

From: Lois Laczko October 26, 2009 11:12:23 AM  
Subject: Zoning Commission Minutes 10/05/2009 ADOPTED  
To: SimsburyCT\_ZoningMin  
Cc:

ADOPTED

ZONING COMMISSION MINUTES  
OCTOBER 5, 2009  
REGULAR MEETING

I. CALL TO ORDER

Chairman Barney called the Regular Meeting of the Zoning Commission to order at 7:00 p.m. in the Main Meeting Room at the Simsbury Town Offices. The following members were present: Bruce Elliott, Alan Needham, James Gallagher, Ed Pabich, Madeline Gilkey and Garrett Delehanty. Also in attendance were Director of Planning Hiram Peck, Zoning Enforcement Officer Howard Beach, Commission Clerk Alison Sturgeon and other interested parties.

II. APPOINTMENT OF ALTERNATES

Chairman Barney appointed Mr. Pabich to serve in the absence of Mr. Barnett and Mr. Needham to serve in the absence of Mr. Vaughn.

III. APPROVAL OF MINUTES of the September 21, 2009 regular meeting

The minutes were tabled until the next regularly scheduled meeting.

Mr. Delehanty read the call.

IV. PUBLIC HEARING

a. Application of Renée Tribert, President of Board of Directors, Simsbury Historical Society, Owner, Amy Zeiner, Executive Director, Simsbury Land Trust, Agent, for a Special Exception pursuant to Article Ten, Section H of the Simsbury Zoning Regulations to obtain a Temporary Liquor Permit for a one day wine tasting to be held on Saturday, October 31, 2009 on property located at the Simsbury Historical Society, 800 Hopmeadow Street. SCZA Zone

Ms. Zeiner, 12 Timber Ridge Drive, stated that the Simsbury Land Trust has

moved to the Historical Society building. She stated that they will be having an open house and would like to have wine tasting at this event. The wine tasting will only be open to Land Trust and Historical Society members. There will only be wine tasting; there will not be any selling of alcohol. The wine tasting will be held on October 31st from 2p.m.-4p.m.

Chairman Barney questioned if there was an oversight process in place. Ms. Zeiner stated that a trustee from the Simsbury Land Trust would be there; they are not expecting a lot of people at this event. She stated that identification could be checked if needed. She could put something in place if the Commission would like. Chairman Barney stated that he would like someone to be aware of dates regarding the drinking age.

Ms. Zeiner stated that information will be given about the wine and then they will be tasting them. No wine will be sold or distributed. Mr. Beach stated that he did talk to Mr. Epstein. There will be three wines sampled. Each sample will be a one ounce sample.

Chairman Barney asked if there were any comments or questions from the public. There were none. Chairman Barney closed the public hearing.

#### V. PRESENTATION(s)

a. Application of Tom Martin, Phonon, Owner, Robert Lohrmann, President, AIA, Agent, for a Site Plan Amendment for Phase 2 construction on property located at Phonon Corporation, 90 Wolcott Road. I-1 Zone

Mr. Gallagher recused himself from the Commission during this discussion.

Mr. Lohrmann showed the Commission members pictures of the building. He stated that the new addition is being completed. They would now like to tie in Phase II, which is a 25' x 100' section. They would like to connect the existing second floor of the front building with the second floor of the addition.

Mr. Lohrmann stated that the original application had suggested that Phase II would be built. He stated that parking is based on the overall development. They are required to have 81 parking spaces; they have 92 spaces, which exceed what is required.

Mr. Lohrmann stated that they will be removing a section of the roof and replacing it with a new floor structure and roof structure in order to connect the two buildings. He stated that the new addition will be office space.

Chairman Barney questioned if the footprint would be changing. Mr.

Lohrmann stated that the footprint would not be changing. It is not different from the original proposal.

Mr. Elliott questioned if the lower level of the building was already connected. Mr. Lohrmann stated that it is already connected. The only other minor change is a requirement from the Fire Marshal, which is to provide canopies from the existing exits. Mr. Elliott questioned if there would be any signage on them. Mr. Lohrmann stated that there would not be any signage on them, although there may be a small sign on the new corporate entrance to the building. Mr. Peck stated that there is no change in the signage proposal. This additional signage would be only to indicate the entrance.

Chairman Barney complimented Phonon. He stated that the construction management for this project has been great.

Mr. Gallagher returned to the Commission.

b. Application of Mary A. Glassman, First Selectman, Town of Simsbury, Owner, Gerard G. Toner, Director of Culture Parks and Recreation, Town of Simsbury, Agent, for a Site Plan Amendment for construction of a dog park on property located on Iron Horse Boulevard (Map H-10, Block 226, Lot 2). SCZC Zone

Ms. Johnson, 48 Musket Trail, stated that she is the Chairman of the Dog Park Committee. She stated that they are seeking a Site Plan amendment. She distributed a letter from the Town Attorney stating that the dog park comes under the same heading as other parks and Town owned land. She stated that the liabilities are the same.

