under Policy 1, to strongly support the preservation of working farms; there are 2 objectives that apply: D. talks about preserving Town-owned agricultural land, such as Pharos Farm... and E. maintaining the quality of agricultural land and agricultural use, with subsections applying; also Policy 2, to strongly support the conservation of agricultural lands recognizing the need for continued agricultural presence in the Town applies. He stated the Commission can cite Policies 1 and 2 to support this proposal. Commissioner Rice stated that in Policy 1, D. there are words about long-term lease, but not about development rights and sale of property, which leads him to believe when the Plan of Conservation and Development was put together it was in the Town's interest to maintain ownership. Mr. Peck believes where no. 3 talks about maintaining Pharos Farm in farming recognizing its prime agricultural use, represents a series of options with the Commission having no way to know at that time which option would apply; he suggested the list is meant to be inclusive. Chairman Paine agreed that Objective A. is to preserve the Town's agrarian legacy by allowing working farms and this would accomplish that. Mr. Peck said that often many towns view 8-20 referrals as not in conflict with a Plan of Conservation and Development and recommendations are more permissive than prohibitory. The Commissioners discussed the proposal and agreed it is consistent with the Plan of Conservation and Development in permanently preserving this land.

Commissioner Drake made a motion to make a positive referral to the Board of Selectmen approving this transaction because it is consistent with the Plan of Conservation and Development. Commissioner Hallenbeck seconded the amended motion, and it was passed unanimously.

B. ZONING AMENDMENT REFERRAL for 16 Sand Hill Road from current zone (s) of I-3 and R-40 to R-15, including property on Map F15, Block 114, Lots 013 and 013A.

Chairman Paine recused himself from the discussion and Secretary Hallenbeck Acted as Chair.

Mr. Peck said this is both an informal discussion by the Applicant and an 8-3 referral from the Zoning Commission and this Commission's recommendation needs to go to the Zoning Commission prior to the 3/19/12 Public Hearing.

Glenn Knierim, Jr., representing Sand Hill Simsbury LLC, was accompanied by Michael Girard of Sand Hill Simsbury LLC, and Kevin Clark, Engineer for the project. Mr. Knierim stated they need both informal comments on the project and this Commission's formal recommendation to the Zoning Commission on a tight time schedule. He stated the property is currently used as a contractor's construction yard and the application is to change 2 adjacent parcels - one zoned I-3 and the other R-40 - to change both to R-15. He stated a legal disclaimer that they are asking for the change to the land but are not intentionally relinquishing or waiving any legal rights to the use of this property. His client purchased the property for use as a construction yard and the neighbors objected to that use. He said since that time his client has explored alternative uses for the property and that proposal is brought to the Commission today. He said Michael Girard will explain the property background, Michael Clark will explain the Subdivision proposal and Mr. Knierim will return to provide reasons why this proposal to change to R-15 is consistent with the Plan of Conservation and Development (POCD). Mr. Peck added that should the zone change be approved, this Commission will ultimately review the Subdivision plan for approval at a later date.

Mr. Girard stated Lots 13 and 13A were subdivided from each other in the 50's. He said Lot 13A was a .73 acre R-40 building lot because the original intent was for Hartford Electric to build a substation; they believe it is a map error because it is a nonconforming R-40 lot. He said Lot 13 is 6.2 acres zoned I-3 and there are only three I-3 parcels in Simsbury. He stated the nonconforming use they operate under on this property was established in the '30's before zoning and construction companies have historically operated on this site. He said the property boundary on the north side is Simsbury open space, on the west and south is zoned R-15, and on the east side of Sand Hill Road are some R-40 houses. He purchased the property from Tom Garrity of Bourgeois & Shaw in February 2010 who previously performed the same type of work as Sand Hill Simsbury LLC; Mr. Girard wanted to sell their Iron Horse Boulevard property and relocate their construction business in Simsbury, but options are limited. He said before they purchased the property they talked to the Town Attorney and have a letter confirming I-2 use is appropriate.

Mr. Girard said they have done a lot of site cleanup; there is a 6000 sq. ft. building that serves as offices and a maintenance facility and they have: a building permit to renovate the building which is now gutted; a DEP permit for stormwater associated with industrial activity; Town services for water and sewers available; gas is available; and a 10,000 gallon fuel tank installed 23 years ago with a 25-year life that will be removed in March 2012. He said they purchased the property for business use, but were not welcomed by neighbors, and began considering alternative development

options, including mixed use development, and various subdivision options. He said they need to get their investment out of the property and believe this proposal allows them to do that and benefit all involved. He said they have an interested party in the property and would like the Commission's positive referral to the Zoning Commission. He said they would like to complete this in April and have a shovel in the ground by May 15th.

