

MINUTES
ZONING COMMISSION – REGULAR MEETING
WEDNESDAY, February 21, 2024 at 7:00 P.M.
Simsbury Library FSPL Room
725 Hopmeadow Street, Simsbury, CT 06070

I. CALL TO ORDER – Chairman Elliott called this meeting to order at 7:05 p.m.

Present: Zoning Chairman, Bruce Elliott; Zoning Commission Vice Chairman, Tony Braz; Zoning Commissioners, Kate Beal, Shannon Leary, and Tucker Salls; Zoning Commission Alternate Members: Jackie Battos, David Moore, Joshua Michelson. Staff: Planning Director, George McGregor; Town Attorney Robert DeCrescenzo, Acting Town Attorney for ZC 23-38, Lou Spadaccini.

Absent: Diane Madigan

- Commissioner Moore is seated as a full member in Commissioner Madigan's absence.

II. APPROVAL OF MINUTES

- January 30, 2024 Regular meeting
- February 5, 2024
- Approval of meeting minutes will be moved to the agenda for the next meeting of the Commission.

III. NEW BUSINESS – Site Plan Approval

Pending Litigation

Vessel RE Holdings V. Town of Simsbury Zoning Commission Draft Settlement Agreement dated 1-29-24, *Revised 2-20-24*, for consideration and action to APPROVE JOINT MOTION FOR SUPERIOR COURT APPROVAL OF SETTLEMENT, in accordance with Connecticut Practice Book Section 14-7B. The Draft Settlement Agreement is included as an attachment to the 2-21-24 Zoning Commission Agenda.

- Bob DeCrescenzo, Simsbury Town Attorney, provided an overview of the pending litigation. This land use appeal comes out of an application filed by Vessel RE Holdings filed with the Zoning Commission under the affordable housing statute 8-30g on 1/18/2023. After a series of hearings, the Commission denied the application on 5/15/23. Thereafter, the applicant appealed the denial under 8-30g, which was filed May 2023. It was transferred

42 to the land use docket in June 2023. Since that time, there have been
43 settlement discussions of the land use appeal.

- 44 • The Joint Motion document is a court document provided to the
45 Commissioners. The law requires the Zoning Commission to place a proposed
46 settlement on the agenda of a public meeting, as was done tonight, before it
47 settles any land use appeal. Any motion needs to include the reasons for
48 settlement determination by the Commission.
- 49 • Tim Hollister, Attorney from Hinckley Allen, representing Vessel RE Holdings
50 addressed the Commission and summarized the settlement agreement to
51 resolve the development plan for 446 Hopmeadow Street as follows:
 - 52 ○ The proposal is for 48 residential apartments, reduced from the original
53 80 units proposed
 - 54 ○ A three-story building, reduced from the original four-story building
 - 55 ○ 60 parking spaces with 14 in reserve, reduced from more than 100
56 parking spaces on the original plan
 - 57 ○ A darker brown color palette for the exterior siding of the building
 - 58 ○ Updated landscaping plans
 - 59 ○ A donation by Vessel of the land that it purchased between the Heritage
60 Trail and the Farmington River, approximately 2.6 acres
- 61 • An updated site plan with the above noted changes has been provided at
62 tonight's meeting of the Commission.
- 63 • Mr. Hollister noted that if the agreement is approved tonight, the Zoning
64 Commission would be authorizing Town Attorney and Mr. Hollister to file the
65 Joint Motion which then goes to a hearing in land use docket in the superior
66 court system. The judge will conduct his own hearing at which any citizen can
67 speak. He will review to ensure the agreement is fair, objective and at arms-
68 length. That hearing is scheduled for February 29, 2024. It is a remote hearing
69 that will be available on the court's live stream service. The wetlands appeal
70 taken against Vessel will also be on for resolution at the same time.

71
72 **MOTION:** Chairman Elliott made a motion to approve the JOINT MOTION FOR
73 SUPERIOR COURT APPROVAL OF SETTLEMENT, dated 1/29/24, revised 2/2-/24 in
74 accordance with Connecticut Practice Book Section 14-7B in order to avoid any
75 uncertainty of the outcome of the appeal and to comply with State of Connecticut general
76 statutes, section 8-30g. Commissioner Moore seconded the motion. The motion carried
77 unanimously. (6-0-0)

- 78
79 • Chairman Elliott opened the floor for public comment, noting this is not an
80 opportunity to debate the decision; however, the Commission would like to
81 hear public comments.

