

From: Lois Laczko October 20, 2011 9:56:04 AM
Subject: Planning Commission Minutes 09/13/2011 ADOPTED
To: SimsburyCT_PlanMin
Cc:

ADOPTED
PLANNING COMMISSION MINUTES
SEPTEMBER 13, 2011
REGULAR MEETING

I. CALL TO ORDER

Michael R. Paine, Chairman, called the meeting to order at 7:00 p.m. in the Main Meeting Room of the Simsbury Town Offices. The following members were present: Ferg Jansen, William Rice, Tina Hallenbeck, Sean Askham, Bob Kulakowski and Mark Drake. Also in attendance was Hiram Peck, Director of Planning, Janis Prifti, Commission Clerk, and other interested parties.

II. SEATING OF ALTERNATES

Chairman Paine appointed Commissioner Rice to serve for Commissioner Houlihan, who was not initially present; however, Commissioner Houlihan joined the meeting at 7:15 p.m. and there was no need for an alternate.

III. APPROVAL OF MINUTES of June 28, 2011

After review, Commissioner Hallenbeck moved to approve the Minutes of July 12, 2011. The motion was seconded by Commissioner Rice and passed unanimously. Commissioner Jansen requested a larger font for ease of reading and it was agreed.

IV. DISCUSSION

a. Subdivision Regulations

Chairman Paine asked for Commissioner comments. Commissioner Askham suggested following the template to develop a second draft. Mr. Peck provided a handout of State Legislature-passed rules on Subdivision Bonds that revise bond requirements for subdivisions and directly impact the Commission decisions on Subdivision Regulations. He said Public Act 11-79 significantly limits the bond requirements the Commission can impose on Subdivisions. Mr. Peck said the Town Attorney was tied up at another

meeting and will provide recommendations of what should be included in the new Subdivision Regulations. Mr. Peck said the CMM memo from law firm Branch, Willis and Knap suggests the Town no longer accept bonds for work and he is not sure the Town Attorney is comfortable with that impact on the development process. He said the Commission has to be specific and clear in the Regulations about the types of bonds received, while the amounts will be restricted by the legislation. It talks about requiring long-term maintenance e.g. two to three years, so the Town would accept the road or public improvement and the bond released fairly quickly. He said the legislation restricts the amount of time the Town can hold the bond; this was put forward by the Homebuilders Association in order to timely get the bonds back and assure bonds are for only the necessary amount. He believes there will be a fix proposed at the October legislative session. He requested the Commissioners review the material and contact him with any thoughts or questions.

Mr. Peck stated the goal of getting an outline framed out at this meeting for the Regulations and can fill it in quickly. Chairman Paine stated his professional familiarity with bonds and the Commission would probably not want to limit how they obtain surety - letter of credit, cash, etc. - it is generally cheaper for developers to use bonds. Commissioner Askham stated Branch; et al's definition of a surety bond may not be completely accurate as a surety bond is a three-party arrangement, and not an insurance policy. Mr. Peck said it was just a discussion among 18-20 people and Branch; et al put the memo forward as a meeting attendee. Chairman Paine said a surety bond is more an obligation of payment. Mr. Peck said some of the meeting participants talk about what a surety bond is in the memo body and some of the drastic steps discussed would crimp development and the Town Attorney is not likely to recommend them.

Mr. Peck said he sent a word copy of the Tolland Regulations to everyone for review prior to this meeting and the Commissioners confirmed receipt. He said specific reference to standards the Town does not have can be eliminated. He spoke with the Tolland Town Planner who was agreeable to the Commission using their format. Mr. Peck would like to have a matrix at the end of Regulations showing over time the exact chain of changes, so they can be tracked five years from now, e.g. adoption of fee in lieu of. He said the August 31st LID Stormwater Regulations meeting has implications for the Subdivision Regulations; the LID Stormwater Regulations can fit well into development scenarios and clear reference to those standards should be included in the Subdivision Regulations as well. Chairman Paine asked if initial approval will come from Conservation. Mr. Peck said there are many parts with some policies adopted by Conservation, but that the most important parts will be adopted by this Commission and Zoning, e.g. the impact of stormwater on a particular lot or site plan. Chairman Paine clarified the Commission would refer within the Subdivision Regulations to