Ms. Johnson stated that there are over 2,500 dogs registered in Simsbury. A dog park is an enclosed, fenced in area where dogs can gather off leash. All dogs must be accompanied by an owner and controlled. A dog park is also a place for dog owners to socialize with other dog owners. She stated that Paw Meadow will be a public/private endeavor; the Town of Simsbury owns the land and will clear the land. The Dog Park Committee will be responsible for raising the funds for the park, including fencing, rules, maintenance, and picking up and disposing of waste.

Ms. Johnson stated that volunteers of the Dog Park Committee will be responsible for continued funding for the park. The Board of Selectmen has asked them to provide a Board of Directors. They will also have to report to the Culture, Parks and Recreation Commission on a regular basis.

Ms. Johnson stated that the Town has been a great help to the Dog Park Committee. They have been working towards the dog park for the past 15

months. She stated that the Police Chief has endorsed this project. The Animal Control Officer has also endorsed this project. He will be patrolling the park daily. Mr. Sawitzke found the land for the park.

Ms. Johnson stated that the concept of a dog park is not new. There are currently dog parks in Granby, West Hartford, Glastonbury, Windsor and East Windsor. She stated that dog parks are good for the community. Having the park in this location, she feels, will also be an economic draw to the Center of Town.

With final approval, Ms. Johnson stated that the Committee will need to raise \$30,000, which will be the responsibility of the Dog Park Committee. They will not be asking the Town for any funding.

Ms. Johnson stated that Paw Meadows will have a fence around it with double piping in order to hold in the mulch. There will be 3"-5" of mulch spread over the dirt, which will be replenished yearly. Chairman Barney questioned if the mulch would smell after being saturate with dog waste over a period of time. Ms. Johnson stated that it would not. She stated that they will be installing containers with biodegradable bags at the park for dog waste. It will be the owner's responsibility to clean up after their dog.

Ms. Johnson stated that water is a crucial part of a dog park. They are planning on running a pipe underground from the band shell. There will be both a dog and human fountain. There will also be benches for people and dogs to sit on along the perimeter of the park. There will also be plenty of parking with handicapped access to the park.

Ms. Gilkey questioned if this dog park would be big enough and if there would be a limitation on how many dogs can be in the park area at one time. Mr. Joel Pactor, 468 Bushy Hill Road, stated that dog parks are all different sizes. People come and go from the park at different times of the day. At the most, there will probably only be 5-6 dogs at the park at one time. He stated that he has never seen overcrowding at a dog park. Ms. Gilkey stated her concerns regarding the Dog Park Committee possibly needing to limit the numbers of dogs. Ms. Johnson stated that there is a limit of three dogs per person at the park, although they do not have a set limit regarding the number of people.

Chairman Barney questioned who controls the rules and regulations of the dog park. Ms. Johnson stated that there are 13 people on the Dog Park Committee. She stated that they will be very strict regarding the safety; there will be signs posted. She stated that people using the park will also police the park.

Mr. Gallagher questioned if certain breeds of dogs would not be allowed in the park. Ms. Johnson stated that there would not be a restriction of breeds, although they will have a rule that all dogs need to be spayed or neutered by a certain age. She feels that this will eliminate a lot of problems.

Chairman Barney stated his concerns because he feels the control levels that owners have over their dogs is limited. Mr. Pactor stated that owners have to be vigilant when watching their dogs.

Chairman Barney questioned when the dog park would be open. Ms. Johnson stated that the park would be open from dawn to dusk, year round, although the park will not be open when there are concerts in the area.

Ms. Johnson stated that the dog park may eventually expand to the east, although the access road would need to be relocated.

Chairman Barney stated that the Conservation Commission had stated in their memo that there is a slope to the east, however, if it is determined that a berm is necessary one will need to be constructed. He questioned how this will be determined. Mr. Beach stated that Mr. Sawitzke has indicated that once the area is cleared, there will be a natural grade away from the wetland to the road. If this is not sufficient, they will put in a berm; Mr. Sawitzke will make this determination.

Mr. Elliott questioned if there would be any lighting at the dog park for security purposes and if the park is visible from Iron Horse Boulevard. Ms. Johnson stated that there is no lighting at the park. Mr. Garlic, Hedge Hog Lane, stated that Parking Area A can be seen from Paw Meadow and from the access road and Helen's Way; it cannot be seen from Iron Horse Boulevard.

