

From: Carrie Vibert October 8, 2012 12:10:22 PM
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To: SimsburyCT_PlanMin
Cc:

PLANNING COMMISSION MINUTES
SEPTEMBER 11, 2012
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. He called for a moment of silence in honor of September 11th prior to meeting start. The following members were present: Ferg Jansen, Richard Cortes, William Rice, Tina E. Hallenbeck, Gary Lungarini, and Kevin Prell. Also in attendance were Hiram Peck, Director of Planning, Janis Prifti, Commission Clerk, and other interested parties.

II. SEATING OF ALTERNATES AS NECESSARY

Chairman Paine appointed Commissioner Cortes to serve as alternate for Commissioner Drake.

III. DISCUSSION AND POSSIBLE DECISION

A. Revisions to Draft Subdivision Regulations

Mr. Peck plans to discuss the Draft Subdivision Regulations at the Planning Commission's next meeting.

B. Meadowood Easement

Commissioner Jansen recused himself from the Meadowood discussion.

Mr. Peck provided the Commissioners for review a 9/4/2012 letter from the Town Attorney. He said the part of open space proposed to be conveyed to the Town that is of interest to the Conservation and other Land Use Commissions is the trail system running through it. He recalled the Town previously purchased the triangle and some property on the other side of Barndoor Hills Road of about 74 acres. He said the proposed easement has been carefully reviewed by Howard Beach, Environmental Officer, to assure

all metes and bounds are the same as the open space parcel boundaries shown on the map. He said there have also been meetings with the Town Attorney and Griffin Land representatives to assure public access to the trail system remains in place. He said this has come to Planning because of a meeting a couple of years ago among the Planning, Zoning, and Conservation Commissions to determine the settlement agreement and it is now close to the end of the process for conveying the easement. He confirmed public access is in place, the Town has purchased the rest of the open space, and this agreement conveys the open space easement. He said Zoning last night agreed with these same representations and the Town Attorney has asked that the Planning Commission vote to approve this and send it on to the Conservation Commission for final approval by the Land Use Commissions.

Attorney Tim Hollister of Shipman and Goodwin, representing Griffin Land, stated that in 2007 an overall settlement was reached and as part of the settlement Griffin Land was going to excavate an area of soil in the center of the site with a high water table. He said that brought in the Army Corp of Engineers and the DEEP and their review of the whole site. He said this agreement represents 2 years of work taking the Army Corps form of a conservation easement and making it consistent with the 2007 settlement. He said with the Army Corps input, the Town has even greater protections and detail. He said it is consistent with the settlement and a very good deal for the Town.

Regarding the land area, Mr. Peck said the 91+ acres was confirmed with the Town Attorney.

Commissioner Rice made a motion that the Planning Commission approve the conservation easement as submitted without any changes and send it on to the Conservation Commission. Commissioner Hallenbeck seconded the motion, and it was passed with Commissioner Prell abstaining.

Commissioner Jansen rejoined the meeting at 7:13 p.m.

IV. INFORMAL DISCUSSIONS

A. Ellsworth Subdivision

T.J. Donohue representing Simsbury Land Trust introduced Phil Doyle of LADA and Tim Ellsworth, Proprietor of the Ellsworth property. He said they will be submitting the property for formal subdivision soon. He said the Tanager Hill property at 120 East Weatogue Street is a gorgeous tract of land and Tim and Phil have been working for two years to find a division of the land that provides a substantial retirement of land to the public and also meets the family's need to raise revenues. He said the Ellsworth's have executed a contract for sale of 92 acres to the Simsbury Land Trust

which goes to the Metacomet Trail crossing the alpine easement and adjacent to Pennwood Park. He invited the Commissioners in the course of the subdivision to walk the property. He said the subdivision includes a significant brownstone home built in 1940 designed by Frank Lloyd Wright's protégé, Thompson, and is a very special 11-room home recently occupied by Mrs. Ellsworth. He said the house and 3 lots would be carved off with the rest of the property subject to sale to the Simsbury Land Trust. He said the Land Trust is very actively raising money, but even if they do not go forward, the Ellsworth's are committed to a substantial portion of the land going to open space. He said as they cut out the historic home and the 3 frontage lots, they will request an open space waiver for the small portion in the front lots; they feel the main house needs to be complemented by significant outlands because of its nature and the 3 frontage lots nicely frame the street and are consistent with the other houses on the street.

