

From: Lois Laczko May 24, 2010 9:36:09 AM
Subject: Zoning Commission Minutes 05/03/2010 ADOPTED
To: SimsburyCT_ZoningMin
Cc:

ADOPTED

ZONING COMMISSION MINUTES
MAY 3, 2010
REGULAR MEETING

I. CALL TO ORDER

Chairman Gallagher called the Regular Meeting of the Zoning Commission to order at 7:02 p.m. in the Auditorium at Eno Memorial Hall. The following members were present: Ed Pabich, Bruce Elliott, Dave Ryan, Amy Salls, Scott Barnett, 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. Pomeroy to serve in the absence of Mr. Vaughn.

III. APPROVAL OF MINUTES of April 19, 2010

Several edits were made to the minutes.

Mr. Elliott made a motion to approve the April 19, 2010 as amended. Ms. Salls seconded the motion, which was unanimously approved.

IV. PRESENTATION(s), DISCUSSION AND POSSIBLE VOTE

a. Application of Steven E. Krupski, Senior Vice President Construction & Engineering, Stop & Shop Supermarket, Tenant, (Simsbury Commons North EA, LLC, Owners), Christine Moreau, Agnoli Sign Company, Agent, for a Unified Sign Plan Modification to replace current signage on the Stop & Shop on property located at 498 Bushy Hill Road. B-3 Zone.

Christine Moreau of Agnoli sign Company stated that she is requesting to amend the signage on the current Stop & Shop building. Stop & Shop is rebranding their new logo and they would like to install this on the

building. This new signage will be a reduction in square footage from what is current there. The letters will be halo lit and the department signage is acrylic letters and have no lighting associated with them.

Chairman Gallagher stated that the Design Review Board submitted comments to the Zoning Commission which recommended not allowing the signage stating "great food" and "low prices". Ms. Moreau stated that the Design Review Board did not like some of the wording, but this is what Stop & Shop is putting on all of their stores. She is hopeful that this Commission will allow this wording and approve this application as submitted.

Mr. Elliott questioned if the words, "great food", and "low prices" were included in the square footage of the signage. Ms. Moreau stated that the previous square footage for their signage was 620 s.f.; they are currently proposing 342 s.f. of signage on the building. She stated that this is a substantial reduction.

Regarding the halo lit letters, Mr. Elliott questioned if the lighting tubes would stand out from behind the letters. Ms. Moreau stated that there is no neon in this lighting; it is all LED lighting. She stated that the LED shines on the back wall instead of through the face of the letter. No tubing is seen.

Chairman Gallagher questioned if there were any comments or questions from the public. There were none.

b. Application of David J. Bordonaro, President, McLean Affiliates, Inc., Owner, for a Site Plan Approval for construction of independent living cottages on property located at the McLean Home, 75 Great Pond Road, R-40 Zone.

Attorney Donohue stated that they are requesting an amended Site Plan for the McLean home. The applicant has been before this Commission previously with the Master Plan for this project. They are before the Commission tonight for the 16 independent units. The emergency access will be recreated to a country lane but also remain the emergency access.

Attorney Donohue stated that the applicant has already received approval from the Wetlands Commission; the Inland Wetlands Commission gave a favorable recommendation for this project. The Fire Marshall has also signed off on the details of the site.

Mr. Daly, Engineer, stated that the area that is before this Commission is located near the Morehouse property and the emergency access drive. They are proposing 16 independent units. Three of the units will be duplexes; the other units will be single units. There will also be a cul-de-sac and

emergency access out to Great Pond Road as part of this project.

Mr. Daly stated that this project is located between two areas of wetlands. The applicant has worked closely with the Inland Wetlands Commission and the adjacent neighbor. He stated that the proposal is for a 20' curbless road with a permeable paver sidewalk. They will be working with Fire Marshal to revise the plan in order to locate the sidewalk so it abuts the road. The Fire Marshal has reviewed the radius of the road and feels that it is adequate.

Mr. Daly stated that the independent units will be built on slab; minimal amount of earthwork is needed for this project. The project will be served by public water and public sewer. There will also be two storm water basins; one of them will be expanded. Also they are proposing some berming on the landscaping as a buffer in order to close off some of the views.

