

From: Lois Laczko October 7, 2011 11:59:22 AM
Subject: Planning Commission Minutes 07/12/2011 ADOPTED
To: SimsburyCT_PlanMin
Cc:

PLANNING COMMISSION MINUTES
JULY 12, 2011
REGULAR MEETING

I. CALL TO ORDER

Michael R. Paine, Chairman, called the meeting to order at 7:00 p.m. in the Main Meeting Room of the Simsbury Town Offices. The following members were present: Ferg Jansen, Charles Houlihan, Alan Needham, William Rice, Tina Hallenbeck, Sean Askham and Bob Kulakowski. Also in attendance were Hiram Peck, Director of Planning, and Janis Prifti, Commission Clerk.

II. SEATING OF ALTERNATES

Chairman Paine appointed Commissioner Rice to serve for Commissioner Drake, who was not present.

III. APPROVAL OF MINUTES of June 28, 2011

Commissioner Hallenbeck went over revisions to the minutes, including:

Page 1, line 11, delete Commissioner Askham's name, he was not present and correct spelling of his name; on line 38, change to "we will refine those definitions;

Page 2, line 60, "Town Attorney" replaces "Bob";

Page 3, no revisions;

Page 4, no revisions;

Page 5, line 234, change "would be able to comment" to "would not be able to comment"; line 236, change "one is the fund" to "first on conservation development"; line 238, is changed from "a least one look" to "at least one look":

Page 6, line 295, "Commissioner Needham", not "Commissioner Houlihan" suggested "historic";

Page 7, change "6:39" to "8:39";

Commissioner Hallenbeck moved to approve the Minutes of June 28, 2011. The motion was seconded by Commissioner Needham and passed by Commissioners Rice, Houlihan, Jansen and Paine, and Commissioners Hallenbeck, Askham, and

Kulakowski abstained. (lot's of voices so not sure who?)

IV. DISCUSSION

a. Subdivision Regulations

Mr. Peck stated he worked comments from the 6/28 meeting into the draft Subdivision Regulations document streamlining it and cleaning up duplication. He said the potential of separating housing from commercial and mixed use development is reflected in the second bullet at the bottom of the first page, allowing for the possibility they come back together at the end. He said the remaining points incorporate the ideas discussed with no other significant changes.

Commissioner Houlihan suggested deleting "adequate," regarding safe street widths on page 2, section d. Mr. Peck stated "adequate" applies to not only street widths, but to a series of components, e.g. sub-base material, curbing, width, drainage, capacity to serve a certain number of lots. In LID drainage discussions coming up, engineers will recommend making the pavement narrower in order to reduce runoff, so pavement widths will be adequate but still safe. Commissioner Houlihan suggested adding a noun, e.g. "adequate street construction", because "safe street widths" is a different concept than "adequate". Chairman Paine suggested using "safe streets that are adequate, proper widths, grades, drainage" as descriptors. Commissioner Houlihan said discussing "grades, drainage and construction" is a broader application than just for streets, so "safe street widths" is fine, but "adequate" applies to more than just streets. Commissioner Needham said he liked that. Commissioner Hallenbeck asked if "adequate" refers to measurements or lengths. Mr. Peck said it really doesn't because based on the type of development, you might have a short street with a cul de sac serving only a few houses or a short street with more dense housing. Mr. Peck suggested leaving some flexibility so that based on the applicant's engineer and the Town Engineer's reports, they can decide whether it is adequate or not. Commissioner Houlihan said later on there is a street section where standards can be appropriately discussed. Commissioner Jansen suggested under "2. Purpose", deleting "so as" on line 2. He also recommended adding commas as follows: "intended to insure that natural areas, whether on or off the property to be subdivided, will be conserved and protected, the provision of desirable open space, through the use of conservation easements, or the fee-in-lieu of open space regulation. Commissioner Houlihan agreed those were two good grammatical changes. Commissioner Needham asked if under "Authority" in line 2 saying, "subdivision of land within the town" instead of "in town" would be more polished. Commissioner Houlihan suggested saying in "Simsbury". Chairman Paine stated it probably is not necessary to use "Simsbury" a second time as it already states it is our Planning Commission. Commissioner Houlihan

suggested just putting a period after "land". Commissioner Needham said there are now three ideas. Chairman Paine said it should probably finish "within the town". Commissioner Rice proposed town be capitalized. Mr. Peck added he would also consistently capitalize "the Regulations" in the document.