- Ann McDonald, of 3 Tamarack Lane
- Lori Boyko, 15 Oakhurst Road
- Kelly Rothfuss, 14 Nutmeg Court
- Mary Dake Ryerson, 98 Holcomb Street
- Katherine Godiksen, 7 Nutmeg Court
- Joan Coe, 26 Whitcomb Drive
- Commissioner Beal inquired the Commission and Town Staff can provide more transparency regarding how the Commission decided to settle. Mr. McGregor noted that executive session discussions cannot be disclosed; however, Town Staff could provide transparency and additional detail on the process.
- Mr. DeCrescenzo noted that it would be appropriate to provide a Staff Report, outlining how the Zoning Commission arrived to its decision.
- The Commission requested a Staff Report be made available to the public with details that outline the process by which the Zoning Commission arrived at its decision.

Site Plans

Application ZC #24-03 of Jas Gaurav Singh, Owner, for Site Plan approval to permit up to a +/- 829 sq. ft. attached accessory dwelling unit at 66 Hayes Road (Assessor's Map J05, Block 127, Lot 170), zone R-15.

- Agenda item has been postponed to a future meeting of the Commission.

IV. PUBLIC HEARINGS

Application ZC #23-36 of the Simsbury Zoning Commission, Applicant, for a text amendment to the Simsbury Zoning Regulations pursuant to Sections 4.5, 5.5, and 17.4 and the establishment of a new section 8.7 to allow mobile food vendors as an accessory use in business, industrial, professional office and planned area development districts. This item has been continued from the 1-17-24 Regular Meeting.

- Mr. McGregor addressed the Commission with an overview of the process to date, noting the public hearing is still open on this topic. A memorandum to the Zoning Commission was posted with history and details of the process to date. Originally, the Commission entertained a text amendment that would have allowed mobile food vendors to locate at only at food and beverage locations in our community. The Commission decided to withdraw that application to consider a more permissive text amendment which would allow mobile food vendors at any location within the community. Both versions of the text amendments have been provided, along with public commentary received to date.
- Chairman Elliott summarized the options available to the Commission:

- 122 ○ Approve or disapprove the pending amendment
- 123 ○ Approve or disapprove the original text amendment or some modification
- 124 of it
- 125 ○ Take no action
- 126 ○ Withdraw the application
- 127 • Chairman Elliott opened the floor for public comment. The following spoke on
- 128 the application:
- 129 • David Richman, 52 Wood Duck Lane
- 130 • Joan Coe, 26 Whitcomb Drive
- 131 • Kevin Farley, 1616 Hopmeadow Street and owner of Farley Macs restaurant
- 132 • Sarah Nielsen, Simsbury Main Street Partnership
- 133 • Lori Boyko, 15 Oakhurst Road
- 134

135 **MOTION:** Commissioner Salls made a motion to close the public hearing on food
136 trucks. Vice Chair Braz seconded the motion. The motion carried unanimously. (6-0-0)

- 138 • Commissioner Salls commented that it is the Zoning Commission's
- 139 responsibility to determine what is the best land use. He is in support of the
- 140 text amendment which permits mobile food vendors as an accessory use at
- 141 food and beverage locations.
- 142 • Chairman Elliott noted that the original amendment was withdrawn
- 143 unanimously by the Commissioners, as the concern was the framework puts
- 144 the owners of the establishments in control of what food trucks come into
- 145 Simsbury.
- 146 • Vice Chair Braz commented that if the Commission decides to limit food
- 147 trucks to locations only serving food, they are effectively banning outside
- 148 food trucks in town.
- 149 • Ms. Beal commented that the main point of a food truck is to allow food
- 150 where food is not typically served, for example a sporting event or a local
- 151 business.
- 152 • Ms. Beal inquired if an ice cream truck is a food truck. Mr. McGregor noted
- 153 that a mobile ice cream truck (always in motion, visiting neighborhoods)
- 154 would not fall under these regulations.
- 155 • Commissioner Moore inquired if the Zoning Commission was to take no
- 156 action, would it be possible for certain food institutions to ask for a variance
- 157 to allow for their trucks to legally be on their sites. Mr. McGregor responded
- 158 that the town regulations permit a use variance request. He also noted that the
- 159 Millwright's TA-QUE food truck was permitted by site plan as the truck was
- 160 semi-permanent.