Mr. Elliott stated that he is supportive of the dog park, although he feels that the location is secluded. He stated that there may be difficulty in an immediate rescue in the case of an emergency. Elayne Cree, 201 Great Pond, stated that it may be possible to put an emergency phone in the park, although most people have cell phones.

Chairman Barney stated that the Zoning Commission worries about public safety.

## VI. DISCUSSION AND POSSIBLE VOTE ON ANY AGENDA ITEM

Mr. Delehanty made a motion to approve the application of Renée Tribert, President of Board of Directors, Simsbury Historical Society, Owner, Amy Zeiner, Executive Director, Simsbury Land Trust, Agent, for a Special Exception pursuant to Article Ten, Section H of the Simsbury Zoning

Regulations to obtain a Temporary Liquor Permit for a one day wine tasting to be held on Saturday, October 31, 2009 on property located at the Simsbury Historical Society, 800 Hopmeadow Street as submitted. Mr. Pabich seconded the motion, which was unanimously approved.

Mr. Gallagher recused himself from the Commission for this discussion.

Mr. Elliott made a motion to approve the application of Tom Martin, Phonon, Owner, Robert Lohrmann, President, AIA, Agent, for a Site Plan Amendment for Phase 2 construction on property located at Phonon Corporation, 90 Wolcott Road as submitted. Mr. Pabich seconded the motion, which was unanimously approved.

Mr. Gallagher returned to the Commission.

Mr. Delehanty made a motion to approve the application of Mary A. Glassman, First Selectman, Town of Simsbury, Owner, Gerard G. Toner, Director of Culture Parks and Recreation, Town of Simsbury, Agent, for a Site Plan Amendment for construction of a dog park on property located on Iron Horse Boulevard (Map H-10, Block 226, Lot 2) as submitted. Mr. Needham seconded the motion, which was unanimously approved.

## VII. OTHER MATTERS AS MAY PROPERLY COME BEFORE THE COMMISSION

### Status of Charrette Process

Mr. Peck stated that the final presentation of the Charrette is on the Town website. The next step is for the consultant to come back with a draft regulation in November. The consultant wants to come back several more times and also have a meeting by video conference prior to November. Mr. Peck stated that he would like the consultant to come back 1-2 more times if the Town can find the money.

Mr. Peck stated that people need to be clear that nothing will be done to anyone's property without an application being submitted and nothing will be done against anyone's will.

Regarding historic structures, Mr. Peck stated that there are several ways that these structures can be dealt with. They can be protected as an historic structure or they can be zoned so their development potential might be greater than their value as historic structures. He stated that all of the property owners of historic structures, that would be subject to the demolition Ordinance, will be meeting within the next several weeks to discuss their preference in terms of how they would like to see these structures treated.

Mr. Peck stated that the Charrette was well attended. Most of the feedback was favorable. Mr. Pabich stated that the consultant stated that the development of the Town Center was not a function of demand, but rather lack of supply. Mr. Peck stated that it is important to remember that this build-out plan is a 40-year plan. Mr. Beach stated that the consultant felt that there would be an immediate market and demand for housing in the Town Center.

Regarding the development approval process, Mr. Peck stated that this will be a part of the regulation. The approval of the Site Plan will be at an administrative level with more integration with the Design Review Board. There will also be an appeal process. Mr. Peck stated that if an application does not meet the standards, the Zoning Commission could have a public hearing or an "alternative compliance".

Mr. Peck stated that he is hopeful that by the third week in November, the Charrette report will be back, as well as the outline for the code, along with a draft zoning. He stated that draft zoning will have height limitations; the consultant was very conscious regarding the height limitations in the area around Eno Memorial Hall.

Chairman Barney stated that he heard feedback from people who stated that the plan from the consultant did not have a theme and that it was generic designing. Mr. Peck stated that this process was a short period of time and it has a certain feel. As the Center gets developed over time, it will have a different feel. He stated that the consultant wanted the plan to reflect what the people wanted. Mr. Peck stated that the plan does have a number of themes including: circulation; sustainability; access; access to the recreational areas; and the fact that everything could fit and work well in a compact downtown area. These themes may not be as visible to people, although they are very important.

The Commission members discussed the other side of Hopmeadow Street, including the firehouse. Mr. Needham questioned if anything would be done with the pond near the Library. He feels that this area presents residential possibilities. Mr. Peck showed the Commission members pictures of Wilcox Street and the possibilities there of residential housing. He stated that the Town may be able to gain some control over the parking lots in this area.

The Commission discussed the Incentive Housing Zone and how it might be integrated into the Town Center.

Department Work Program

Mr. Peck stated that the Zoning Regulations are still moving forward. He

suggested that he go over the Regulations with the Commission members so that they fully understand them. He stated that the current Regulations need to be approved; the code will also fit into this.

