

From: Carrie Vibert May 25, 2012 3:51:35 PM
Subject: Planning Commission Minutes 04/10/2012 ADOPTED
To: SimsburyCT_PlanMin
Cc:

PLANNING COMMISSION MINUTES
APRIL 10, 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: Ferg Jansen, Gary Lungarini, Robert Kulakowski, Kevin Prell, and Mark Drake. Commissioner Rice joined the meeting at 7:15 p.m. Also in attendance were Hiram Peck, Director of Planning, Janis Prifti, Commission Clerk, and other interested parties.

II. SEATING OF ALTERNATES as necessary

Chairman Paine appointed Commissioner Kulakowski to serve for Commissioner Hallenbeck and Commissioner Lungarini to serve for Commissioner Rice until his arrival.

III. PUBLIC HEARING(s)

A. Application of Sand Hill Simsbury LLC, Owner, and Glenn E. Knierim, Jr., Agent, requesting a subdivision of property located at 16 Sand Hill Road (Assessor Map F15, Block I14, Lots 13 & 13A) to allow for the creation of twelve (12) lots, R-15 Zone

Chairman Paine recused himself and asked Commissioner Jansen to act as Secretary to run the Public Hearing.

Commissioner Kulakowski made a motion that Ferg Jansen act as Secretary in the absence of Commissioner Hallenbeck. Commissioner Drake seconded the motion, and it was passed unanimously.

Acting Secretary Jansen opened the Public Hearing.

Mr. Peck said this 1st Application which is subject of the Public Hearing is for subdivision of property at 16 Sand Hill; the property previously

received a zone change from I3 and R40 from the Zoning Commission to R15. He recommended the Applicant proceed with their presentation and then the hearing be opened to questions from the Commission and subsequently questions from the public.

Glenn Knierim, Jr. representing Sand Hill Simsbury LLC, the owner of the property known as 16 Sand Hill Road, introduced Michael Girard, a member of Sand Hill Simsbury LLC, and Kevin Clark, Engineer for the project who will explain the Subdivision Plan. He said this project now called Croft Lane Subdivision is the former Bourgeois and Shaw construction yard and was zoned I3 and R40 in different parts and had a nonconforming use for many years as a construction yard. He said the property layout is relatively flat and due to previous gravel excavation there are slopes coming down to the flat area. He said the proposed Subdivision Plan came to the Planning Commission by referral from the Zoning Commission due to the Applicant's request to re-zone to R15; at that time, they presented alternate plans and following an informal discussion the Planning Commission favored a curve in the road which is the subject of this Application. He stated this Public Hearing was noticed in the Hartford Courant on 3/30/12 and 4/5/12.

Mr. Knierim said on 4/3/12, the Conservation Commission examined the Subdivision Plan, and specifically, the Erosion and Sedimentation Control Plan and approved Phase 1 involving the slopes and Phase 2 for the general Sedimentation and Erosion Plan for construction of the Subdivision. He stated that prior to tonight, the Commission has been provided reports by the Staff describing the project, the Fire Marshall's approval of the Plan, and the Police Chief's approval of the street name. He said he previously described to the Commission how the Plan conforms to the Plan of Conservation and Development (POCD) and provided excerpted portions of the POCD. In a general way, he said the Plan conforms very well with the existing R15 lots in the neighborhood with nearby downtown Weatogue representing a transition so that changing the current nonconforming use into a residential property brings the area into harmony; he pointed out an area of open space that also is compatible.

Mr. Knierim stated this Plan conforms to the Subdivision Regulations with 3 waivers requested:

- 1) He said the design calls for a conservation easement in the area indicated by the green line. He stated while Subdivision Regulations suggest 20% of a property be dedicated open space, it doesn't specifically specify that 20% be deeded in a fee interest; in the past in Simsbury a conservation easement has been used in place of deeding 20%. He said Mr. Clark will explain the benefits of using the land this way. For a conservation easement, he said Regulations require a 2/3 vote of the Commission for approval.