Mr. McGill, Architect, stated that this site is heavily wooded. The front portion of the site has new growth. As time goes on, they will make sure that the new trees around the homes are suitable. He stated that they would also like to extend the gated entrance with fencing on the site; this would be aesthetically pleasing. Mr. McGill stated that the proposed one story homes are approximately 1400 s.f. They have tried to keep the architectural character of these units with respect to the other buildings on the site and the surrounding neighborhood.

Mr. Pabich questioned if consideration was given to the access to Great Pond Road as the primary access. Attorney Donohue stated that the emergency access was created during another application. There is no desirability to open this to Great Pond Road and this plan does not contemplate that, although they will make this a very nice entry.

Mr. Pabich questioned if these units would be rental units. Mr. Bordonaro stated that these are entry fee models; they are CCRC models.

In response to a question by Mr. Pomeroy concerning the lighting, Mr. McGill stated that there would be full lighting along the street. He stated that there will be ample lighting, although they will not be using pole lights. Attorney Donohue stated that there will not be any spillage from the lighting. They will be using best practices.

Mr. Elliott questioned if a full set of elevations had been submitted by the applicant. Attorney Donohue stated that these are R-40 type homes in R-40 neighborhoods. The plans before the Commission show where the foundations will go. He stated that the applicant is not required to submit these plans for this type of project, although they would submit them at the Commission's request.

Attorney DeCrescenzo read Article Five, Section j (1)m, on Page 19 of the Zoning Regulations under Site Plan Requirements, to the Commission members. He stated that if this is an R-40 Zone and the buildings comply within this zone, Section (m) would apply to this application. He stated that the Commission could, if they choose, require renderings of the elevations and floor plans prior to an approval.

Mr. Elliott stated that although he does not find this plan problematic, he is concerned that this applicant be treated the same as other applicants. Mr. Barnett stated that he does not feel that these additional plans need to be submitted. Mr. Pabich stated that he is comfortable with what has been shown by the applicant.

Ms. Salls made a motion to amend the agenda to move the item of Discussion and Possible Vote on Any Agenda Item next on the agenda. Mr. Pabich seconded the motion, which was unanimously approved.

V. DISCUSSION AND POSSIBLE VOTE ON ANY AGENDA ITEM

Ms. Salls made a motion to approve the application of Steven E. Krupski, Senior Vice President Construction & Engineering, Stop & Shop Supermarket, Tenant, (Simsbury Commons North EA, LLC, Owners), Christine Moreau, Agnoli Sign Company, Agent, for a Unified Sign Plan Modification to replace current signage on the Stop & Shop on property located at 498 Bushy Hill Road as submitted. Mr. Pomeroy seconded the motion, which was approved. Mr. Pabich recused himself from this vote.

Mr. Pabich made a motion to approve the application of David J. Bordonaro, President, McLean Affiliates, Inc., Owner, for a Site Plan Approval for construction of independent living cottages on property located at the McLean Home, 75 Great Pond Road as submitted. Mr. Elliott seconded the motion, which was approved. Mr. Pomeroy recused himself from this vote.

VI. PUBLIC HEARING(s)

a. Application of the Simsbury Zoning Commission for an Amendment to the Simsbury Zoning Regulations to adopt a new section entitled Planned Area Development (PAD) Zoning Regulation to be added to Article Ten Special Regulations (continued from meeting of April 19, 2010)

Chairman Gallagher stated that, at their last meeting, the Commission voted to extend the public hearing and hold a workshop. At this point, Mr. Peck will present recommended modifications to the PAD Regulation for the Commission's review.

Mr. Peck stated that since the last meeting, several comments came in for consideration. He reviewed these considered modifications for the Commission members, which included:

Section One:

1. The citation of the 2007 POCD is correct. No change is recommended.

Section Two:

2. The definition of "mixed use building" comes from the Urban Land Institute and is accepted in the industry. No change is recommended.