#### PAD Regulation Status

Now that the Charrette is done, Chairman Barney stated that the Commission should move forward with the PAD Regulation. It was decided to have the first workshop scheduled for October 19; the second workshop scheduled for November 16th; and the third scheduled for November 30th. Mr. Peck stated that the Commission could then set a public hearing for December 7th or December 21st.

#### Report from Zoning Enforcement Officer, Howard Beach

Mr. Peck stated that representatives from Hoffman will be at the next meeting in order to discuss questions that this Commission had. Chairman Barney stated that he would like them to explain all of the dirt movement. Mr. Beach stated that they have been constructing a retaining wall on the west side of the catch basins, which is why they are moving a lot of dirt. After the lower lot is installed, the Markie site will be graded. He stated that there will be a berm on the north side of the Markie property, which will be a buffer for the neighbors. Some of the dirt will be moved to this location.

Mr. Elliott questioned if Hoffman was doing what was approved. Mr. Peck stated that he is unsure. He has suggested that a representative come to the next Zoning Commission meeting with any changes that are different from the approved plan to see whether they are acceptable to the Commission. Chairman Barney stated that he would like to see exactly what has been done; anything different than the approved plan should be noted.

Mr. Gallagher questioned what was happening on the Giorgio property. Mr. Beach stated that they are waiting until the lease is formally signed with St. Francis Hospital before construction starts. Mr. Beach stated that he informed Mr. Giorgio that the site does need to be stabilized throughout the winter if construction does not start before then. He stated that the pad has been left, although they have graded and seeded the areas in order to stabilize them.

Regarding 499 Hopmeadow Street, Mr. Beach stated that this is an issue with a home occupation. He stated that the homeowner has now moved into Simsmore Square. This violation has been taken care of.

Regarding 33 Canal Street, Mr. Beach stated that Attorney Donahue has sent a letter regarding this issue, indicating that a home occupation has never



applied to this building. It is a legally non-conforming use. Chairman Barney questioned if the Town Attorney has commented on this issue. Mr. Peck stated that having the Town Attorney review this issue should be the next step.

Mr. Beach stated that the owner of a home on Sand Hill has a business use in a residential. This business is a law office. He stated that the homeowner has not responded to several letters that he has sent. This matter has now been turned over to the Town Attorney.

#### Other Business

Chairman Barney made a motion that, whereas, the Simsbury Zoning Commission has discussed the matter of the concert on August 29, 2009 put on at the Simsbury Performing Arts Center by the Reach Foundation (the Sponsor) and finds the following: The Zoning Commission has discussed many aspects of the Public Gathering Permit application which have been found to be inadequate and untimely, specifically;

Even though several discussions were held between the Zoning Enforcement Officer and individuals claiming to represent the Reach Foundation, the required Public Gathering Permit was not completed and returned to the Zoning Enforcement Officer in a timely manner as the Public Gathering Permit specifically directs as follows: "This form must be completed and returned to the Zoning Office at least four weeks prior to the date of the scheduled event. Submit all documents at the same time." This was not done; and

Whereas, the Commission has also discussed the aspect of the activity which involved the sponsor providing alcohol to certain patrons on the Performing Arts Center grounds at the concert and has determined that this activity constitutes a violation of the Simsbury Zoning Regulations, Article Ten, Section H. and H. 1., which require that a Special Exception be issued by the Zoning Commission for uses which "sell or serve" alcoholic beverages at such functions.

Therefore the Commission hereby votes to notify the Reach Foundation of the fact that it has made such a finding and is therefore levying a \$150 fine for the noted violation based on Chapter 158 of the Town Code. It also directs the ZEO to notify of the Reach Foundation in accordance with Chapter 158 of the Town Code, of this fine and to request its immediate payment. Staff is also directed to include in such notification that The Reach Foundation may appeal this decision to the Simsbury Zoning Board of Appeals in accordance with the provisions of Chapter 158 if it so chooses. Commissioner Elliott seconded the motion.

Mr. Delehanty stated that he will be opposing this motion on the premise that they did not violate the Regulations. He does not believe the Reach Foundation sold or served alcohol.

Mr. Gallagher feels that if they fine the Reach Foundation, it will not be good business for events in Simsbury. Mr. Elliott stated that many events have been held in Simsbury; this is the only event where there has been a problem.

Mr. Barney, Needham, Pabich and Elliott voted in favor of the motion. Mr. Delehanty and Mr. Gallagher voted in opposition of the motion. The motion passed 4-2.

VIII.                   ADJOURNMENT

Mr. Delehanty made a motion to adjourn the meeting at 9:05 p.m. Mr. Gallagher seconded the motion, which was unanimously approved.

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Garrett Delehanty, Jr., Secretary