2) He said in that conservation easement is the area where there are slopes on the property, and the way the property is laid out is a unique piece and they believe it is extremely beneficial to have the sloped part of the property included in the conservation easement to protect that area. He said the Plan presented to the Conservation Commission and part of the Subdivision Plan includes grading that area, improving the way the area is sloped, and planting vegetation. He stated by use of a Conservation Easement the homeowners of the respective lots would be required to keep that area in the natural vegetative state which protects the slopes and establishes a buffer for neighbors. He said they believe this is a substantial benefit and asked that the requirement the same percentage of sloped property occur within the open space area for the rest of the Subdivision be waived; that particular waiver requires a 3/4 vote of the Commission for approval. He said another benefit along one side would be as a buffer between residential use and Town-owned open space.

3) He stated the 3rd waiver involves the building square discussed briefly during the referral. He said that in order to put the curve in the road, some lots were lengthened so the building square encroaches slightly on the rear lot line. He said this leaves plenty of room on the lot for the house to be situated and under the Regulations by a majority vote the Commission can grant this minor technical waiver.

Mr. Knierim stated to approve this Application, these 3 waivers would need to be voted on and accepted by the Commission, and the Subdivision Plan would then conform perfectly to Subdivision Regulations and with the POCD; they asked for approval tonight. He said this Application has been on quite a fast schedule with Zoning having approved the zone change and indicated approvals from the Conservation Commission; they asked the Planning Commission to decide as soon as reasonably possible because it is April and for plantings to be made on the slopes and the project to get under way it would be beneficial for this to be approved as early in the season as possible; they asked for the Commission's consideration.

Kevin Clark of Clark Engineering in Granby described the Subdivision Plan - it is a proposed single-family, 12 lot, residential Subdivision located on the northerly side of Sand Hill Road about 700 feet west of Canal Street at the bottom of the hill. He said the site is very level from Sand Hill Road toward the back of the site to an area where it drops to a low area at the toe of the slope; with sand and gravel having been removed, there are slopes on either side. He said there is a narrow band of trees on the westerly side and a portion of the northerly side and on the Sand Hill Road side. He said the proposed 12 lots range in size from 15,141 sq. ft. to 44,390 sq. ft.; all of the lots comply with the Zoning Regulations for R15 lots. He said each lot contains an area suitable for the construction of a

house, driveway, yard and utility connection. He stated they are asking for a waiver of the Section 3, paragraph 20 of the Subdivision Regulations for the building square. He said one of the 12 lot layouts they considered was a road off Sand Hill straight to a cul de sac with lots on each side allowing them to get the building square on each lot; however, they agree it was not as pleasing a layout as the Planning Commission-favored curved road layout. He said for Lots 10 and 11, the building square does not fit on those lots and the square goes over the line slightly; however, on both those lots within the building lines between the building setback line, the rear and side yards, there is excess area over what is required for a buildable square; the buildable square Regulation is only for lot shape and the area available provides a buildable area for adequate development which is one of the requirements for the Commission to be able to grant a waiver. He said for each of the lots they show a proposed house and driveway to make sure the locations, lots and grading work properly; each of the houses is about 2500 sq. ft.

Mr. Clark said the conservation easement will run along the edges of the southerly and northerly property line between the property line and the rear yard line of all the building lots, and on the westerly side 80 feet and parallel to the westerly property line - the purpose is 1) the area of the conservation easement is at least 20% of the total site area; 2) the conservation easement will help protect existing and proposed vegetation with a significant amount of landscaping on the slopes; 3) the neighbors will be protected with a visual buffer; 4) the property will be privately-owned and maintained by individual owners, rather than the Town; and 5) it provides an additional buffer between the open space located to the north of the property.

Mr. Clark said all of the lots will be served by public sewer and water; they plan to bring sanitary sewer about 700 feet up the hill from the Canal Street manhole and will install a manhole opposite where roads intersect and bring public sewer into the property. He said they will install a storm water management system that complies with the Town's Regulations consisting of several catch basins, and as discussed with Rich Sawitzky, a sediment chamber with storm water piped down the road to a manhole to another manhole and at the bottom of the hill a storm water infiltration system will take the Subdivision water and use it to recharge the ground water in this area due to the very deep sand and gravel in the area. He believes a previously drilled well in the area was 80 feet to hardpan. He said the system will be designed to comply with Town Regulations with a pipe connecting to the existing storm sewer system on Sand Hill Road.