best management practices, e.g. dark skies and low impact stormwater management. Mr. Peck said it depends on the situation - dark skies might be more of a site plan issue, whereas LID stormwater control might be part of the Subdivision Regulations runoff mitigation. He said regarding the Stormwater Bank discussion at the meeting, if you can't manage all the stormwater on your site, they need to figure out how to manage it elsewhere by developing a program to manage it. The Town through the Stormwater Bank would have the ability to do that in other Town areas using the applicant's payments into the bank to create a repository for funds to create things like, green gardens or other subsurface galleys, etc. to handle stormwater. Mr. Peck said if the type of development proposed is desired but can't go forward because of stormwater, it can't go forward; however, the bank provides the outlet for properly managing the stormwater. Commissioner Rice asked conventionally how it has been handled without the LID discussion. Mr. Peck said people would send it to the river which can no longer be done, so the development would be scaled back. He said now we have to figure out how to do it properly, flexibly and conservatively without limiting future options. He said that a developed Town center next to several hundred acres of flood plain before getting to the river is extraordinary. He said in stormwater management disconnecting the receiving source from the sending source has to do with running the stormwater through a floodplain, fountain or some treatment train mechanism allows them to handle it properly, as opposed to just piping or holding it somewhere. Mr. Peck stated just before the recent storm, part of the Drake Hill parking lot was repaved with pervious pavement and they were pleased to see no stormwater came off it, whereas the older part had typical flowoff. He said regarding being plugged up with sand in the winter, it must be maintained and if water doesn't stay on the surface and ice doesn't form, there may be less or no need to sand it.

Commissioner Houlihan asked if different LID requirements would be geographically segregated, e.g. Town Center doesn't have the space as would a green space development with acreage. Mr. Peck said part of the draft report contains a map showing 3-4 proposed areas, including the lower side of Iron Horse, Simscroft, and near the treatment plant, and a matrix discussing the types of treatment would be appropriate for each location and how much stormwater quantity and quality with percentages for each. He said it is posted online for people to look at and they hope to finish the LID report by September 29th.

Commissioner Askham asked regarding referencing the Subdivision Regulations in the module, who approves the module and where is it housed. Mr. Peck said either be incorporated in the body or appendix to the Regulations is typical and allows for modification as needed. He recommended they talk to the Town Engineer and the Town Attorney because the Regulations are fairly sophisticated in their interaction and how they affect each different area.

He said while the Town Center Code has provided impetus, near future Design Guidelines and LID will all fit nicely together. Commissioner Jansen mentioned the problems experienced in West Hartford on Mountain Road. Mr. Peck said it is necessary to put open space and development in the right places.

Chairman Paine commented the Charette has acted to improve the Town Center. Mr. Peck added it has been an interesting process, including the Rte 10 Study and site specific LID components; the cost of the first Charette RFP came back in excess of \$500K and they are now approaching that figure and will have a very good set of plans and regulations. Commissioner Houlihan asked if design professionals have provided any feedback. Mr. Peck said the Board of Selectmen agreed to accept the final \$4K of gift funds from a variety of individuals last night to complete and finetune the Design Guidelines for Town Center; Nori Winter of Winter & Company from Boulder, CO, who did the Charette, will come back and do the Design Center Guidelines. He said they want all property owners and board members involved so the Design Guidelines will be very clear. He stated they hope to get some specific building designs that meet the guidelines and Town Center Code can be quickly approved. He said there has been positive response to the Design Guidelines to date and there are 3-4 sites actively in play, depending on bank lending; specifically, 1) the potential Senior Center addition to Eno should flow forward easily; and 2) additional two levels of deck parking for 76 spaces behind Eno accessed from two different streets at a very low cost of \$14,500 each. He said the parking could be extended to the south behind Mr. Kaplan's building and double the parking; who pays would be worked out. He said creating a dense Town Center in a small town and keeping it walkable, manageable and design-friendly is possible.

Chairman Paine asked the Commissioners for feedback on sections for the Subdivision Regulations outline. In response to Commissioner Jansen's question, Mr. Peck said he believed Tolland's Regulations were done inhouse. Mr. Peck requested a framework outline of the articles he can then fill in.