Commissioner Rice regarding 2. d. stated his belief that "widths, grades, drainage and construction" all pertain to street, because the other items separated by semicolons clearly denote breaks in ideas. He said Chairman Paine original proposal that, "these regulations shall promote and approve proper and safe street widths, grades and construction...." in his opinion all pertain to streets. He said if we expand it, maybe it should be broken up differently. Commissioner Houlihan said that is why he wanted to limit street references, because he believes grades, drainage and construction apply to the entire lot, not just streets. He suggested putting a semicolon after "widths", but "construction" is hanging out there. Mr. Peck suggested changing "grades" to "property grades" to cover both. Commissioner Houlihan said "construction" needs a modifier. Commissioner Rice suggested changing "proper and safe street widths" to "provide for proper and safe streets; grades and drainage; lot layout" Commissioner Houlihan said this raises the issue of how to address construction in Subdivision lot approval and whether they get into assessment of construction. Chairman Paine asked Mr. Peck if the Town Engineer would approve accepting a road because it meets certain criteria. Mr. Peck said typically the Town Engineer reviews applicant's plans and does an assessment of the grades, drainage, if there are any pipes or storm drains, etc. and determines if they are adequate. Commissioner Houlihan asked Mr. Peck if those items pertain to streets only. Mr. Peck said no, the whole development is looked at. Commissioner Houlihan said the question relates to "construction" and what it refers to, e.g. streets, infrastructure, improvements, etc. Mr. Peck said it applies to related construction. Commissioner Jansen asked if that applies to sewer pipes, water or anything. Mr. Peck said it would apply to any associated construction. Commissioner Houlihan said we really don't deal with construction standards in Subdivision approval. Mr. Peck said no, not once the lot is approved; as long as the road, whether it has sidewalks or not, is in compliance with existing Town standards, they don't get into a particular style of housing, etc. Chairman Paine suggested on line two of 2.d. changing "provide" to "review and approve" based on information received so if the Town Engineer indicates how the road will be constructed and we approve. Mr. Peck said we want to be connected to other policies and regulations. Commissioner Houlihan said he is not talking about tasks, but would like to see some depth added to "Purpose". Commissioner Askham stated the importance of tying in at the beginning what you expect to see through the rest of the Regulations. Commissioner Houlihan stated he liked starting with "provide" and believes "adequate" is better than "proper".

Commissioner Rice said he interprets "adequate" as minimum requirements, whereas "proper" is stronger and refers to other regulations. Commissioner Houlihan asked where they look for standards in roads. Mr. Peck said the Town has highway standard guidelines the Engineering Department uses to review proposed developments. Commissioner Houlihan suggested "street construction and safe street widths in accordance with highway construction guidelines." Chairman Paine said you could go to the first sentence "applicable guidelines, regulations and policies" which is broad enough to enable getting information from wherever needed without being overly specific. Commissioner Askham stated the purpose here is not to define "adequate", because we will define that later on in the procedures. Commissioner Needham asked if "appropriate" would be better. Commissioner Houlihan said either "adequate" or "appropriate" could be used. Commissioner Askham said the Regulations should not be too specific in the first paragraph. Commissioner Houlihan read the street section which currently says "all streets should be designed, constructed and maintained in accordance with the Town highway specifications." The Commissioners agreed it may end up back there. Commissioner Askham said going back to "safe streets, proper drainage, etc." really is the purpose. Commissioner Houlihan said he is talking about a purpose for coordination of existing things or should they reference a laundry list for subsequent chapters. Chairman Paine said all of these are under the category "Encourage creative site design, development and usage which will provide for or allow", followed by the bullets. He said they may be trying to say too much in d. and questioned if they should go back to saying less. Commissioner Askham said they are all valid things, the questions is where to say them. Commissioner Houlihan said these items should show up somewhere in Purpose. He said the section is ambitious and asked if it should be streamlined or broken out. Mr. Peck asked if "adequate" is agreed on; then bullets could be used to list the rest. Mr. Peck said adequate won't come back to haunt you; subdivisions are really administrative - if a subdivision meets the regulations, the Commission has little latitude and does not want to invite litigation nor to be preliminarily judgmental. Chairman Paine stated "adequate" is okay, because they can then point to the Regulations or other descriptors that do or do not meet the standard. Mr. Peck said if the Town Engineer, Health District or Fire Marshall say it is not adequate, it will not happen. Mr. Peck will use the term "adequate" and then use bullets for the rest and run it by the Commission again to see if it takes care of these issues. Commissioner Houlihan said the word only gets into litigation if there is confusion regarding what the standards are and the Commission would be used as a justification if there was a problem with the streets that we didn't think was adequately addressed by highway specifications, or some funky condition not readily answerable, and then they would reach back to a standard like "adequacy" to defend what was done on that issue. Chairman Paine still liked "adequate" with bulleted items following. Mr. Peck said the bulleted items are all those currently

