

From: Lois Laczko March 8, 2010 11:14:41 AM
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To: SimsburyCT_ZoningMin
Cc:

ADOPTED

ZONING COMMISSION MINUTES
FEBRUARY 1, 2010
REGULAR MEETING

I. CALL TO ORDER

Chairman Gallagher called the Regular Meeting of the Zoning Commission to order at 7:03 p.m. in the Main Meeting Room at the Simsbury Town Offices. The following members were present: Ed Pabich, Bruce Elliott, Dave Ryan, Amy Salls, Madeleine Gilkey, and Robert Pomeroy, Jr. Also in attendance were Director of Planning Hiram Peck, Town Attorney Robert DeCrescenzo, Commission Clerk Alison Sturgeon and other interested parties.

II. APPOINTMENT OF ALTERNATES

Chairman Gallagher appointed Mr. Ryan to serve in the absence of Mr. Vaughn and Mr. Pomeroy to serve in the absence of Mr. Barnett.

III. APPROVAL OF MINUTES of January 4, 2010

Several edits were made to the minutes.

Mr. Elliott made a motion to approve the January 4, 2010 Regular Meeting minutes as amended. Mr. Pabich seconded the motion, which was unanimously approved.

Mr. Pabich made a motion to approve the January 4, 2010 Workshop minutes as written. Mr. Elliott seconded the motion, which was unanimously approved.

IV. PRESENTATION(s)

a. Application of GPF-700 Hopmeadow St., LLC, GPF-Drake Hill, LLC, Owner, Philip E. Doyle, LADA, P.C. Land Planners, Agent, for a Site Plan Amendment for proposed renovation at the Drake Hill Mall, 700, 710-720 Hopmeadow Street. SCZA

Mr. Peck stated that he received a letter from the applicant asking that this application be continued until the March 15, 2010 meeting.

V. DISCUSSION of Wagner property at 153 Great Pond Road regarding zone determination in accordance with Article Two, Section B. 1. f. and set possible public hearing date. (continued from meeting of 1/4/2010)

Mr. Peck stated that Mr. Wagner made a presentation before this Commission several months ago. The current zoning map shows this property as an R-80 Zone. Mr. Wagner's request is that the map be revised to show this as an R-40 Zone. Mr. Peck stated that the historical record is not clear regarding this property.

Attorney DeCrescenzo stated that since the historical record is not clearly in favor of Mr. Wagner's position, he cannot recommend that the change be made based on clarification of the map because there is not enough information that has been uncovered to do this as a clarification. A clarification does not require a public hearing. The Commission could, under their own initiative, undertake an amendment of the Zoning map to change the map, although this would require a public hearing. He stated that he would not recommend that a change be made to the map without a public hearing. The Commission can raise its own public hearing to consider the matter of changing the zoning designation or Mr. Wagner could apply for a change in the Zoning map. If this Commission would like Mr. Wagner to state his case further, he would recommend that a public hearing be held.

Chairman Gallagher questioned if Mr. Wagner had the option to change the zone. Attorney DeCrescenzo stated that Mr. Wagner could apply for a zone map change.

Mr. Pabich stated that Mr. Wagner's land is a large piece with a lot of value. He feels that the Town has done a poor job regarding documenting the change to R-80, if in fact, this was their intention. He does not feel that the Commission should automatically accept the Zoning map. He feels that it is worth going to a public hearing. Attorney DeCrescenzo agreed with Mr. Pabich; it is not clear one way or the other.

Mr. Pomeroy stated that there was a global change of zones in the 1960's; they exempted certain properties that were in the process of being developed. Unfortunately, there is no documentation stating that this property had an application thus giving it a safe harbor. He agrees that this was not done correctly by the Town; there is no trail of documentation. He stated that there was a change in zone that occurred in the northwest part of Town during this time. He feels that the Commission should listen to the Town Attorney and either initiate the public hearing

or have Mr. Wagner apply for a zone change.

Mr. Peck stated that in fairness to Mr. Wagner, the Commission could bring this to public hearing saving him the application fee. Mr. Pomeroy suggested initiating a public hearing as soon as possible.

Mr. Elliott stated his concerns regarding the Commission initiating the public hearing. Because there may be people who would are not supportive of this change, he feels that the Town and the residents would be better served by letting Mr. Wagner bring this forward himself.

Anthony Napolitano, 141 Old Farms Road, stated that although he is sympathetic to Mr. Wagner, he would like to see this done properly. Mr. Wagner should bring this forward himself. Chairman Gallagher asked what Mr. Napolitano's property is zoned. Mr. Napolitano stated that his property is zoned R-80.