He said they will discuss with the gas company bringing gas up to serve the Subdivision. He said the road is designed to comply with Town Regulations for 26 feet wide pavement with a cul de sac about 750 feet from the

beginning. He said the Erosion and Sedimentation Plan approved the Conservation Commission will be done in 2 stages; because they cannot regrade or landscape the slopes if houses are under construction, the first phase will be to regrade and soften the slopes to comply with the Subdivision Regulations - the lower part will be seeded and the upper part will receive trees and small seedlings which will provide a good stand of trees; they will leave the base of the area with the berm in place so any erosion or runoff from the slopes will be trapped in the area before reaching the site. He said as part of the initial phase, they will have perimeter sedimentation and erosion control fencing. They propose keeping the existing bituminous drive at the initial site of construction so they probably will not need a formal construction entrance, but if the pavement does not remove enough sediment from the trucks the contractor would have to add sediment entrance pads. Also on the Plan prepared by CR3 Landscape Architects is a list of the planting materials.

He said Phase 2 is a typical Sedimentation and Erosion Control Plan for a Subdivision and shows the houses with construction entrance pads in each driveway. He said they call for a construction entrance at this time at the end of the road which would be boxed out by then and call for a pad. He said they call for protection of storm water inlets and the measures necessary in the areas presently open, top soiling, seeding, temporary seeding if required, and there are 2 more sheets of notes, details and construction schedules; in essence, the Sedimentation and Erosion Control Plan is prepared as approved by the Conservation Commission. He said they have plan and profile drawings for the sewer line coming up the street and the new Subdivision road. He stated they have been discussing details with Rich Sawitzke for drainage and sewers and currently, there are no issues.

Mr. Peck clarified the buildable square is still on the lot and slightly encroaches into the conservation area, so there is no relationship in current Regulations with regard to where the house is located, just simply that the square must be on the lot and is basically a lot shape requirement. Mr. Clark clarified they are asking for the buildable lot square variance because it provides a better layout aesthetically and the physical buildable area is substantially more than required in the buildable square; this Commission previously indicated a preference for this curved layout, rather than the straight line. Mr. Knierim added the Regulation expressly contemplates this kind of waiver for the buildable square.

Mr. Knierim stated when they were before the Zoning Commission when they applied for the zone change, they reserved the right to maintain the nonconforming use if the Application doesn't succeed; however, it is the intention of his client to abandon that when it becomes a residential development. He said they will give up their right to run a construction

yard. Regarding whether there is any adjacent or additional commercial land remaining, Mr. Knierim said this was the only I3 in the neighborhood.

Regarding the height of the slopes to the proposed conservation easement, Mr. Clark said it varies with the top slope at elevation 290 feet and the bottom proposed grade will be about 254 feet; the conservation easement begins at the lower elevation. He said in the existing area, the slope bottom is about 250 feet and the conservation easement about 266 feet and runs up to the top of the property line. He said the final grade when it is finished will be 2:1 or a 50% grade as allowed by Zoning Regulations.

Chairman Jansen invited public comment.

Val Willette of 32 Sand Hill Road said this is clearly a more favorable outcome than what potentially could have been with Simscroft Echo moving in and carrying on the same kind of activity. He felt he could safely speak for the abutting neighbors in saying this is clearly a more favorable condition than a continuation of the I3 Zone which has been a bone of contention for them and particularly with a business twice the size of previous owners, Bourgeois and Shaw, they envisioned twice the aggravation as before. He said unless there are suggestions from the neighbors, this is clearly a better option and he liked the aesthetics of the curved road as opposed to the straight shot.