Section Four:

3. The second..."in the"... is extraneous and should be removed.

Section Five:

4. Introduction paragraph: Should be revised to read, "In reviewing the appropriateness of the proposed development all due consideration shall be given to". This change is recommended. The inclusion of the actual pages is not recommended.
5. Paragraph A.1.b, "these Regulations" is the correct citation. No change is recommended.
6. Paragraph A.4.b, Regarding parking recalculation: This section allows the Commission to revisit the issue of parking on a PAD site if the parking has proved to be insufficient. This is defensible and in fact, is required to prevent possible offsite parking issues and congestion. No change is recommended.
7. Paragraph A.7. These terms will be used by the Design Review Board as a basis for review and recommendation regarding architectural characteristics of a proposed PAD and are comparable and compatible with the terminology found in the Guidelines for Community Design that the Design Review Board has adopted and currently use. The inclusion of these terms will allow the Zoning Commission to reference them in any decision made regarding a proposed PAD. Other professions such as civil engineering for drainage and traffic engineering are more self sufficient and are subject to review by the Town Engineer making acceptability (or not) a clear result of that staff review, while the Design Review Board will make its recommendation based at least in part on the terminology contained in this section.
8. Paragraph A.7. Introduction paragraph proposed to be revised to read, "In evaluating the appropriateness of the proposed development, all due consideration shall be given to, among other things, the recommendations of the Plan of Conservation and Development for the area being considered. Specifically see the POCD pages 88-91 for PAD proposals in the northern gateway and POCD pages 95-99 for PAD proposals in the southern gateway.

Section Six:

9. Paragraph B. Regarding the referral to the Design Review Board. The fact that the application is referred to the DRB makes no change in the status or authority of the DRB. No change is recommended.
10. Paragraph C. Regarding staff modification. The reason for this

allowance is that sites and site context are different. This flexibility will permit tailoring submission documents with a written explanation for any waivers, so as to make the application accurate and not excessively burdensome. The Commission still retains the authority to ask for any information it considers necessary under Item 25 and Item 26. No change is recommended.

11. Paragraph C. Item 12. Regarding materials. This information is typically provided by applicants and is not excessive. No change is recommended.

12. Paragraph C. Item 22. Regarding DRB report. This is no change from existing process. No change is recommended.

Section Eleven.

13. Paragraph C. Regarding as-built plans. As-built plans as typically prepared as building are completed and certificates of occupancy are sought. No change is recommended.

14. Regarding the proposed rewording of developer's engineer. The wording as drafted requires the plans be revised by the applicant's engineer as opposed to some other unqualified individual. No change is recommended.

Ms. Salls stated that one of the drafts included an Appendix A. She questioned if this was covered in the other references. Mr. Peck stated that he believes that they are clearly covered. He feels the link is as tight as it can be so that the Commission has every opportunity to consider all of the parts of any application that comes before them.

Mr. Elliott distributed his recommended changes to the Commission members for their review. He stated that he looked at regulations in Glastonbury and Groton. He reviewed these recommended changes for the Commission members, which included:

1. Section One, Page One, Purpose and Intent, Paragraph A.1. and Paragraph B.1. Recommend restating both to be consistent with Groton Mixed Use Zone adopted in 2007, section 6.13-2, pg 6-48a.

2. Section Three, Page 3, Definition of Tract, second paragraph. Recommend correcting to Glastonbury PAD wording in Section 4.12.2, "contiguous" tracts shall mean tracts sharing a common boundary, but not to include tracts separated by a town or state highway.

3. Section Five, Page 6-7, Master Development Plan Design Standards. Recommend use of entire Groton Section 6.13-7 to include illustrations and Directional Expression.

4. Section Six, Page 9, Paragraph C, master Development Plan and Zone Change. Recommend insertion of language from Groton Mixed Use Zone page 6-48f, Page 6.13.5b.(c).

5. Section Six, Pages 9-12, Paragraph C, Master Development Plan and Zone. Recommend renumbering #26 to #29 and insert new #26, #27, #28.

(26) From the Groton Mixed Use Zone page 6-48(i), Paragraph 6.13-5 e.2.

regarding traffic impact study.

(27) From the Groton Mixed Use Zone Page 6-48K, paragraph 6.13-5 e.8. regarding market analysis.

(28) From the 2007 Simsbury POCD. Fiscal Impact Report presenting impact on Town of Simsbury finances.

6. Section Ten, Page 17, first paragraph, Changes in Approved Plan.

Recommend: A. Minor changes in an approved Final Development Plan may be, with written approval of the Zoning Commission Chairman, be made provided..."