Ashley Lane, 135 Old Farms Road, stated that his property is zoned R-40. He has reviewed a lot of the documentation and has a good memory of what has taken place in this area of Town. He stated that this Commission needs to do more due diligence than what they have done so far. The other abutters to Mr. Wagner's property, including the Boehms, have indicated that they are interested in what is happening regarding this issue.

Mr. Wagner stated that one task that was assigned to the Town Attorney was to come up with other lots that might be affected by this action, such that during 1964, there were other lots that were lots which were exempted. He questioned if this was done. He feels that the Commission needs to look at more than just his parcel; there may be other properties involved. He is not against a public hearing; all of the facts should be heard. He questioned what the public hearing would be for. He stated that he feels this has been a mylar mistake; people could be brought in to testify of this.

Mr. Peck stated that the Commission bringing this to a hearing will not mean that they have made a decision regarding the outcome prior to that public hearing. Also, if there are people in the community that want to comment, a public hearing is the place to do this. He feels that it would be fine if the Commission brought about the public hearing.

Attorney DeCrescenzo suggested building a public hearing record on this issue. He stated that the Commission could state that in order to determine the zoning designation of 153 Great Pond Road, currently reflected as R-80 on the Zoning map of the Town of Simsbury, a public hearing should be held.

Mr. Pabich made that motion to hold a public hearing in order to determine the zoning designation of 153 Great Pond Road, currently reflected as R-80 on the Zoning map of the town of Simsbury. Mr. Pomeroy seconded the motion.

Mr. Elliott questioned if Mr. Wagner is not satisfied with the outcome of the public hearing, what his options would be. Attorney DeCrescenzo stated that Mr. Wager could choose to appeal or he could apply for a zone change. Ms. Salls questioned if there were any precedents where the Commission initiated the public hearing. Mr. Peck stated that this has happened many times before where the Commission set the public hearing.

Mr. Pabich amended his motion to schedule the public hearing on March 15, 2010. Mr. Pomeroy seconded the amendment. The motion and amendment were unanimously approved.

VI. REQUEST by T. J. Donohue, Killian & Donohue, LLC, for an extension of the Site Plan Approval granted to the Powder Forest Homes, Bushy Hill Road.

Mr. Peck stated that the Powder Forest application was very complicated; there were several parts to this application, including a subdivision, a special permit and a site plan. The development is not entirely built out yet; it is not yet completed. In order for the application to continue as it should, an extension to continue the approval is needed. He recommended that the Commission give the applicant a five year extension.

Attorney Donohue stated that under law, Site Plans run for five years and can be extended for another five years. He stated that he is respectfully requesting an extension in order to continue this project.

Mr. Pabich questioned how many units have been built and sold. Mr. DiFatta, President of EB Realty, stated that 72 units have been sold and occupied; 3 units are under contract.

Mr. Peck stated that if the Commission grants this extension, this would be for the previous Site Plan; there have been no changes made.

Mr. Elliott stated that there was a change in the Zoning Regulations to extend the five year approval to start a project to ten years to finish a project. This change was to make their Zoning Regulations consistent with the State Statute. Attorney Donohue stated that the State Statutes allow for a five year Site Plan with a five year extension. He stated that the extension was recommended by Town staff and by the Town Attorney.

Mr. Pabich made a motion to grant the extension request by T.J. Donohue,

Killian & Donohue, LLC for an extension of the Site Plan approval granted to the Powder Forest Homes, Bushy Hill Road. Mr. Ryan seconded the motion, which was unanimously approved.

VII. INFORMAL/PRELIMINARY PRESENTATION for future development of property on West Street and Grist Mill Lane.

Mr. Peck stated that this presentation is regarding future development on West Street and Grist Mill Lane. The applicant would like feedback from the Commission regarding their preliminary plans.

Mr. Janeczko stated that they have been discussing mixed use development on Ensign Bickford land for some time. He stated that they will be concentrating on the mill property, Site 24 and Site 19. He stated that he has been to meetings and has read reports regarding the Charrette. They have also followed the Incentive Housing Zone study. The parcels within this project are cited in the IHZ as being a good spot for mixed use and residential use. He stated that Simsbury's POCD also talks about mixed use development. Mr. Janeczko stated that they are trying to put something together with all of these different studies in mind.

Mr. Janeczko stated that there will be an urban parallel parking streetscape for the core road that runs through the site. There will be linear access to the mill property, which will require a certain type of housing; Sites 24 and 19 will have a different type of housing on them. The idea will be that everything flows together. He stated that the key part to the redevelopment is parking. There are conceptual plans to revise and expand the parking so all of the uses can be accommodated. He stated that what is currently there, in terms of parking, would be eliminated.

