

From: Lois Laczko September 14, 2009 9:48:27 AM
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Cc:

ADOPTED

PLANNING COMMISSION MEETING
July 28, 2009
REGULAR MEETING

I. CALL TO ORDER

Chairman John Loomis called the regular meeting of the Planning Commission to order at 7:00 p.m. in the Main Meeting Room of the Simsbury Town Offices. The following members were present: Carol Cole, Susan Bednarczyk and Carl Eisenmann. Also in attendance were Hiram Peck, Director of Planning, Robert DeCrescenzo, Town Attorney, as well as other interested parties.

II. SEATING OF ALTERNATES

Chairman Loomis appointed Commissioner Cole to serve in the absence of Commissioner Houlihan, and Commissioner Eisenmann to serve in the absence of Commissioner Meyer.

III. Review, consider and possibly decide the request from Griffin Land regarding extension of filing of record map for Meadowood Development.

Mr. Ranelli of Shipman & Goodwin stated that they are requesting that the Commission consent to modify the settlement agreement to allow them to record the mylar on earlier of completion of the soil remediation or April 2010. He stated that they have not yet completed the soil remediation, and as a result, they cannot record the mylar. Mr. Ranelli stated that State Statute 8-25 requires the recording of the mylar. The settlement agreement defines the date of judgment, which is when the 90 days will start to run. He stated that they would like to modify the existing agreement regarding the definition of the term judgment date so it is consistent with the Statute. The settlement document will be approved by the Court and will be a defined term.

Mr. Ranelli stated that the settlement has been a long process, which started in 2008. It has been a very complicated process and the Town and

Riverbend spent a great deal of time to resolve issues that arose during the planning process.

Mr. Ranelli stated that since the settlement agreement was entered, they did come back to define when the judgment was considered entered, which was an acceptable modification. He stated that they are requesting this modification again. He stated that Riverbend has pursued remediation, although it is taking longer than anticipated.

Chairman Loomis questioned when the applicant filed with the DEP and the Army Corps of Engineers. Mr. Lescalleet, Griffin Land and Nurseries, stated that they had pre-application meetings in the late fall and submitted their applications soon after that.

Mr. Ranelli stated that when they completed the settlement and then the modification, one of the last items involved was Wetland #10. They are not proposing any development on Wetlands #10. He stated that it has pesticides in the soil. One option was to fence off the area or to take off the pesticide soils and replace it with clean soil. He stated that they will be cleaning and restoring this area. This issue triggered the Army Corps of Engineer's jurisdiction. He stated that they cannot begin remediation until this issue is resolved, and they cannot begin construction until they complete the remediation.

Chairman Loomis questioned if the Box Turtle could be protected in the May-October period regarding the soil work. He also asked that Mr. Ranelli explain the April target date of 2010. Mr. Ranelli stated that they are trying to provide a parameter that gives an end date to the best of their estimate. They can then complete the soil remediation within 90 days of April 30, 2010. This will also allow them time to file the mylar after April 30, 2010. Mr. Lescalleet stated that the Town's regulations allow 90 in which to record the mylars once they are received back and the Commission has 30 days in which to return the mylars. He stated that there is a 120 day allowable period from the April, 2010 date.

Chairman Loomis asked that the definition of earlier of April, 30, 2010, be explained. Mr. Lescalleet stated that to the full extent, this would be August, 2010.

Attorney DeCrescenzo read State Statute 8-25 for the Commission members. He stated that the parties have agreed, as of the July revision of the judgment, to fix the day of judgment in favor of the applicant in the stipulated judgment. This proposal is to amend this to fix the day of judgment for April 30, 2010, or the date that the soil remediation is complete, whichever is the earlier of those two dates. The judgment will be final and the 90 day clock will start to run on the first of these two

dates.

Commissioner Bednarczyk questioned what would happen if the remediation takes longer and is not completed by the extension. Attorney DeCrescenzo stated that if the Commission agrees to this proposal, the applicant can ask for one additional extension if needed. If the Commission turns that down, then the 90 day clock starts to run. If that clock expires without the filing of the mylar, then the Subdivision expires.

Attorney DeCrescenzo stated that this matter went before the Board of Selectmen because it was a request to modify a stipulated judgment. This lawsuit was settled, although in order to follow correct procedure, the Board of Selectmen is not in a position to act on this request without hearing from the Planning Commission because this Commission is the defendant in the lawsuit. The Board of Selectmen has referred this matter to the Planning Commission for their advice.