Commissioner Askham suggested putting upfront an outline of what the Commission needs to see from Applicants, referring to Article II Procedures, Section 166-8 Subdivision Submission Requirements - what they need to see, when, how, who they need to talk to, and how to make the process clear for applicants. Mr. Peck suggested an actual process diagram; Commissioner Rice suggested a flowchart. Chairman Paine suggested 2-4 sentences in a preamble stating applicants who follow the procedure are more likely to get administrative approval quicker, with less negotiation. Mr. Peck said if the applicant meets the standards the process should be straightforward, as opposed to the current regulations with a lot of

flexibility and uncertainty which make it less easy; however, the regulations should still allow for discretion in certain areas, e.g. where open space should go. He said applicants would come in for an initial interview or pre-application meeting saves a lot of time.

Commissioner Jansen commented Tolland's Regulations are simple, and flow well. Commissioner Rice asked if the 5 pages of requirements for drawings are reasonable. Mr. Peck asked the Commissioners to provide him feedback if there are areas they believe are not necessary before the next meeting; but if the information is all there, it can help the applicant. Commissioner Houlihan said it provides a comprehensive checklist; the preamble is short and concise citing the statutory and constitutional basis and the organization is extraordinarily clear for an applicant to follow for a pre-meeting. Commissioner Jansen said Tolland's Section 166-7; points 1 through 16 explain what to put in a site plan.

Commissioner Rice asked if what Simsbury wants in its plan is the same as Tolland. Mr. Peck said he would have the staff comment on environmental, wetlands and conservation aspects and what could be eliminated; he proposed starting with Tolland's regulations as a basic outline to rough out for the next meeting. Commissioner Rice said the current regulations are archaic and applicants likely exceed those regulations; he asked if anything in Tolland's requirements are too onerous for applicants. Mr. Peck will ask Tolland for the names of some applicants and talk to them regarding their experience with the Regulations before the next meeting. He believes the Regulations are mostly up-to-date, but has talked to Rich Sawitzke about updating and synchronizing the Town road and subdivision standards.

Commissioner Houlihan said 75% of these Regulations look like technical processes and the parts the Commission can address are nontechnical, like waiver, buffers, open space, etc. where narrative discussions can take place. Mr. Peck said a checklist with the application will immediately show if the item is necessary or there is an explanation why it's missing. Commissioner Houlihan suggested putting the checklist on the website as well. Mr. Peck said they have begun using that process for the public gathering permit with a checklist specifying what information is or is not required.

Commissioner Askham asked regarding the "Waiver of Regulations" on page 6, if someone chooses not to give onsite adjacent active agricultural land with uses identified, does it become a waiver at 3/4 vote and justify reasons why. Mr. Peck said if a waiver is required, the staff would make a recommendation and the Commission would decide whether 2/3 or 3/4 vote is required. He said because waivers are a deviation from the Regulations; if the standards are clear, it is the Commissions choice, whereas past regulations have been unclear. Commissioner Houlihan said standards are

needed to base decisions on so if it goes on appeal and the standard is clear, they have the discretion to decide. Chairman Paine asked the Commissioners for specific recommendations of what to change or delete for Simsbury from the Tolland example. Commissioner Drake said the issues are similar for the towns and the regulations are well-constructed, up-to-date and capture most of the aspects the Commission is working on.

Chairman Paine clarified applicants will be able to come in with all needed requirements for their site plan. Commissioner Drake said the Tolland regulations are a straightforward checklist that would allow him to move timely forward. Chairman Paine sees a real benefit to doing the process electronically in the future. Commissioner Kulakowski stated he would like to see the LID material incorporated. Commissioner Askham asked whether the other Commissions will incorporate LID that might be detrimental to the development process and that it should be consistent with all the Commissions. Mr. Peck said that using LID as an appendix to the Regulations will provide consistency. Chairman Paine agreed that will allow changes to be made more easily.

Commissioner Jansen asked about the definitions of subdivision and re-subdivision. Mr. Peck said that subdivision and re-subdivision are defined under State statutes and can be incorporated. He said subdivision is division of land into three or more parcels and re-subdivision is division of one of those parcels, and he will doublecheck the definition. He said a subdivision doesn't require a hearing, but a re-subdivision does.

Commissioner Hallenbeck said the Tolland Regulations flow well and feedback from staff would be helpful; regarding filing a performance bond, it needs to be correct in our Regulations. Mr. Peck said that October 1st is when the new Regulations take effect and it should be corrected by then. Commissioner Rice stated the need to come up with a list of ambiguities in the current Regulations in order to eliminate them in the new Regulations; in the POCD, there are many recommendations to be considered for the Regulations. He said on page 5, the reference to cul de sac seems out of context and asked if it warrants its own section. Mr. Peck said the issue for cul de sacs is if they become blocked with no access to town services, so some towns limit the length of the cul de sacs to limit the number of houses that could be in jeopardy. He would like to see a connection to an existing street system and will research a few towns' requirements. Commissioner Rice said, nevertheless, it's location in the document is out of place.