Ms. Gilkey questioned what the mixed use component would be for the development aside from the housing. Mr. Janeczko stated that the mill property would be used for commercial and also a restaurant. He stated that parking would need to be studied and they would need to compare the different uses.

Mr. Pabich questioned how many residential units are being contemplated. Mr. Janeczko stated that they are still unsure, although there is a need for multifamily, rental and workforce type housing in Simsbury. He would like to see multiple markets being served at the same time.

Mr. Janeczko stated that Site 24 is relatively flat and Site 19 is very flat. Site 19 has gone to the Inland Wetlands Commission and has received approval to remove railroad ties from the property. He stated that the pond near Site 19 also needs a lot of attention; a great deal of untreated runoff has gone into the pond for a long period of time.

Mr. Pabich questioned what they will use for Design Guidelines for this mixed use project. Mr. Janeczko stated that they will follow the lead of Mr. Peck and the Commission. He stated that he likes the idea of the streetscape; he would like to have a street feel throughout this development.

Ms. Gilkey questioned if there would be any retail in this development. Mr. Janeczko stated that there would not be any retail. He stated that housing is defined as being needed; he would also like to get the existing office occupied.

Mr. Elliott stated that the Charrette does not agree with rentals in the Town Center. Mr. Janeczko stated that rental is not a problem within this scenario in this location.

Chairman Gallagher questioned what the pricing for the housing would be. Mr. Janeczko stated that there will be several different products within this development. He is interested in moderate cost housing; he would like to serve the workforce.

Ms. Gilkey questioned what percentage of the housing would be rental. Mr. Janeczko stated that the rental properties would be limited to Sites 19 and 24; the other site would be ownership housing.

Chairman Gallagher questioned if the industrial area around this property would be a detriment to this development. Mr. Janeczko stated that there is a large natural buffer along the property, although they may do some water quality in this area. He stated that they may create a wetland, a small biofiltration area. He is hopeful that this development will blend into its surroundings.

Mr. Pabich stated that he would like to see this development work. Ms. Salls stated that she would like to see people who want to work and live in Simsbury be able to live in this development; she feels that this is a good way to start.

Mr. Elliott stated his concerns regarding the impact on the schools. Mr. Janeczko stated that this type of housing will target empty nesters, retirees and young professionals. He does not envision the type of housing that will impact the schools in Town.

Mr. DiFatta stated that Ensign Bickford is trying to preserve the restaurant and the office space on this property. They are looking at this development as a major benefit. This development will feature a pedestrian park and a water feature. He feels that the Town needs a revenue positive

project and he feels that this is that project. He stated that award winning developers are working on this project and he feels that it is a great fit for Simsbury.

VIII. DISCUSSION AND POSSIBLE VOTE ON ANY AGENDA ITEM

There were none.

IX. OTHER MATTERS AS MAY PROPERLY COME BEFORE THE COMMISSION

Other Business

Mr. Peck distributed a letter regarding a sign violation to the Commission members. He stated that he has received phone calls and emails regarding a sign at 159 Tariffville Road, which is in violation. The content of the sign is not the issue; the issue is regarding the size and placement of the sign. Mr. Peck stated that this letter went out today to the homeowner.

Mr. Pomeroy stated that the sign is in violation because it is too large and is nailed to a tree. If the owner corrects these issues, he questioned if the sign would be permitted. Attorney DeCrescenzo stated that the Town cannot control the content of a sign; this is free speech.

Ms. Salls stated that signs have always been an issue in Town. There cannot be exceptions; permits are needed. She stated that although she understands freedom of speech, she feels that there are specific timeframe for signs to be up, especially on residential property.

Attorney DeCrescenzo stated that this issue will be looked into. Regardless of the content of the sign, the Town has the right to enforce the sign regulations. Mr. Pomeroy read from the Zoning Regulations, page 67, Section C, Article 10, which states, "Traffic directional signs and public notice and warning signs, political signs (including signs which express personal opinion about any subject), any signs required by any other code, ordinance or law i.e. Foreclosure, Liquor Permit, or going-out-of-business signs. Such signs shall not exceed six (6) square feet or the minimum size required by the pertinent code, ordinance or law. These signs shall be removed within one week after the event to which they pertain." Mr. Pomeroy stated that, in this case, as long as Obama is President, the homeowner can keep this sign up if he makes those corrections.

Ms. Salls stated that the Town needs to enforce the Ordinance to whatever degree it needs to be enforced.

Old Business

There was none.

Discussion of Revised Draft of the Public Gathering Permit & Process.

Mr. Peck stated that Attorney DeCrescenzo redrafted the language on the Public Gathering Permit Required Declaration. The revised language has been toned down.