Kevin Clark, Engineer, with offices in Granby, pointed out the 2 parcels on the map. He said they looked at the entire piece as an R-15 subdivision property with single family residential building lots that comply with all the zoning requirements - king size, frontage, yard area, buildable square requirements - the design they propose is classic with straight road to a cul-de-sac. He said the public sewer would be brought up Sand Hill Road to the site; there is already public water; and gas may also be brought up. He stated they met with Mr. Peck to discuss this 4th option with the possibility of curving the road up to the cul-de-sac, which the Town staff favors. He said they have to follow the standard Town design requirements, which require the buildable squares be properly located. He said under the Subdivision Regulations, the buildable square can be waived by the Commission on at least one but not more than 20% of the lots in the subdivision; in this case 2.4 lots. He said once the zone is changed to R-15, the proposed 12-lot Subdivision for this property will have lots at the end of the cul-de-sac about the same size as the others currently, depending on how they accommodate stormwater infiltration in consultation with Rich Sawitzke.

Regarding the back slope, Mr. Clark said it will be graded per Subdivision Regulations and stabilized and they already have an approved plan by the Conservation Commission for stabilization. He showed a plan for regrading the slopes and planting, which will be included in the Subdivision plan in compliance with Subdivision Regulations. He said the lots range from 15,000 to 28,000 sq. ft. very preliminarily. Regarding open space, they propose a conservation easement up to the rear lot line from the southerly to northerly side extending 80 feet from the property line on the westerly side. Mr. Girard explained the planting proposed in that area provides a good buffer from neighboring properties. Mr. Girard added the plan was to establish the slopes with 164 mixed fir, spruce, and pine, with 68 at 4 feet high and 164 at 2 feet high; the idea is for neighbors not to see each other; the conservation easement is 25 feet on both sides and prevents encroachment; all the land stays on the Town tax rolls with homeowners having liability, not the Town. Mr. Girard believes the conservation easement provides very practical solutions to open space. Mr. Clark added the area of the easement is slightly in excess of 20%. Mr. Knierim stated the way the 12 lots are laid out on a flat area of the property is served by Town sewer and water.

Mr. Knierim requested moving the hearing to the referral to change R-40 and I-3 to R-15; he said a block that is now in 3 different zones would become consistent with R-15 in the area, except for one area that is an unusual R-40 nearby. He said in the Plan of Conservation and Development, on pg. 62, A Future by Design, Policy 4 says that you encourage aesthetic and functional compatibility between adjacent uses and structures throughout the Town within zones and mixed use areas and particularly in areas of transition; he said this change does just that; objectives A and B are not particularly pertinent, but objective C, consider impacts of proposed and expected future development on existing neighborhoods, existing businesses, the environment and the infrastructure in Town; objective D, insure that the scale and form of the new development is compatible with the surrounding areas; this plan does exactly that.

Mr. Knierim stated more pertinently in the Housing section, the first policy on pg. 119 states, maintain residential development as the primary use of land within Simsbury; this proposal does that; objective A, encourage the Zoning Commission to maintain the integrity of existing residential areas until other uses consistent with the plan can be demonstrated to be appropriate; this proposal does that; Policy 2, maintain and protect the quality of residential neighborhoods; Policy 3, encourage the availability of a range of housing types and density; and specifically, objective 5 identifies medium high density R-15 zone where slopes do not exceed 10% and where public sewers and water supply are provided - this property is good for this purpose and sewers and water are available; and policy 5, encourage diverse housing patterns where public water and sewers are available; and finally, the map that accompanies the residential density plans shows the intended village density would include the surrounding area, but excludes the industrial piece; however, the pattern is clear and would encompass that.

For all these reasons, Mr. Knierim requested a positive recommendation to Zoning that this plan is consistent with the POCD. Commissioner Rice asked if the gravel removal operation was present before houses in the area and resulted in the land being flat. He said it was and when Northeast Utilities considered putting in a power plant, a neighboring owner objected because she wanted to build housing there; the result was Northeast Utilities built houses, but not a power plant. Mr. Girard stated it is not a bowl and meets open space height elevations with a lot of the area vegetated and no plan to remove trees that follow the property line. He said to minimize the effect of the slopes, they will raise the grade. He confirmed that he can legally continue to operate his business on this site as they currently are doing, but they would like to move and get this approved as a Subdivision. Mr. Knierim said the nonconforming use can continue until it's abandoned by the owner - abandonment essentially is the

intent to waive the right; at the time a Subdivision is developed as a residential property, the nonconforming use would disappear. He said should the application be denied or not accomplished for some reason, he wants to assure his client does not waive his legal right; but if all goes as planned, upon approval of the Subdivision plan, the right at that point would be waived. Regarding neighbors having sewer and water, Mr. Girard said they currently have water, but no sewer or gas; the neighbors would have the opportunity to tie in, which is a potential future benefit to them.