In response to Mr. Elliott, Mr. Peck stated that there is a minimum of 100 acres in order to apply under Groton's mixed use zone. With regard to the drawings, he feels that Simsbury's Design Guidelines are more helpful, although the current Guidelines should be significantly updated and enhanced with graphics. Regarding the market analysis and fiscal impacts, Mr. Peck stated that there is no ability to deny an application or to approve an application based upon the market analysis or fiscal impact.

Attorney DeCrescenzo stated that this PAD is a process to apply for a zone change. Before the Commission can adopt this it needs to make two essential findings. The first is the zone change must be in accord with a comprehensive plan and it must be reasonably related to the normal police powers. Regarding the language, "accord", versus "guided by", he stated that the requirement is that the zone change be in accord with the comprehensive plan. Attorney DeCrescenzo stated that he would prefer using the words, "guided by". He stated that the terms in this regulation were chosen carefully.

Regarding changing the wording to, "in accord with" as Mr. Elliott is recommending, Mr. Peck stated that from a planning standpoint, the reason he does not recommend this wording is that there are certain things that the POCD considers, however there are a number of things in any given PAD that the POCD does not contemplate.

Following on Mr. Peck's earlier statement of 100 acres as the minimum parcel size under the Groton Mixed Use Zone, Mr. Elliott read from the Groton Code, Paragraph 6.13-3c stating the minimum for a mixed use zone is 5 acres except the downtown area where it is 3 acres.

Attorney DeCrescenzo stated that there is another recommended change that he is making, which is found in PAD Section Five, subsection (b). He stated that in the second paragraph, there was a comment that this was not clear as to what this was trying to accomplish. He believes that Paragraph Two can be deleted in its entirety. The deletion of this paragraph would make Paragraphs One and Three more clear. He stated that he would recommend this change because the content is covered in Paragraphs One and Three.

Chairman Gallagher asked if there were any comments or questions from the public.

Mr. Lucker, 88 Blue Ridge Drive, stated that he is encouraged that there is more conversation by the Commission regarding specificity. He stated that he is in favor of more specificity and metrics in this draft. He questioned if this PAD Regulation provides unambiguous and clear guidance and direction to a developer so that the Zoning Commission could ultimately approve a proposal even as the proposal proceeds into the language of the underlying zone. He stated that the members of the Subcommittee that wrote the minority report needs to be heard and their points need to be looked at again. Mr. Lucker asked that the Commission members to keep in mind what could happen when a PAD allows for multiple property owners to group together to create a long strip of developable property to allow the PAD, which is vague, to overlay on top of it. The Zoning Commission would then have to interpret this. He feels that this is another reason why metrics are so important in this Regulation.

Ms. Bednarczyk, 119 East Weatogue Street stated that she thought there would be discussion from this Commission tonight regarding the referral from the Planning Commission. She stated that she thought there was supposed to be a presentation from experts as well. Regarding the PAD Regulation, Ms. Bednarczyk stated her concern that a developer can keep coming back until everything is filled; she stated that the Commission cannot deny them. Ms. Bednarczyk stated that she called the Secretary of State's Office today. She stated that Mr. Barnett is no longer sitting on the Zoning Commission, according to the Republican Town Committee and that there was a vote at the Town Committee. She questioned if this meeting tonight was a legal meeting.

In response to Ms. Bednarczyk, Chairman Gallagher stated that Mr. Loomis and Mr. Dahlquist were going to speak at this meeting tonight, although Mr. Loomis is out of Town and Mr. Dahlquist is ill.

Mr. Barnett stated that he has not resigned.

Janet Miller, 45 Blue Ridge Drive, stated that she is disappointed with Mr. Peck's new recommendations because there are no significant changes. The Planning Commission and the Design Review Board are only able to make suggestions and give guidance as Attorney DeCrescenzo has stated. The Zoning Commission is not required to follow any of their recommendations. She would like to see the PAD Zoning Regulations include ratios, metrics and standards in order to require the Commissioners to act on them and follow them and also for the developers to see what we want for this Town.

Julie Meyer, 3 East View, stated that she would like to support the wording, “in accord”, as Mr. Elliott has recommended. She also would like to have seen a maximum footprint and maximum coverage of a parcel in this PAD Regulation. She stated that it is very important that the Town have integrity and infallibility when there is so much subjectivity. Ms. Meyer discussed certain issues regarding the River Oaks project.