Mr. Pomeroy made a motion to accept the revised draft of the Public Gathering Permit Required Declaration. Mr. Pabich seconded the motion.

Mr. Ryan stated that the Required Declaration now reads, "I declare, under the penalties of revocation of Permit and forfeiture of the Bond..." He questioned what the bond was referring to. Attorney DeCrescenzo stated that this is only for when a bond is required. If a performance bond is required and the permit is revoked, the bond may be forfeited.

The motion was unanimously approved.

Mr. Peck stated that the Commission voted to send the draft PAD Regulation to a public hearing on March 15, 2010. The Commission also asked that the Town Attorney make revisions regarding Section Four of the Regulation. Mr. Peck distributed the Alternative Recommendation Draft, dated February 1, 2010 to the Commission members.

Attorney DeCrescenzo stated that he was asked at the last meeting if he felt that the PAD Regulation was ready for public hearing. He stated that the Alternative Recommendation Draft is his attempt to revise Section Four of the PAD Regulation. He stated that the biggest revision is in Section One where he took the general form standards and applied each type of development and turned them into an appendix to this Article. He stated that he did this because, as previously drafted, it was not fully developed as regulatory language.

Regarding Section Four, Standards and Review Criteria, Attorney DeCrescenzo stated that the Land Use Section has not changed, although there have been changes to the Development Plan Standards in this section. He stated that the content of coverage and building height did not change. He stated that the first line of Open Space and Public Amenities under Section Four states, "Each proposed Final Development Plan submitted..." He stated that Final Development Plan has been capitalized in order to not confuse the applicant when talking about preliminary plans and final development plans; the content of this has not changed.

Mr. Peck stated that, the coverage was changed. He distributed a handout

to the Commission members regarding defining what building coverage and site coverage is. These will be put in the definition section of the regulation. He stated that there will also be an addition regarding that storm water drainage plans need to be submitted in a manner in keeping with available Low Impact Development principles.

Attorney DeCrescenzo stated that Section Four, Drainage, was clarified. Also, Development Plan Design Standards in that same section has new language. He stated that this section lacked some objective, clear standards as to the buildings and the site, in terms of the site and orientation. Attorney DeCrescenzo read this section for the Commission.

In repose to a question from Mr. Ryan regarding Block Shape, Layout and Size, under Development Plan Design Standards, Section Four, Attorney DeCrescenzo stated that the Regulation states that this should be done wherever possible. Mr. Peck stated that this wording could be changed to state, "wherever possible and whenever appropriate". Attorney DeCrescenzo stated that this is intended to send a clear signal as to what the Town wants.

Regarding Review Factors and Criteria in Section Four, Attorney DeCrescenzo stated that this has been changed significantly. He read this section to the Commission. He stated that, "the potential impact" was added throughout this section. There is language to this effect in the previous draft, but this exact wording was not in the earlier draft. He feels that the Zoning Commission would want to know what impacts the project will have; what is already there; how it will fit in and how it will transition. He stated that he tried to draft in this criteria, the tools that the Commission can use to turn an application down for certain reasons.

Ms. Salls questioned if this type of language was too broad and general. She stated that the Plan of Conservation and Development is very specific to all parts of Town. She questioned if the POCD could be referenced in this section also, as it is in another part of this draft. Mr. Peck stated that as drafted, this does not apply to residential zones, which is most of the Town.

Attorney DeCrescenzo stated that all of the language needs to be consistent on all of the pages of the PAD Regulation. Any other changes going forward will be dated accordingly. He stated that he did e-mail these changes to Emil Dahlquist, Chairman of the Design Review Board.

Mr. Ryan questioned if, once the PAD Regulation has been approved for a particular site, would the property revert back to the original zone if the property was sold. Mr. Peck stated that once the property is approved as a PAD, the new owner would have to apply for a zone change.

Mr. Pomeroy questioned what protection the Town would have if the retail was built and nothing else was ever built on a particular project. Mr. Peck stated that although he understands this concern, he feels that this is what all of these guidelines are for. This would also be a condition of the approval. In the approving resolution, a building permit cannot be pulled for retail until a Certificate of Occupancy has been received for a certain number of residential or whatever the Commission sets as conditions.

Chairman Gallagher stated that the Chamber has invited the Zoning Commission to a joint meeting with the Board of Selectmen and the Chamber. The meeting will be held on February 12th at 8 am in the Program Room at the Simsbury Public Library. He encouraged the Commission members to attend.

X. ADJOURNMENT

Mr. Ryan made a motion to adjourn the meeting at 9:10 p.m. Ms. Salls seconded the motion, which was unanimously approved.

Ed Pabich, Secretary