

From: Lois Laczko March 16, 2009 1:43:13 PM
Subject: Zoning Board of Appeals Minutes 03/10/2009 Joint Meeting
Special Workshop DRAFT
To: SimsburyCT_ZBAMin
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JOINT MEETING
SPECIAL WORKSHOP
MARCH 10, 2009

I. CALL TO ORDER

Mr. Peck called the Special Workshop to order at 6:07 p.m. in the Program Room of the Simsbury Public Library. The following Boards and Commissions were in attendance and had a quorum: Zoning Commission, Planning Commission, Design Review Board, Zoning Board of Appeals, and Conservation Commission/Inland Wetland and Watercourses Agency. Also in attendance were Hiram Peck, Director of Planning and Attorney DeCrescenzo, as well as other interested parties.

II. PRESENTATION OF DRAFT PLANNED AREA DEVELOPMENT REGULATION BY ROBERT DECRESCENZO, TOWN ATTORNEY AND HIRAM PECK, DIRECTOR OF PLANNING

Mr. Peck stated that they will be giving everyone an overview of the PAD regulation that has been drafted. He will be discussing the general format and Attorney DeCrescenzo will be discussing the specifics of the regulation.

Mr. Peck stated that there are many types of this regulation to generate mixed uses to allow Commissions to look at them in a variety of different ways and to create mixed uses in compatible settings. He stated that the intended purpose of this regulation is not to prohibit development. It is to encourage development of specific character or type; to have a clear process that balances public and private individuals; and to have a process that is efficient and cost effective.

Mr. Peck stated that one regulation may not be able to satisfy all situations and may not be able to address issues that differ from area to area. This regulation may need a template that is adaptable. He stated that too much or too little may prevent adoption of this regulation.

Mr. Peck stated that the goal of this regulation is to balance public and private interest. He stated that this process needs to be made clear. There are many interests that will be taken into account and opinions of everyone need to be heard.

This regulation will provide for a variety of zones or locations; a reasonable review process; a public hearing process; a decision on conceptual design; and final application to include all final details as required by the whatever regulation gets adopted. Regarding techniques, Mr. Peck stated that there will be new base zones, floating zones, overlay zones, which this PAD is drafted on, and as of right zones.

Mr. Peck stated that this regulation format includes purpose clauses; some definitions; type(s) of PUD/PAD authorized; Zoning procedures followed; basic standard approvals; and pre-application process. He stated that the typical PAD process includes a pre-application conference, submitting concept/sketch; preparing a preliminary development plan, if approved; and preparing a final detailed development plan.

Attorney DeCrescenzo stated that this workshop is intended to promote discussion. He stated that he and Mr. Peck are here tonight on behalf of the Zoning Commission, who will ultimately make the decision regarding the PAD regulation. He stated that this is a staff draft; this is not a Zoning Commission draft. He is hoping that members from each Board and Commission will give them feedback in order to make revisions to this draft. Attorney DeCrescenzo stated that this type of regulation is not new in the State of Connecticut. There are over 100 Municipalities in the State that have a version of this PAD already in place. This is a concept of a planned area development regulation with an overlay zone, which allows the development of sites according to a Master Plan, is well established in Connecticut and sanctioned by the Connecticut Supreme Court.

Attorney DeCrescenzo stated that some people say that a regulation should not be adopted unless the Town is trying to solve a problem. He stated that this regulation is intended to permit a land owner to develop a Master Plan that will be developed over time in phases. All of the Land Use Commissions will have input in all aspects of the development. He stated that they are trying to come up with a process to allow a Master Planning of sites and the mixed use of sites. He stated that this regulation is intended to get away from separation of uses. In order to do this, a purpose needs to be stated.

Regarding Section One, Purpose, of the draft regulation, Attorney DeCrescenzo stated that in four paragraphs they are trying to introduce the idea that the Town will be looking at the applicant's development proposal in three dimensions, not two. It also states that this regulation is

intended to give the landowner and developer more flexibility in exchange for greater scrutiny and to encourage mixed use developments where deemed appropriate.

Regarding Section Two, Definitions, Attorney DeCrescenzo stated that this section introduces the underlying zone. The PAD regulation is not available in every zone in Town; residential zones are not eligible for a PAD. Also, he stated that mixed use has two key elements, which are the mixture of uses within buildings on individual sites, and the mixture of uses within buildings.

Regarding Section Three, Attorney DeCrescenzo stated that the two key concepts in order to take advantage of the PAD are that it needs to be in an eligible zone and it has to have a minimum tract size. This does not mean that an owner needs to own the minimum land area; there can be consent of multiple owners.

A member from the audience asked if an apartment building would be allowed. Attorney DeCrescenzo stated that there does not have to be a mix of uses, although mixed use is allowed. The PAD regulation also allows single use buildings.

Regarding Section Four, Standards, Attorney DeCrescenzo stated that a benefit to a developer and land owner is waiver. For a PAD to work, the Zoning Commission has to have the flexibility to relax some of the straightforward applications of the underlying zone. When the Zoning Commission approves a PAD application, the aspects of a proposed Master Plan and Site Plan which are inconsistent with certain sections of existing regulations in the underlying zone are deemed to be waived.