Regarding the homeowner's responsibility and obligation to maintain the vegetation and conservation easement area, Mr. Knierim said it will be determined with the Town what the conservation easement will say. He said usually the conservation easement says more about what will prevent a homeowner from disrupting the area. Regarding the buildable square encroaching into the conservation easement area, Mr. Knierim said it will not encroach into this area. He said the buildable square has to exist for this to be a lot; it proves there is enough space on the lot; it does not allow for building behind the setback line in the conservation easement.

Yelena Malakhova of 52 Sand Hill Road said she had difficulty growing a garden until a sprinkler system was put in. She expressed concern about whether the vegetation would grow in the sand and believes irrigation is required. Mr. Clark responded that Plan was prepared by a landscape architect with expertise in selecting the proper plants for very sandy soils which grow quickly. He said they are planting evergreens and seedlings that don't require maintenance and most important is to keep people from cutting material once it is put in. He said once the plants are established they do not anticipate much maintenance will be required.

Tom Brown of 30 Sand Hill asked if there is a drought this summer and the plants die is there any provision for re-establishing them within a year to

stabilize the soil. Mr. Peck said the vegetation on the site was reviewed by the Conservation Commission experts and they decided the plants selected were the proper ones for that particular type of soil. He said there is also preparation of the site with top soil placed on top in certain locations to retain plants and moisture. He said if the Commission approves the Subdivision the conservation easement will also require it be maintained in good repair - the standard conservation easement suggested by the Town Attorney will be part of the Subdivision. He indicated there is no irrigation planned for the area.

Sue Bednarczyk of East Weatogue Street said the Planning Commission can require the plantings be replanted if they die which has been done in the past in this Town. She expressed worry about the building squares on the crooked street because if they encroach the conservation areas, there could technically be building in the conservation areas. She said the Commission controls open space and can move it wherever it likes and require that in addition to the conservation easement, which does not have to be accepted as open space but could be a conservation easement, the Commission could also require 20% of open space and to make it more aesthetic put the open space in the front at the entry which has been done with other R15 Subdivisions - she said a lot or two may be lost because the conservation easement does not require taking any land, but open space requires taking land and since this abuts a large piece of open space, she did not see why the Commission wouldn't want to do that. She suggested the Commissioners take a field trip to look at the slope because another exception is that the open space slope could be a conservation easement and she did not understand why the Town would want to have slope as open space. She stated concern about contamination and didn't see anything about an independent engineer doing that; she did not want to see any little children get sick.

Tom Brown of 30 Sand Hill said in the Plan set on the table, the last page is the Soil and Conservation Plan approved last year not the one approved two weeks ago; that Soil and Erosion Control Plan is consistent with a site contractors yard so there are elements in that, such as an infiltration basin and industrial storm drain clipped onto the Plan set before the board - he hoped the Commission would not approve a Soil and Erosion Control Plan consistent with a site contractors yard only to have the nonconforming use revert back to the property. Mr. Peck clarified that early on in the process the Applicant asked if they were required to redraw the entire Plan showing regrading the slopes if in fact the regrading of the slopes was the same as what is being proposed now. He told them it was not necessary to do that right now and the Applicant stated clearly on the record that if the proposed Subdivision is approved the site contractor yard use would ultimately disappear. He said we are looking at the slopes and plantings as are provided here this evening and that is what the Applicant is proposing; the Plans are clear about what is proposed and the site

contractor's yard is not part of what's being asked of the Commission this evening. He said the purpose of this Plan was to essentially stabilize the slopes as represented by the engineer and are being modified to a lesser 2:1 scale.

Mr. Peck provided the Commissioners a copy of his initial report on the Application and that it is important the Commission discuss and vote on several points as part of this hearing, including: that one of the requested waivers is the conservation easement and restriction as shown on the Plans, the steep slopes consideration as outlined in the letter from the Applicant, and consideration of the building square requirement on Lots 4 and 6. He provided a copy of page 5 from the Subdivision Regulations to clarify what the Commission needs to consider:

The Commission may waive or vary certain specific requirements under these Regulations by 2/3 or 3/4 vote of the members, depending on the issue. These are the 3 standards:

A condition exists which affects the subject land and is not generally applicable to other land in the area. He said if the Commissioners think this property because it's an earth excavation area is different than areas around it which are either open space or residential development that would probably meet one of the standards for granting a waiver.