- Chairman Elliott clarified if no action was taken the implication would be that the Talcott Mountain Collective would not be permitted to have a food truck. Mr. McGregor confirmed the Town would have to work with them separately on the issue. Commissioner Salls responded that felt too restrictive.
- Chairman Elliott noted that Millwright's has the permit for TA-QUE, but it is currently not located where the permit is for.
- Ms. Beal inquired if there is a process to allow for businesses to apply for a public gatherings permit and be allowed to have a one-off event with a food truck. Mr. McGregor noted that these events are treated differently.
- Ms. Leary commented that she would like the Commission to go back to the table and look at this topic again. Commissioner Braz agreed.

MOTION: Commissioner Moore moved to withdraw Application ZC #23-36. Commissioner Leary seconded the motion. Mr. Salls abstained. The motion carried. (5-0-1)

V. OLD BUSINESS

Application ZC #23-38 of SL Simsbury LLC, Owner, Holden Sabato, Applicant, for a Type 4 Master Site Development Plan (MSDP) pursuant to Section 5.0.B.4 of the Hartford-Simsbury Form-Based Code (HSFBC) for the construction of a 580-unit residential development (revised to 432 residential units, 27,500 sq. ft. flex-industrial/commercial, and 5,000 sq. ft of retail/restaurant) at 200 Hopmeadow Street (former Hartford Insurance property – south)(Assessor's Map F17, Block 154, Lot 009-2) Simsbury, CT 06070, zone HS-FBC.

- Chairman Elliott noted Town Staff has provided draft motions, and he is ready to vote on a decision.

MOTION: Mr. Braz made a motion that the Simsbury Zoning Commission denies **Application ZC #23-38** of SL Simsbury LLC, Owner, Holden Sabato, Applicant, for a Type 4 Master Site Development Plan (MSDP) pursuant to Section 5.0.B.4 of the Hartford-Simsbury Form-Based Code (HSFBC) for the construction of a 580-unit residential development (revised to 432 residential units, 27,500 sq.ft. of flex-industrial/commercial, and a 5,000 sq.ft. restaurant) at 200 Hopmeadow Street (former Hartford Insurance property-south) (Assessor's Map F17, Block 154, Lot 009-2) Simsbury, CT 06070, based upon the following findings:

1. **The proposal does not meet the purpose and intent of the adopted Hartford-Simsbury Form Based Code. The proposal fails to achieve the purpose and intent of a mixed-use, vibrant community.**

In relevant part, Section 1.0, A. of the HSFBC states that the purpose and intent of the code is to:

“encourage the reuse of the South Hartford Site and Building for office, technology, healthcare and support services, ...with a mix of complementary uses including housing, retail, offices, commercial services, and supporting long term attractiveness for both employments uses and neighborhood uses.”

Part C. of Section 1.0 “encourages the development of vertical and horizontal mixed-use areas.”

Section 4.0, Section A, sets forth illustrative plans which are included only for guidance on the pattern and character of development but:

“The Illustrative Master Plans also provide information on the general mix and intensity of uses, neighborhood character, and design intent. The different versions of the Illustrative Master Plans are included to show different potential development outcomes and scenarios and illustrate the important principles of planning a mixed-use, walkable neighborhood”.

These above Sections of the HSFBC show a pattern, an expectation that the Hartford South property shall be developed with a mix of uses, integrated, in order to form a vibrant, walkable community. The Applicant’s proposal, as revised, remains overwhelmingly a residential project, in land area, square footage, and use mix. One 27,500 sq.ft. flex-commercial building (with no specific uses disclosed) and one 5,000 sq.ft. restaurant does not meet the intent of a mixed-use development. Nor do the small amount of non-residential uses support any “long term attractiveness for employment uses”.

The Commission finds that the purpose and intent of the HSFBC is to re-develop Hartford South for office, technology and healthcare uses, with housing (and retail) as a “complementary uses,” and not as the primary use on site as proposed by the Applicant.

The newly introduced non-residential uses (provided by the Applicant on February 5, 2024) are not integrated into the development neither vertically nor horizontally: they are segregated from the residential uses.

We note that the Planning Commission provided recommendation on the record to the Zoning Commission which stated in relevant part:

The Commission recommended the project include a true mixed-use approach, with the addition of integrated, non-residential elements (commercial, retail, office, et.). The Commission stated that mixed-use elements would provide a better “sense of place” than a 100% residential development. Further, the Commission added that the original intent of the Hartford-Simsbury Form

248 *Based Code for the south parcel was to include both residential and commercial*
249 *uses.*

251 The Applicant's inclusion of limited non-residential elements simply does not go far
252 enough in establishing the integrated, mixed use, redevelopment of the Hartford
253 South site that the Community envisioned.