listed:

- Street construction
- Safe street widths
- Grades for all the property
- Drainage for all the property
- Related construction
- Safe drinking water supplies (municipal or well)
- Sanitary

Commissioner Needham pointed out that since "adequate" is now used in the beginning, it is redundant in the following bulleted items. Mr. Peck stated it could be pared down later on as long as it says what you are for. Chairman Paine asked Mr. Peck if in reviewing a Subdivision, is it correct that a negative impact on drinking water or storm water drain off is reasonable and appropriate to consider in making a decision. Mr. Peck said that while the Commission's expertise is not necessarily in septic systems, well development, or wetlands, those reports come to you as part of the application before a decision is made. He said the Commission would give consideration to a negative report and may decide it is too negative. Commissioner Askham said the important thing is to take it into account. Mr. Peck stated he would redraft the document and send it out to members tomorrow 7/13.

Commissioner Houlihan said in "Purpose" we talk about "scenic, historic, semi-rural character and special areas of the Town as defined in the POCD"; the POCD is broader than those items and should be referenced "consistent with these Regulations and the POCD". He said in "Purpose", line 2, "so as to insure that the land proposed for subdivision will result in buildable lots which are consistent with these Regulations and the character of the Town and the area", adding "and the plan of conservation development" in order to use it as a standard of enforcement. He likes what is currently in a., but section a. is only a part of the POCD. Instead of the "character of the Town and the area", he suggested just "POCD". Commissioner Needham questioned whether the POCD really describes the areas; you can look at an area and get a better sense of the character of that area, e.g. the POCD of Tariffville still doesn't describe its architecture and charm. Commissioner Houlihan said we could list them both, but need to be able to reference the POCD. Commissioner Needham said he was happy with that, as the character issues are deeper than what is expressed in the POCD. Mr. Peck cautioned it should be something solid; if something specific can be pointed to, you might get away with it. Chairman Paine added hypothetically, extending out might get too far out on the ledge. Commissioner Houlihan said going with only the character of the Town and the area is inadequate; but in terms of expressing purpose, it adds an element to the checklist applicant's present to us. He said it

also gives the Commission something extra; his main point is the need to put this in not only these Regulations, but also the POCD in order to access what is in there. He said this could be done singularly or with the character of the Town and the area. Mr. Peck stated Regulations and the character of the Town as expressed in the POCD and the area of the proposed Subdivision, takes both into account. Chairman Paine stated it still has to get past the Town Attorney and he liked Mr. Peck's suggestion.

Commissioner Needham said this satisfied what he was thinking.

Commissioner Rice confirmed a. would be reworded and if asked if we have already referenced the POCD, do we need to do it again. Chairman Paine stated he took it from the POCD and mentioning it in the opening paragraph strengthens it. Commissioner Rice said he was okay with it if special areas are defined in the POCD. Commissioner Needham suggested this defines special areas. Commissioner Rice said it is not defined per se until a definition is written; if there is a belief a part of the Town is a special area that is a belief, not a definition. Commissioner Rice said that is why he likes Mr. Peck's suggestion of both POCD, plus your sense of the character of the Town. Commissioner Jansen asked how would you define special areas in the POCD. Mr. Peck said there may be some areas where the existing character may not be what you want to preserve, rather you may want to upgrade; he stated "Purpose a." is solid based on the statutes.