The second standard would be that the granting of the waiver would have no significant effect on adjacent property or public health and safety. He said it should probably be reworded to have no significant adverse effect on adjacent property. He said the Commission should discuss and choose how to interpret this standard.

He said thirdly, the granting of the waiver does not alter or vary any other Town Regulations such as zoning or inland wetlands. He said the Zoning Commission has changed the zone for this property and there are no inland wetlands and Conservation has already opined on it.

He stated these are the three standards the Commission should discuss this evening regarding this development and should the Commission go forward he has some additional suggestions.

Mr. Knierim asked for clarification of which Commissioners are sitting this evening. Mr. Peck stated 6 members sitting here this evening represent a full Commission. Mr. Knierim stated that Commissioner Rice is here and Commissioner Paine recused himself. Mr. Peck clarified that Commissioners Drake, Prell, Kulakowski, Rice, Lungarini and Jansen are sitting at this particular time.

Mr. Brown commented further he was uncomfortable on the last page of the Plan set getting signed off on because it is specific for a site contractor's yard. He said it is not difficult to redraw in the age of computers and CAD systems, all it takes is a click of a mouse to remove the elements specific for industrial use of the Plan. He said nobody in the neighborhood wants that in there and recommended to the Board that it be approved with the appropriate Soil and Erosion Control Plan be in there. Mr. Brown pointed out what he was talking about on the Plan. Mr. Clark clarified that when the Plans were originally prepared they had Sedimentation and Erosion and a Slope Repair already approved by the Conservation Commission; at the time, it was just included as a reference document to indicate actions on the site already approved by another Commission. He said subsequently, they went into more detail with the Sedimentation and Erosion Control Plan; the original Plan was 3 sheets approved in February by the Conservation Commission which was replaced with 4 sheets. He said the Plan is still in the set because it was part of the original submission, but at this time the Sedimentation and Erosion Control measures proposed by the Applicant consist of 4 sheets which are the Phase 1 sheet, Phase 2 sheet, and 2 sheets of notes and details. He said the last sheet proposed for an industrial use is no longer applicable to this Application and this sheet will be removed from the set if the Application is approved.

Mr. Clark clarified the building square is not an area where you are allowed to build a house; you must stay within the setbacks; just because the building square extends into open space does not mean you can build there; the use is defined by open space requirements. Mr. Knierim stated as a matter of property law the conservation easement would remove that right from the property owner once the easement is deeded so there is no way you can build in that area.

Commissioner Jansen asked for any further public comment and there was none.

Commissioner Drake made a motion to close the public hearing. Commissioner Kulakowski seconded the motion, and it was passed unanimously.

Commissioner Jansen declared the hearing closed.

Mr. Peck provided a discussion draft for the Commission should they decide to act this evening. He took the information on the agenda regarding the sheets provided and prepared a draft motion noting the Commission held a hearing; what the Applicant proposes to do; and if the Commission decides to approve the Application, the Commission find the Application an improvement in accordance with the applicable Regulations. He said it notes specifically the Applicant intends to bring utilities to the site, to

construct a cul de sac shown on the Plan, to put in necessary drainage easements as well, to dedicate the conservation easements discussed this evening and the Commission would need to find whether that fulfills the 20% open space requirement pursuant to that section of the Regulations - that requires 2/3 vote or 4 members of the Commission to vote in favor finding the conservation easement meets that section of the Regulations.

Mr. Peck said that second, the waiver requirement regarding the percentage of steep slopes within the conservation easement area, if waived based on the slope diagram provided this evening, requires a 3/4 vote or 5 members voting in favor.