Commissioner Bednarczyk questioned if this matter would be on the next agenda of the Board of Selectmen. Attorney DeCrescenzo stated that it would be, although this Commission does not have to act on this matter tonight. This Commission could act on this or defer judgment.

In response to a question from Chairman Loomis, Attorney DeCrescenzo stated that no house can be built until the remediation has been completed. Although the Town wants to proceed regarding the Grand List, the Assessor already taxes this as an approved Subdivision. He stated that the other interest that the Town has is to get this land cleaned up, which usually takes longer than anticipated.

In response to a question from Chairman Loomis regarding abutters, Mr. Ranelli stated that the North Simsbury Coalition have consented to this modification, which is a matter of record.

Chairman Loomis questioned if there was any exposure for the Town if the Commission was not opposed to this change in date. Mr. Peck stated that regarding the environmental activity, the plan that is put in place will need to be filed as it was originally put in place; there will be no change to that. He stated that there are not other issues. He stated that there is no down side regarding the new date.

Mr. Ranelli requested that the Planning Commission take action on this matter tonight because of their timeline. They have worked with the Town for a long time to come up with this settlement and they have been working diligently on it. They are currently being held up by the Army Corps of Engineers. Mr. Ranelli stated that he would appreciate it if the Planning Commission did not oppose this revision.

Commissioner Eisenmann made a motion to have a 5 minute recess.
Commissioner Cole seconded the motion, which was unanimously approved.

Commissioner Loomis made a motion to reconvene the meeting. Commissioner Bednarczyk seconded the motion, which was unanimously approved.

Commissioner Bednarczyk made a motion that, at the request of the Board of Selectmen, the Planning Commission considered the proposed "Joint Motion To Open and Modify Approval of Settlement Agreement" to extend the date of judgment from the earlier of completion of soil remediation or September 1, 2009 to the earlier of completion of soil remediation or April 30, 2010 as submitted by the subdivision applicant and hereby expresses no opposition to the Board of Selectmen consenting to such motion. Commissioner Eisenmann seconded the motion, which was unanimously approved.

Mr. Ranelli thanked Mr. Peck for all of his work regarding this matter.

IV. POSSIBLE APPROVAL OF MINUTES from the July 14, 2009 regular meeting

Commissioner Bednarczyk stated that she would not be voting on the minutes because she was not in attendance for the whole meeting and she has not listened to the recording. Commissioner Eisenmann stated that Robert's Rules of Order state that a Commission member can vote on minutes if they are satisfied with them even if they were not in attendance.

Chairman Loomis stated that the minutes of July 14, 2009 would be tabled until the next regular meeting of the Planning Commission.

V. DISCUSSION OF IMPLEMENTATION OF THE PLAN OF CONSERVATION AND DEVELOPMENT (POCD)

Chairman Loomis stated that he has recently talked with Mr. Peck regarding the goals and policies exercise that each Commission member was asked to submit. Each member was asked to write a prioritized list of policies and goals that they would like Mr. Peck to give to Code Studio. To date, five members have done this.

Chairman Loomis and Mr. Peck decided that instead of tallying and writing an explanation of the members to the consultant, he has requested that Mr. Peck prepare a cover memo and submit the individual prioritizations as they are to the consultant. There was a consensus among the Commission members that this was a good approach.

Chairman Loomis stated that the implementation section of the POCD is very

extensive. The Planning Commission will attempt to get back into the implementation process after the Charrette has taken place. They can then go to the other Boards and Commissions to ask for their input and to address the policies and goals that are set before them.

Commissioner Bednarczyk suggested working on the implementation process while the Charrette is going on. She feels that this Commission needs to discuss how to handle the implementation process. She feels that it is the Planning Commission's job to implement these goals and policies; they need to decide how to manage the implementation process.

Chairman Loomis stated that Mary Glassman has approved, in theory, an implementation committee. Commissioner Bednarczyk stated that although she is not opposed to this committee, she feels that this is the responsibility of the Planning Commission.