Commissioner Houlihan suggested giving thought to Simsbury's differences from Tolland; the POCD has much more detail e.g. on the Talcott Mountain vista, whereas Tolland may not have ridge lines; Tolland is subdividing 15 acres of farmland where Simsbury doesn't have much of that; Simsbury has a

PAD and one may be included in a subdivision so how would it be reconciled. Commissioner Jansen suggested expanding the definition section to be more comprehensive. Commissioner Rice asked if PAD and POCD need to be referenced. Mr. Peck said there would be many references to the POCD and he will look at all of tonight's suggestions and will crosscheck Zoning Regulations.

Commissioner Askham reiterated the need for a clear flowchart and/or checklist for applicants. Mr. Peck stated it will be helpful to applicants. Commissioner Houlihan said if there is a problem with an application, they need to be sure areas they want to preserve and protect are in the Purpose; on page 2, the residential purpose of this document is clear and commercial aspects need to be considered. Commissioner Kulakowski stated that including a nonresidential component was discussed for inclusion two meetings ago. Mr. Peck said that Avon recently made a decision to deny a subdivision based on the character of the land and it was upheld by the court; he will take a look at Avon's regulation. Chairman Paine said our purpose needs to provide the structure so applicants know what is expected. Commissioner Houlihan asked if letters of credit or cash bonds are currently used. Mr. Peck stated cash bonds are used, but he has not recently seen letters of credit, but other towns have seen them; the Town has not had any bonds posted recently. Commissioner Houlihan said a performance bond would not impact credit; the impact of a letter of credit depends on who it is drawn on.

V. STAFF REPORT

Mr. Peck said the Steering Committee met last Thursday and tweaked the draft report for the Rte. 10 Study; CRCOG staff will return with the final report on 9/21/11 for the Steering Committee and then it goes to the Selectmen on 9/26/11. Regarding the roundabout, he said it is currently in the draft but many people feel it is too confusing and it may be refined in the final report.

Mr. Peck reported the Board of Selectmen approved the financial gifts for the Design Guidelines which go forward starting 9/15/11 and scheduled for completion 6/30/12 to be done by Winter & Company of Boulder, CO; they will be in town at least three times during the process. Commissioner Houlihan complimented Mr. Peck on doing a great job raising money for this and other projects.

Chairman Paine asked about the status of the Griffin Project. Mr. Peck said they are in the process of remediating the soil and have begun putting in a silt fence and are now moving soils with grading in two areas; some soil will be removed and some replaced; 20,000 cubic yards of Hoskins 7 wetland area of material will be removed and hauled away. They expect it

to be seeded by end-October; abutting property owners and the school have been notified; fulltime air quality monitoring will be ongoing when they work and the site shut down if there is dust that doesn't meet air quality standards; they work around bus schedules; there will be very little additional work, except for possibly putting in a couple of culverts. He said it may be a year or more before they go forward with additional activity. Because this was a court stipulated agreement they may have five to fourteen years to go forward based on legislation.

VI. COMMUNICATIONS AND ADMINISTRATIVE BUSINESS

Chairman Paine has been invited on 9/27/11 to talk with the Charter Commission about possibly combining some of the Land Use Commissions; they have been vague about who Planning would be combined with, e.g. Zoning, Wetlands or Design Review. He will talk with Commission members one on one for input. Mr. Peck suggested the Commission postpone that evening's regular meeting and all go to the Charter meeting. Chairman Paine expressed his wish Commission members attend and the regular Commission meeting be rescheduled. Mr. Peck said the Zoning Commission will also attend, as well as the Design Review Board. Chairman Paine asked Mr. Peck to notify the Commissioners of the final meeting details and appropriately cancel the 9/27/11 meeting. Chairman Paine said any time three Commissioners are together constitutes an official meeting and thus attending the Charter Commission meeting should be noticed a Special Meeting.

VII. ADJOURNMENT

Commissioner Jansen moved to adjourn the meeting at 8:15 p.m. The motion was seconded by Commissioner Askham and passed unanimously.

Tina Hallenbeck, Secretary