Mr. Peck said the waiver of the location of the building square on the lots allowing the Applicant to provide the slightly curved road - if acceptable, should be voted on. He also suggested approvals be made with modifications, including: 1) the Applicant provide a detailed bond or security estimate to the Town Engineer prior to signing and filing a Subdivision map - they do not know yet if the Applicant needs to put up a bond based on current legislation and the Town Engineer and Attorney will discuss it further; 2) the Applicant should obtain final approval from the Town Engineer for the Plan to create satisfactory site lines at the intersection - there are a couple of alternatives, but safety issues must be looked at by the Town Engineer; 3) the Applicant should provide a complete and executed Conservation Easement document satisfactory to the Town Attorney to be filed at the same time the record Subdivision map is filed - they are filed together and the executed Conservation Easement document takes into account what the Applicant has represented this evening and assures the plantings are maintained properly over time; and 4) the Applicant should provide a properly signed and sealed record mylar for the signature of the Commission Acting Officer to be filed in the Land Records. He said these are the 4 modifications he suggests which protect the Town, Applicant, and neighbors.

Regarding the slope percentage waiver, Mr. Peck said Regulations state the slope not exceed the amount of slope in the rest of the open space, but the grade this evening slightly exceeds that because of the nature of the existing slopes - they are trying to create as gentle slopes as possible to keep the vegetation in place and so water doesn't rush down them. He said because these are not natural slopes, they are trying to improve them - a portion has a 50% slope. He said the rest of the site is essentially flat and the buildable area is flat; what is being proposed as conservation area is the sloped area and some abuts current open space, so the usual 30% ratio doesn't work. The Commissioners felt the conservation easement in this area would be more beneficial than open space. Regarding any contamination in the area, Mr. Peck stated the Applicant has removed any material questioned from the site and obtained Conservation Commission

approvals. Mr. Peck said the record should clearly reflect the Applicant has stated that the original Grading and Erosion Control Plan will not be part of the approval and should be reflected by Sheets 3A, 3B and 4.

Commissioner Drake made a motion to accept the conservation easement in lieu of open space as depicted on the Plans submitted. Commissioner Kulakowski seconded the motion, and it was passed unanimously.

Discussion: None.

Commissioner Drake made a motion to approve the waiver for percentage of slope in the conservation easement area as depicted on the Plans. Commissioner Jansen seconded the motion.

Discussion: Commissioner Drake summarized the Applicant will improve the slopes which are currently in a less favorable condition because of their size which would continue without this approval; the Applicant will increase vegetation and make improvements; it will be a conservation easement rather than open space and because it is all slope it is the correct thing to approve this waiver. Commissioner Jansen added this will stop erosion and be more attractive.

The Commission passed the motion unanimously.

Commissioner Kulakowski made a motion to approve the waiver for the building square on the two lots 10 and 11. Commissioner Rice seconded the motion.

Discussion: Commissioner Drake said if the Application is not approved there is a less appropriate aesthetic quality in the neighborhood; they have the option to put in a straight street with the same number of lots, so denying this waiver would not change the situation. Commissioner Jansen stated they will not go in the conservation area and Town staff has supported that.

The Commission passed the motion unanimously.

Commissioner Rice made a motion to accept the following resolution for approval with the revision on waiver number 3 to change lots 4 and 6 to lots 10 and 11 respectively.

Re: Application of Sand Hill Simsbury, LLC, owner, and Glenn Knierim Jr, agent, requesting a subdivision of property located at 16 Sand Hill Road (Assessors Map F15, Block 114, Lots 13 and 13A to permit the creation of 12

lots and site improvements on property with a total property size of 7.365 acres in the R-15 zone as shown on maps and plans as submitted dated March 20, 2012 last revised to March 26, 2012; including Sheets 3A, 3B and 4 by Clark Engineering and Sheet 1 by Dufour Surveying Associates dated 3-20-12 and Sheet 5, 6 and 7 drawn by Clark Engineering dated March 20, 2012 and Proposed Grading and Slope Restoration Plan, Sheet 2 of 3 by CR3, LLP dated January 20, 2011.

The Simsbury Planning Commission in accordance with all applicable regulations considered the above referenced application at a regular meeting held on April 10, 2012 and took the following action.

Upon a motion made by Commissioner Drake and seconded by Commissioner Kulakowski, the following resolution was unanimously adopted. Voting on this item: Commissioners Jansen, Rice, Drake, Kulakowski, Prell, and Lungarini.