254
255 **2. The proposal fails to provide an appropriate building scale and transitions to fit the**
256 **adjoining design context.**

257
258 The north site was developed as primarily a residential development. There are +-420
259 residential units approved and constructed along with a small commercial element,
260 approximately 21,000 square feet in two buildings fronting Hopmeadow St. The lack
261 of a primary office, technology, healthcare, or other non-residential element on the
262 South parcel prohibits any opportunity to provide transitions between residential and
263 non-residential components. The South parcel provides adequate transitions for its
264 three residential types; however, the transitions for on-site non-residential, owing to
265 the fact that they are segregated and not integrated, are quite abrupt.

266
267 Moreover, when combined, the north and south parcels represent over 850 residential
268 units and only a total of 49,000 sq.ft. of non-residential. In conflict with the purpose
269 and intent of the HSFBC, as proposed, the commercial components act as
270 complementary uses to the residential uses, not the converse.

271
272
273 **3. The proposal does not provide a minimum or appropriate level of public benefits**
274 **such as useable civic and open spaces, economic development, or employment**
275 **opportunities.**

276
277 The development does not provide useable civic and open spaces for the public at
278 large. There are no public parks, no civic sites, and no public sites proposed.

279
280 There are limited employment opportunities provided with one 27,500 sq.ft flex-
281 office building and a small restaurant. The permanent employment opportunities, as
282 part of the of the HSFBC mixed-use development, are intended to replace in part
283 some of the economic development and employment opportunities lost when the
284 former 600,000 sq.ft. Hartford Insurance building closed and the approximately 1500
285 employees who worked there moved to other locations.

286
287 To restate Section 1.0 A, the intent of the HSFBC was to encourage "the reuse of the
288 South Hartford Site and Building for Office, technology, healthcare and supportive
289 services." These uses would provide the foundation for employment opportunities.
290 This application does none of these things.

293 4. The project represents unknown impacts on the public health, safety, and welfare of
294 the general public. The Zoning Commission has heard extended testimony on the record
295 from dozens of Simsbury residents and Town Departments identifying impacts related to
296 the project, including, but not limited to:

297
298 **Public School and Other Community Impacts.** The Applicant's school impact data
299 conflicts with the Simsbury School District's anticipated impacts related to total
300 enrollment and per student costs. The record reflects an expected increased demand
301 for public services, including, but not limited to, police, fire, and ambulance calls,
302 and; an increased need and demand for athletic facilities and fields. The Application
303 does not address this increased demand on public services.

304
305 **Visual Impact on Scenic Hillside and Ridgelines.** Revised to three stories but at a
306 height estimated over 40 feet, height of the ten apartment buildings may hinder scenic
307 views. The Applicant has not provided a revised view analysis definitively
308 establishing that scenic view will be preserved.

309
310 **Rental and Home Ownership.** Section 1.0, G. asks the Applicant to "*include a*
311 *range of residential options that reflect changing lifestyles considering both market*
312 *demand and Town preferences.*" To that end, citizens and Zoning Commissioners
313 requested that some portion of the residential units be offered as "for-sale" units. The
314 Town currently has limited entry level or first-time homebuyer products. Of the 432
315 units now proposed, all are for rent. The Commission finds that offering a variety of
316 residential types, including both "for rent" and "for sale" options, meets the intent of
317 the HSFBC; providing a 100% rental project, does not.

318
319 Commissioner Beal seconded the motion.

- 320
- 321 • Commissioner Salls noted that most of the public testimony was in opposition of
322 this project, but that the applicant did work with the community by reducing the
323 number of units, increasing the affordability, and including commercial
324 development. He noted that the state is currently in a housing crisis and that the
325 current property is a parking lot of impervious space. This development would
326 reduce the impervious area. He recommended that the Commissioners vote no on
327 this draft motion and requested Town Staff draft a motion for approval.
 - 328 • Commissioner Leary noted that the only amendment to the draft motion that she
329 would recommend is the use of the words neighborhood character.
 - 330 • Commissioner Braz commented that the developer did make a significant
331 reduction in units, but he believes the development is still too large as currently
332 presented and the applicant had requested a decision on this version of the
333 development.
- 334

335 Commissioner Salls opposed the motion. The motion carried. (5-1-0)

336

337 **VI. EXECUTIVE SESSION**

338

339 **VI. ADJOURMENT**

340

341 **MOTION:** Commissioner Moore made a motion to adjourn the meeting. Commissioner
342 Leary seconded the motion. The motion carried unanimously. (6-0-0)

343

344 The meeting adjourned at 8:57 P.M.

345

346 Respectfully Submitted,

347

348 Cara Blackaby

349 Commission Clerk