Chairman Gallagher closed the public hearing.

Mr. Pomeroy stated that this Commission has tried, since the last meeting, to incorporate the design metrics and the specifics that are in the POCD by exact references.

Mr. Pabich stated that although he understands that people are genuine in their positions, he feels that this PAD Regulation will benefit the Town in its present draft.

Ms. Salls stated that she has learned a lot through this process and that the Commission has a lot of things to weigh. She feels that the Commission has done this and she would like to move forward.

Mr. Barnett stated that Simsbury looks the way that it does because of decades of good, insightful decisions on the part of all of the Land Use Boards. He does not feel that this PAD Regulation will change this.

Mr. Elliott stated that he thought several experts would be talking to this Commission tonight to help them develop some compromise between language in the POCD and language and concepts in the PAD. He stated that the document before this Commission is short of providing a predictable framework. Mr. Elliott stated that he feels this document still needs more work. He feels that the Commission should wait to hear from Mr. Dahlquist and Mr. Loomis prior to making any decisions.

Chairman Gallagher stated that this draft document has been around for almost two years. Mr. Loomis and Mr. Dahlquist have given their input into this document already. He stated that he is in favor of approving this document.

Mr. Peck reviewed his and Attorney DeCrescenzo’s recommended changes with the Commission members, which included:

1. Introduction paragraph: Should be revised to read, “In reviewing the appropriateness of the proposed development all due consideration shall be given to,”.
2. Paragraph A.7. Introduction paragraph proposed to be revised to read,

“In evaluating the appropriateness of the proposed development, all due consideration shall be given to, among other things, the recommendations of the Plan of Conservation and Development for the area being considered. Specifically see the POCD pages 88-91 for PAD proposals in the northern gateway and POCD pages 95-99 for PAD proposals in the southern gateway.

3. Eliminate the second paragraph in PAD Section Five, subsection (b)

Mr. Elliott made a motion to receive a final draft of the document for the Commission's review and vote on this item at the next Zoning Commission meeting. There was no second to this motion.

Mr. Barnett made a motion to approve the application of the Simsbury Zoning Commission for an Amendment to the Simsbury Zoning Regulations to adopt a new section entitled Planned Area Development (PAD) Zoning Regulation to be added to Article Ten Special Regulations with the following modifications: 1. Introduction paragraph: Should be revised to read, “In reviewing the appropriateness of the proposed development all due consideration shall be given to,”. 2. Paragraph A.7. Introduction paragraph proposed to be revised to read, “In evaluating the appropriateness of the proposed development, all due consideration shall be given to, among other things, the recommendations of the Plan of Conservation and Development for the area being considered. Specifically see the POCD pages 88-91 for PAD proposals in the northern gateway and POCD pages 95-99 for PAD proposals in the southern gateway. 3. Eliminate the second paragraph in PAD Section Five, Subsection (b). Mr. Pabich seconded the motion, which was approved. Mr. Elliot voted in opposition of this motion. The motion passed 5-1.

Mr. Elliot questioned if it was Attorney DeCrescenzo's opinion that the Zoning Commission is on safe ground, from a legal standpoint, if challenged on the decision that was just made in the absence of an actual document. Attorney DeCrescenzo stated that the Commission has the draft in front of them, which has been in the Town Clerk's office for quite some time. The Commission has heard the recommended changes to the draft from Town staff and from himself. These changes do not change the scope or the reach of the PAD Regulation. The Commission has just voted on the PAD draft that has been in the Town Clerk's Office and that has been the subject of three public hearings. These changes were made based on testimony that was taken at these public hearings. He stated that the Commission has just voted to approve the draft subject to the recommended changes by Town staff. Town staff is now obligated to incorporate these changes into the draft; this will be the final approved regulation that will become part of the Town's Zoning Regulations.

VII. OTHER MATTERS AS MAY PROPERLY COME BEFORE THE COMMISSION

There were none.

VIII. ADJOURNMENT

A motion was made to adjourn the meeting at 9:00 p.m. The motion was seconded, which was unanimously approved.

Ed Pabich, Secretary