WHEREAS, the Planning Commission held a public hearing on April 10, 2012 and took all testimony as required by law; and

WHEREAS, the Commission notes the applicant proposes to divide the subject 7.365 acres of property into 12 lots which will be served by a proposed new cul de sac roadway as shown on the submitted plans; and

WHEREAS, the applicant also proposes to stabilize the slopes which have resulted from excavation and other site activities over time and to plant the slopes as shown on the submitted sheets 3A, 3B and 4; and

WHEREAS, the Commission finds the application and the proposed site improvements in general accordance with all the applicable subdivision regulations; and

WHEREAS, the Commission also finds the applicant proposes to bring utilities including water, sewer and gas service to the proposed lots and to construct the cul de sac and all necessary drainage improvements as part of the proposed subdivision; and

WHEREAS, the applicant in his letter of March 23, 2012 has requested determinations of and waivers for:

1. The dedication of a conservation easement and restriction as shown on the submitted plans in fulfillment of the 20% open space requirement pursuant to Section III 9(b), where a vote of the members present and voting was obtained. (Unanimously approved).
2. A waiver of the requirement in Section III 9(c) that the percentage

of steep slopes within the conservation easement shall be no greater than the percentage of steep slopes in the remaining portion of the subdivision pursuant to Section III, where a $\frac{3}{4}$ vote of all members was obtained. (Unanimously approved).

3. A waiver for the location of the building square on lots 4 and 6 of the proposed subdivision pursuant to Section III 20 (e), based on the satisfaction of adequate buildable area on each of these lots, (Unanimously approved) and

WHEREAS, the Commission finds the submitted maps and plans acceptable and in compliance with all requirements of the Simsbury Subdivision Regulations. The previously drawn slope stabilization plan for the earth excavation is superseded by sheets 3A, 3B and 4.

THEREFORE BE IT RESOLVED, that the application of Sand Hill Simsbury, LLC, owner, and Glenn Knierim Jr, agent, requesting a subdivision of property located at 16 Sand Hill Road (Assessors Map F15, Block 114, Lots 13 and 13A to permit the creation of 12 lots and site improvements on property with a total property size of 7.365 acres in the R-15 zone as shown on maps and plans as submitted dated March 20, 2012 last revised to March 26, 2012; including Sheets 3A, 3B and 4 by Clark Engineering and Sheet 1 by Dufour Surveying Associates dated 3-20-12 and Sheet 5, 6 and 7 drawn by Clark Engineering dated March 20, 2012 and Proposed Grading and Slope Restoration Plan, Sheet 2 of 3 by CR3, LLP dated January 20, 2011 is hereby approved with modifications.

The modifications are as follow and must be addressed as indicated:

1. The applicant shall provide a detailed bond/security estimate to the Town Engineer prior to the signing and filing of the record subdivision map. This bond/security must cover appropriate public improvements and be in an amount satisfactory to the Town Engineer and in a form acceptable to the Town Attorney. The bond/security shall be filed with the Town in compliance with the applicable Connecticut General Statutes in effect at the time.

2. The applicant shall obtain final approval from the Town Engineer for the plan to create satisfactory sight lines at the intersection of Sand Hill Road and the new proposed subdivision road prior to onset of subdivision construction.

3. The applicant shall provide a complete and executed conservation easement document satisfactory to the Town Attorney so that it may be filed at the same time as the record subdivision map on the Town of Simsbury Land Records (SLR).

4. The applicant shall provide a properly signed and sealed record subdivision mylar for signature of the Commission Chairman for filing on

the SLR.

Commissioner Prell seconded the motion.

Discussion: Commissioner Drake said the Commission is voting on an Application supported by the neighborhood, making an improvement and bringing this all into compliance as far as the intent of zoning is concerned; it is better as a residential setting than an I3 industrial location which would remain available to the Applicant without Commission approval for the residential option to use this property. Commissioner Kulakowski stated it is a great improvement for this neighborhood, the residents are behind it, and it is a win-win for everybody involved. Commissioner Jansen said in accordance with the Plan of Conservation and Development it not only does the things discussed tonight, but helps the economic vitality of the Town, helps with jobs, and increases the tax base which is an objective of the Plan.