Commissioner Rice suggested under "Purpose e." a revision to "without detriment to residents of the other properties in the area." Chairman Paine asked for any further comments. Commissioner Hallenbeck stated regarding sections 3 and 4, she and Commissioner Askham are not prepared to go over it tonight and they both will not be present at the 7/26 meeting. Chairman Paine confirmed there were no meetings in August and asked if Commissioners Hallenbeck and Askham could provide a draft so they could take a stab at it on 7/26. Commissioner Askham asked if they will take most of the information they already have and put it somewhere else into subsections. Commissioner Jansen stated there is one more meeting this month on 7/26 and none in August. Commissioner Needham said there is a general question of how we do this. He looked at Tolland's regulations which are very different. He said if clarity comes from detailing, too much detail is not clear. He said the Tolland regulations read like a book; if someone wants to subdivide their property, here is what that means, here is what you do, who you contact, what you must have, what the fees are, etc. He said if you are a homeowner wondering if you can subdivide your lot, it would be nice for the public to be able to read it and understand it. Commissioner Jansen suggested doing an Executive Summary. Commissioner Askham said his feeling was the same when he read Tolland's regulations. Commissioner Needham suggested taking what we already have; either way it is still a lot of work. He said Tolland's regulations are very clear, but we may do it in our own way. He said he has no qualms about copying what works. Commissioner Askham agreed. Mr.

Peck said he agreed with them and they should definitely change the name of the town and that town's borrow each other's regulations all the time. Commissioner Needham said it is a compliment to them and us to use a good idea. Mr. Peck said he would send the Commissioners a word copy and see where the Commission wants to go with it. He said what we have is problematic and the meat of the Regulations is in the next two or three sections. Commissioner Needham said if we remodel, he liked Tolland's regulations the best because they are easiest to understand. Commissioner Askham said a Subdivision could be brought in for approval under Tolland's style of regulation. Commissioner Needham said trees could be discussed in a sentence or two.

Chairman Paine asked if they read Windsor's regulations. Commissioner Askham said Windsor's are similar to what we are doing; it flows some, but is more like ours. Commissioner Kulakowski stated New Canaan's regulations are similar to Tolland's, but more detailed. Commissioner Askham asked where they want to go regarding different sections and how to organize it. Commissioner Needham said it will be much quicker to follow an existing outline and make changes. Commissioner Askham said they could pick and choose. Commissioner Needham suggested looking at Tolland's regulations to see if they work. Mr. Peck said some areas would not apply; for example, today the Governor signed new legislation on performance bonds and how they are put in place; it is very confusing and that section would need to be straightened out before we put it in. He agreed with what they want to do and said how they go through the process is valuable. Commissioner Needham said people can be half prepared before we see them. Chairman Paine stated, as discussed last week, he liked having different criteria for residential subdivisions, business, or nonresidential subdivisions. Commissioner Needham said regarding Tolland's regulations, let's see if it works. Mr. Peck said he would get a word copy of that section out to everyone. Commissioner Askham wanted to be sure their thoughts are conveyed. Mr. Peck stated that October 30, 2011, is the goal for completion so they will be ready to move forward at end of Fall. Commissioner Rice said he would be cautious in adopting another town's regulations without looking at our existing regulations. Mr. Peck said they will do that. Commissioner Needham stated the discussion is about using Tolland's basic format as a blueprint to facilitate the process. Mr. Peck said whatever the Commission feels comfortable with. Commissioner Rice said Tolland has instructions to get to a section number, e.g. performance bond reductions which our current regulations don't have and should have. Mr. Peck said our Regulations are older and have many holes; Tolland's are current and were revised a year or so ago. Commissioner Rice asked if Mr. Peck could find out how many subdivision applications have come before Tolland and what the success of the applications has been in meeting the requirements of the Regulations. Mr. Peck said there would not be too many. Commissioner Rice said he agreed Tolland's regulations look

nice and he liked the structure, but he does not want to adopt it if it doesn't apply here. Commissioner Needham said we will talk about sections line by line and may word the Regulations totally differently. Mr. Peck said he lived through New Canaan's regulations and worked with Greenwich's regulations which are more complex, but Tolland is more like Simsbury and could be a good model. Commissioner Houlihan said 1) in section 3. General Provisions, there are a lot of requirements and 2) also at the end of the Subdivision's we have procedures and plan requirements; so there are plan requirements in two different places, and there are coordination issues to be streamlined. He said Tolland gives us a checklist to use and cross-reference. Chairman Paine said they still have to turn the proposed Regulations over to both the Town Attorney and to Mr. Peck; the Commission will then hear what Mr. Peck feels will work in his office while allowing the Commission do its job. He said the more administrative information given to a person coming in for a Subdivision, the more it helps everybody. Commissioner Rice said this should be an administrative effort when applying the Regulations. Mr. Peck agreed. Commissioner Needham said they should know their chances before they come in. Mr. Peck said that is the staff's job, but sometimes applicants don't listen to the guidance provided; it should be a straightforward process and concluded at the second meeting and not take six months to complete.