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

Mr. Peck stated that the PAD Subcommittee met last Thursday. At this meeting, they voted to recommend the PAD draft document and they sent it to the Zoning Commission for their consideration. The Zoning Commission had a meeting this past Monday at which Mr. Peck stated he and the Town Attorney explained, in detail, the content of the draft. After a clear discussion, one member of the Zoning Commission felt that they needed to express the minority opinion. Because the Zoning Commission received the draft document on the day of the meeting, they tabled the matter until they each had time to read the document. Mr. Peck stated that the Zoning Commission does not have a meeting scheduled in August regarding this matter, although they could schedule a special meeting. He stated that the PAD draft document is on the Town website.

Chairman Loomis stated that the Zoning Commission might possibly address the PAD after the Charrette process is completed. Mr. Peck stated that if the Zoning Commission scheduled a public hearing regarding this matter last night at their meeting, the earliest they could have set that date would have been for September 1st, which they did not. He believes that the public hearing will be scheduled for mid to late September in a similar draft form, which will be after the Charrette process. Mr. Peck stated that there is a significant difference between a form based code and the PAD Regulation.

Commissioner Cole stated that the code that will be developed for the Town Center will be form based. Mr. Peck stated that this was correct, although he is not sure what the result will be from the consultant. Commissioner Cole questioned if the Town could adopt some of the code to the PAD. Mr. Peck stated that some of the ideas are adaptable, although the details will

be site specific.

VII. STATUS OF THE TOWN CENTER CHARRETTE

Mr. Peck stated that the Town is getting ready for the Charrette. He stated that he has pushed CRCOG into getting new aerial photographs of the Town in time for the Charrette. This will be a good GIS database for this process. It will help the Charrette be more accurate with a more accurate product.

Mr. Peck stated that the Charrette Subcommittee will meet with the consultant on August 10th. On August 11th, the consultant will meet with the stakeholders. He stated that there will be four groups of stakeholders with 10 people in each group. The groups will consist of property owners in the study area; business owners in the study area; developers and realtors; and community groups.

VIII. STATUS OF THE INCENTIVE HOUSING ZONE STUDY

Mr. Peck stated that the consultant is studying six sites in detail. The consultant has not developed any information on the properties in the Center because they would like to participate in the Charrette process before this is done. Mr. Peck stated that the consultant will be participating in the Charrette process for two days, at no additional charge to the Town.

Mr. Peck stated that the IHZ study will result in Zoning Regulations that the Zoning Commission will consider. He stated that he has asked the DRB to participate in the design process. He is hopeful that the consultant will meet with the DRB at one of their upcoming meetings.

IX. DISCUSSION ON FEES IN LIEU OF OPEN SPACE REGULATION

Mr. Peck stated that the Planning Commission needs to discuss the Fees In Lieu Of Open Space Regulation. He stated that this will be another tool that they may want to incorporate into their Regulations.

Chairman Loomis stated that there was some discussion regarding getting comments from the Open Space Committee, although this Commission needs to have further discussion before this can happen. Mr. Peck stated that this is a subdivision regulation. The Open Space Committee may not be much help, although they can still review it if this Commission would like them to.

Commissioner Bednarczyk stated that she would like to get the historic information regarding this issue. This matter has been before this

Commission twice; both times it has been denied. She stated that it would be helpful to her if she could understand why it was denied.

Mr. Peck stated that it is up to this Commission if they would like to adopt this into the regulations. This will allow the Town to build a fund for open space acquisition.

Regarding the draft regulation, Commission Eisenmann stated that in Sub-Section (d), it states, "When fees are provided in lieu of open space land, the developer shall execute a lien acceptable to the Town Attorney which shall be recorded on the Simsbury Land Records". He asked Mr. Peck to explain this. Mr. Peck stated that if someone comes in with a four lot subdivision and would like to participate in the fee in lieu of open space program and the Commission agreed, the Town would determine what the amount is, through an appraiser. When each lot of this particular subdivision is sold, then 25% of that money would come to the Town at that time; the rest of the lots have a lien until that money is fully paid to the Town.

X. STAFF REPORT(s)

There were none.

XI. COMMUNICATIONS AND ADMINISTRATIVE BUSINESS

There were none.

XII. ADJOURNMENT

Commissioner Cole made a motion to adjourn the meeting at 8:39 p.m.
Commissioner Eisenmann seconded the motion, which was unanimously approved.

Gerry Post, Secretary