The Commission passed the motion unanimously.

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

B. Simsbury Planning Commission proposal for revised subdivision regulations, revision dated February 14, 2012

Chairman Paine opened the Public Hearing for Subdivision Regulations. Mr. Peck provided copies of Bob DeCrescenzo's comments to the Commissioners. Chairman Paine summarized the most important part of Mr. DeCrescenzo's comments is on page 4, 2nd sentence, #6 which says, "These suggested changes are largely clarifying in nature." He said in many places the comments refer to Connecticut statute and he suggested the hearing be left open until the next meeting to give everyone a chance to read the comments. Mr. Peck said the comments were received at the end of the day and basically say the Regulations are in good shape but need some tweaking in certain areas where the statutory language may be better than what has been proposed. He said there is a fine line between making language understandable and reading like the statute. He said the new Regulations answer many questions in the current Regulations.

Mr. Peck expressed appreciation for two emails from Commissioner Rice with very useful comments, including for the buildable square and Town dedicated open space and whether open space should be open to the public to walk through. He suggested defining open space, public open space, private open space where a particular environment is being preserved, and the benefits of conservation easements which do not necessarily go off the tax rolls and are maintained by the adjacent owner. Commissioner Jansen said there were prior years where people wanted open space and there are number of small

plots in Town that aren't connected to anything, but in the last 6 years conservation easements have kept land on the tax rolls and relieved the Town of having to maintain it. Commissioner Drake said open space has been accumulated and infringes on people's privacy and the same thing is accomplished by conservation easement which is then only used for personal traffic still preserving open space; having both tools to use, as appropriate, is beneficial. Mr. Peck agreed and said another tool is fee in lieu of, where if appropriate, the Commission can take 10% of the pre-subdivision value of that land and put into the open space fund. He said as long as the Commission uses common sense in its evaluations, much can be accomplished. Commissioner Rice said it is clear the 20% open space requirement in the Regulations has preserved a lot of land in Town, including through the Land Trust, and people are no longer as fearful of overdevelopment. He said the practicality of a 20% open space requirement for this Application would have had negative effects on the Subdivision as a whole. Mr. Peck agreed that the Commission used its best judgment for the whole neighborhood. He noted that in the last Plan of Conservation and Development between 31-32% of the Town is in open space, and now where development is intended to go needs to be balanced between open space and the tax base, and the new Regulations are headed in that direction.

The Commissioners agreed to leave the hearing open until 2 weeks from now for further discussion.

IV. DISCUSSION and possible action on any closed public hearing items.

A. Discussion of town Center Design Guidelines status

Mr. Peck said they continue working with Nora Winter on the first draft of the Design Guidelines. He said he applied for and received from EPA a Sustainability Grant for Parking. He said in the next few months a transportation parking expert and EPA will be in Town for a 2-day optimized Parking Charrette and he will advise the Commissioners when the dates are known. He said there will be no cost to the Town and it will fit into other things discussed since the Charrette. He said the parking traffic consultant that was part of the Charrette and is familiar with the Town turns out to be part of the team. He said included will be more parking along Hopmeadow where it is safe and putting signs up.

V. STAFF REPORT(s) on above items.

Regarding receipt of any additional Subdivision applications, Mr. Peck said there is one application anticipated from Dorset Crossing for a 1-lot Subdivision due to the apartment developer being a different entity.

VI. COMMUNICATIONS AND ADMINISTRATIVE BUSINESS

None.

VII. APPROVAL OF MINUTES of March 13, 2012

Commissioner Kulakowski made a motion to approve the March 13, 2012, minutes. Commissioner Drake seconded the motion, and it was passed with Commissioner Rice abstaining.

VIII. ADJOURNMENT

Commissioner Jansen made a motion to adjourn the meeting at 8:50 p.m. Commissioner Drake seconded the motion, and it was passed unanimously.

Ferg Jansen, Acting Secretary