Chairman Paine stated that Commissioners Hallenbeck and Askham will not be present at the next meeting; nevertheless, the Commission would like to receive their input. Commissioner Askham said when the word document is received he will mark it up and send it in. Commissioner Needham stated the Commission should spend a meeting as a group working through the model. Mr. Peck agreed with developing the outline and framework at the next meeting and potentially dividing up the sections. Commissioner Needham said today's process was laborious, but resulted in a good product. Commissioner Hallenbeck said this plan gives them the month of August to go through the sections and prepare. Chairman Paine said they will have time to go through Tolland's regulations, compare them with our subdivision regulations, and set a structure. Mr. Peck said there will be pieces in other regulations for Bloomfield or Windsor that can be pulled out. Commissioner Needham clarified this is just the organization aspect. Chairman Paine confirmed it sounded like a good approach for the next meeting.

V. STAFF REPORT

Mr. Peck reported they are starting to work through the LID material, and John Ford is working on creating a drainage module primarily focused on the Center, and he anticipates adoption for other parts of the Town. He said they are focusing on trying to replicate the pre-existing natural environment dealing with as much drainage onsite as possible, rather than

letting it run off to a stream or catch basin. He said much of that work will be able to be plugged into Subdivision Regulations, as well as Zoning Regulations. He said Mr. Ford is reviewing the draft set of Zoning Regulations produced for the Zoning Commission two years ago. He said they were put on hold when the Town Center Charrette came up. He said LID and Town Center Regulations will be merged and that John's deadline is 9/30, so they will see him at least two more times, and Mr. Peck will advise the Commission of those dates and invite all the land use commissions.

Mr. Peck said the draft report for the Rte. 10 Study was delivered Monday night, 7/11. He said there is a hardcopy of the draft report in his office for review and in the Town Clerk's office, the Library, and on the Town Website there is a link to CRCOG's Website. He explained it is a very large document and recommended reading it online. He said it is hoped the public participates and submits comments; it is a very interesting study and comments in the next 30 days will be worked on by the Study Team. He said prior to the end of the 30-day comment period or 8/9 another joint meeting of the land use commissions will be held and comments will be worked on, as well and then worked into the final draft; then it goes to the Board of Selectmen for final endorsement. Commissioner Needham asked if it would contain enough to protect against widening Rte. 10. Mr. Peck said that is an underlying principal of the study, but it is important to realize keeping Rte. 10 two-lanes also means developing a network off Rte 10 to deal with development, like Iron Horse and Rte. 315 which area property owners don't like. He said there is a question of environmental components in deciding to keep Rte. 10 two lanes. Commissioner Needham said if the discussed bridge at the bottom of Latimer Lane removes the environment and costs, it is a good idea, otherwise that relief valve is not possible. Mr. Peck said that currently negatives outweigh positives, but it is in the appendix and may come up; the potential to slip a road into Weatogue is also very interesting. Commissioner Needham said it would allow for a nice park, the statue could be moved there, and the fountain and sidewalks are a nice idea. Mr. Peck said including pedestrian walkways and bikeways in Weatogue and the north end is very important in supporting this; the more people on these pathways, the safer it is.

Commissioner Houlihan asked if the Subdivision Regulations apply to the Town Center Zone or every other area, but the Town Center Zone. Mr. Peck said they probably would not apply; however, if someone had 3/4 acre and wanted to subdivide into lots, they could apply and it is possible, e.g. the Simscroft 14-acre property could apply for subdivision. He said an alternative would be one person developing the whole property; the Town Center has a plan, so developing along those lines would be easier to do, so it is possible. Chairman Paine stated that is a good reason for the Commission's Subdivision Regulations to have different residential and nonresidential sections.

VI. COMMUNICATIONS AND ADMINISTRATIVE BUSINESS

None

VII. ADJOURNMENT

Commissioner Jansen moved to adjourn the meeting at 8:15 p.m. The motion was seconded by Commissioner Askham and passed unanimously.

Tina Hallenbeck, Secretary