Regarding drainage, Attorney DeCrescenzo stated that the DEP is getting more involved with water quality in addition to water quantity. This is an area that the Zoning Commission, in reviewing a PAD, will look carefully at the drainage and how water quality and quantity are being handled. Regarding building intensity, this is a topic in the draft regulation that has been left blank because this is a topic that needs to be discussed and considered by the Land Use Commissions. He stated that they would like to relax the standards of the underlying zone for building density where appropriate to an individual Master Plan.

A member from the audience asked why a number for building intensity was needed at all. Attorney DeCrescenzo stated that, concerning zoning, Connecticut law states that there needs to be objective standards subject to the discretion of the Commission, although it cannot be left totally to the discretion of the Commission because it would then become a form of contract zoning, which is not allowed in Connecticut.

Regarding building height, Attorney DeCrescenzo stated that no building shall exceed the height permitted in the underlying zone. Regarding area relationships, when the Zoning Commission looks at a PAD application, one of the major standards that will be applied is how well it fits with what already exists. Mr. Loomis stated that the role of the Design Review Board's Guidelines for Community Design are appropriate in bringing a unique and invaluable perspective at this stage, as well as in other places throughout this regulation.

Regarding parking, Attorney DeCrescenzo stated that in lieu of the parking requirement in the underlying zone, the applicant has the ability to apply for lesser parking based on complimentary parking characteristics in the proposed plan as long as the parking plan has been prepared by an appropriate professional.

Regarding Section Five, Procedure, Attorney DeCrescenzo stated that this is a two part process. There is the preliminary plan review and the final development plan review. The applicant will prepare a proposed Master Plan to present to the Zoning and Planning Commissions at a public information session. The Commission members, as well as the public, can then comment on this plan. This is intended to give the applicant input so they can then decide if they should go to the next phase or not. Also, the Zoning Commission can establish a subcommittee to work with the applicant if needed.

In response to a question by Mr. Mihalic regarding the vesting of rights, Attorney DeCrescenzo stated that if the applicant does not go any further than the preliminary development plan review, there are no vested rights; rights will vest when the applicant goes to the final development plan and this plan is submitted, which is an application for a zone change and text amendment. This is when the "clock starts to tick" as to consideration of the final development plan.

Attorney DeCrescenzo stated that the final development plan is in the form of a zone change and a text amendment. There is the requirement that for each phase, there needs to be a site plan that conforms to the final approved Master Plan. When the Zoning Commission receives the final development plan and acts on it, they are acting in a legislative capacity on the text amendment and zone map change. If the PAD is approved, the zone for that area depicted on the Master Plan is PAD1, PAD2, and so forth; this becomes the zone.

Attorney DeCrescenzo stated that after the 24 elements of the application have been submitted, the Director of Planning makes the determination that the application is final and submits it to the Zoning Commission. Mr.

Loomis stated that #24 states, "A report from any other advisory committee...". He suggested adding, "or commission". He feels that it should also name those commissions and committees including, but not limited to.

Regarding the site plan, Attorney DeCrescenzo stated that the applicant needs to get approval for a certain phase. All of the site plan requirements apply, although they apply to the Master Plan and not to the underlying zone. The Zoning Commission, prior to acting on a site plan, has to receive word from Town staff that the site plan is in full conformity with the approved Master Plan. Once the final Master Plan is in place, nothing can change without further action from the Commissions.

Regarding Section Seven, Attorney DeCrescenzo stated that this is the process for the phasing of the development of the Master Plan. This is a necessary element of the Master Plan. The applicant must request a phasing plan. This is intended to make sure that the later phases are built. Attorney DeCrescenzo stated that bonding is also tied into the phasing; they work together.

Attorney DeCrescenzo stated that there could be minor or major changes made to the Master Plan. Minor changes are changes that are specific to site conditions which do not affect the overall density, impact or nature of the development.

On Page 4 of the draft regulation, Line F, Marc Lubetkin stated that it would seem that a cross reference back to Section 3 might make sense. Also, he does not see the historic elements of the community represented in this document. He suggested adding a Line K, where the intrinsic value of the historic elements of the community may be presented to the Historic District Commission for their opinion. Some of these developments are adjacent to or on top of an historic location.

Mr. Barney stated that there was a suggestion to have a workshop with representatives from all of the Boards and Commissions. Nancy Haase agreed with Mr. Barney, although she stated that she would suggest also having another informational meeting like this joint meeting.

Regarding the timeframe, Attorney DeCrescenzo stated that the Zoning Commission would like to have at least one public information meeting in April, once this draft has had several revisions, in order to get further comment from the public. They would also like this regulation subject to a public hearing by June. Mr. Peck requested that everyone get their comments to him as soon as possible. He will then forward these comments to Attorney DeCrescenzo in order to get them integrated into the second draft.

The meeting adjourned at 7:30 p.m.