Regarding public comment, Mr. Peck confirmed the public can comment at the 3/19/12 meeting. He said this is just a referral at this point and not a public hearing. Regarding nonconformity and whether discontinued, Mr. Peck said it is staff's opinion that this displays an intent to discontinue that use once the zone is changed. Commissioner Kulakowski asked whether once a zone is changed to residential, doesn't it take away its use as industrial. Mr. Knierim said if the zone is changed and no Subdivision approval is granted or feasible, in that case the property would be worthless; if the project is granted in an economically feasible way, then that use would be abandoned. Commissioner Kulakowski asked if the zone change is approved and the Subdivision is not, will your client still have the right to operate as it is now. Mr. Knierim said that would ultimately be decided by the courts. Commissioner Hallenbeck asked Mr. Girard to describe current business activities. Mr. Girard said there are backhoes, equipment, and trucks, similar to their activities on Iron Horse Boulevard. Mr. Peck said the Subdivision will be back for a determination and is in the hands of this Commission once the Zoning Commission makes its decision.

Mr. Peck stated if the Commission makes a recommendation, they can refer to the POCD sections cited by the Applicant and that the property is surrounded on at least 2 sides by R-15 and the 3rd area surrounded by Town open space; the R-40 piece did go to Zoning as to whether it is the correct zone, and the Zoning Commission at that time did not think so and it is now requested here to be re-zoned to R-15 in keeping with surrounding zoning, abuts open space, and is in the best interest of the community. Commissioner Drake said since there is a nonconforming use that goes along with the process, a positive referral to change zoning to R-15 provides a better option for the property; in the worst case scenario, it will continue to be used as a construction yard.

Commissioner Drake made a motion to give an affirmative referral to the passage of R-15. Commissioner Kulakowski seconded the motion, and it was passed unanimously.

Mr. Peck asked for the Commission's feedback for either a straight or curved road into the cul-de -sac. Mr. Clark stated there are 12 lots and

the curve provides a more pleasing layout, with 2 lots where the corner of the buildable square is in the easement, but not the house. Mr. Peck confirmed that the Subdivision regulations allow the Commission to waive the requirement by 2/3 vote. Mr. Clark read Section 3, 20E of the Subdivision Regulations, "the Commission may waive the buildable area requirements on at least one lot but not more than 20% of the total number of lots in the Subdivision when in the judgment of the Commission a configuration of a buildable area provides for adequate development of the lots." His take is that this complies with only 2 lots affected. The Commissioners agreed that aesthetically the curved road is better. Mr. Girard said a buildable square is about 5700 sq. ft. and a house would be about 2500 sq. ft. and the actual location of the home is determined by setback requirements - 12 feet on the side, 35 feet in the front and 25 feet in back - the buildable square of 60x96 must fit on the lot with the setback; there is plenty of room to build a house. Mr. Peck said it is more a shape than space requirement; there is no question a house will fit on these lots with no problem. Mr. Clark confirmed the road and building squares are pulled farther away from the slope toward the open space side. The Commissioners expressed a positive outlook at this time.

V. DISCUSSION

Chairman Paine rejoined the meeting at 8:30 p.m.

A. Town Attorney comments on Subdivision Regulations with input from Town Attorney

Chairman Paine stated a Public Hearing date of 4/10/12 is set with no later than the last meeting in March for Commissioners to provide final comments. Mr. Peck said he has not received the Town Attorney's final comments to date.

B. Budget Discussion/Presentation Schedule

Mr. Peck stated the First Selectman had removed \$77,500 of the budget request, but following the meeting with the full Board \$67,500 is back in consideration. He said this includes, for the Economic Development Commission, the consideration of village districts for Tarriffville, West Simsbury, and Weatogue, with about \$15,000 for a study. He said not in the budget but in the future where Bushy Hill and Rte 44 intersect may call for an additional plan and possible rezoning. He said the budget increase would be from .64 to 1.06%.

C. Discussion of status of Town Center Design Guidelines meeting

Mr. Peck stated that Noré Winters will be on the East Coast and come without charging for the trip; he will be here on Thursday, 3/8/12 at 7 p.m. in the main meeting room. He will ask SCTV to film it for later review. He said it is important that all Commissions participate in this to assure implementation across the board. Mr. Peck will send out draft comments.

D. CRCOG Representative Status

Commissioner Drake and Chairman Paine will attend the next meeting on 3/15/12; they take place on the 3rd Thursday of every month. The Commissioners agreed that two will attend with one rotating out and another in for the each meeting. Commissioner Drake stated the meetings are usually an hour with occasional guest speakers. Commissioner Hallenbeck will go to the 5/17/12 meeting with Chairman Paine and the last meeting is in July.

VI. STAFF REPORT(s)

None.

VII. COMMUNICATIONS AND ADMINISTRATIVE BUSINESS

Chairman Paine stated he received an informational brochure on geospatial training and will pass it on.

Commissioner Jansen joined the meeting at 8:40 p.m.

VIII. ADJOURNMENT

Commissioner Rice made a motion to adjourn the meeting at 8:45 p.m. Commissioner Hallenbeck seconded the motion, and it was passed with Commissioner Jansen abstaining.

Tina Hallenbeck, Secretary