Mr. Doyle said the Ellsworth's property runs from the top of the ridge at the Metacomet Trail to East Weatogue at the bottom of the hill. He said there have always been 2 parcels, one with the house and since 1980 also with Tim's house, and the other major portion of the property is a 96 acre separate parcel. He said they have been working to establish a value for the 96 acres and have a contract to sell it to the Land Trust. He said the Land Trust has long had an interest in developing a trail system from the Farmington River up to the Metacomet Trail and the old trails and roads running through the property that will help do that. Regarding the original home piece, he said 11 acres will be maintained for it and 3 frontage lots will be broken out and they intend to apply for a subdivision and seek a waiver for the open space provision. Mr. Donohue added that in discussions with Mr. Sawitzke the Town had no interest in open space in the house area and they would like to know if the Planning Commission is opposed and wanted to provide the opportunity to consider the idea. Regarding the timeline of a formal subdivision application and the Land Trust activity, he said they will be in with the subdivision application far in advance of the Land Trust. Mr. Doyle said the Land Trust has a signed contract and it will take a couple of years to put their end together. Mr. Donohue said the Land Trust has ranked the property highest priority. Mr. Doyle said they would like to file the subdivision application within 30 days.

If this plan were to unwind, Mr. Donohue said the Ellsworth's have committed to giving a portion of the property, particularly near the power lines and adjacent to Pennwood Park, to the public domain. Regarding whether the property was previously subdivided, Mr. Donohue said it has always been a couple of parcels with lot lines adjusted over time, but it has not previously been subdivided; their research indicates the 14 acre piece has a right to stand alone as an unsubdivided piece. Mr. Doyle said the 3 lots are R40 1-acre lots with no waivers requested. Regarding the

potential of the Land Trust deal not going through and a subdivision having been created, Mr. Peck said that when the application comes in 1) they will verify whether it is a subdivision or re-subdivision, and 2) the Commission with staff's help will discuss that as part of their decision, and if it is not contemplated at the time, there should be a way to get the open space as part of the rest of the process. Mr. Donohue said the parcel has plenty of room to comply with zoning and create an open space parcel. Regarding whether the process is contingent upon 3 building lots, Mr. Donohue said it was a long design process and there would be no reason to do less. Mr. Peck said someone may decide to purchase all 3 lots. Mr. Donohue said there is active interest in the lots and would like to hear from staff if there is interest in changing the design.

Regarding the scenic road designation, Mr. Peck said for the right of way, that will be taken into account in the application; the concern is minimizing pavement width, vegetation removal, etc.

V. COMMUNICATIONS AND ADMINISTRATIVE BUSINESS

Mr. Peck provided the Commissioners with a copy of the public act recently passed by the Legislature for the palliative use of marijuana. He said it becomes legal October 1st to dispense and possibly produce marijuana in the Town; there will be 10 producers in the State. He said the Zoning Commission wanted to find out the process. He said some Towns are crafting regulations to discourage dispensation and production in their Town, while others are crafting alternative regulations. He said this may not comply with Federal Law and hopes to have an answer by the next meeting. He said they are working to craft a regulation for the Zoning Commission's consideration and wanted Planning to be aware of it. He noted medical marijuana is used for a variety of illnesses and issues have arisen in other states where it is legal. Regarding the Police Department's input, they will consider that as well. He noted for the 10 producers, applicants must provide a \$25,000 non-refundable application fee. He asked the Commissioners to email him with any comments or questions.

Chairman Paine stated Mark Sullivan approached him at the end of July with a package of information that 42 East Weatogue Street had an inappropriate subdivision going on. Mr. Peck clarified it was not a subdivision but rather a difference of opinion and the lady is putting in some corrals. Chairman Paine noted when Commissioners are approached, it should be reported to Mr. Peck with no ex parte discussion of the process or it could be inappropriate for a Commissioner to discuss it at a future meeting.

Regarding the land swap at Dorset Crossing, Mr. Peck said the process involves DOT who asks all the State departments if they have any issues and that has been completed; now it goes back into the process and to the

Legislature for release of the provisional reverter clause. He said this has been divided into 2 phases and the Town Attorney has determined DOT's release is not needed until Phase 2. He said in the next week the deeds will be drafted for the property exchanges and then go back to the Board of Selectmen for anticipated approval. He said NU will be then be able to go forward with their project and Dorset's developer will get the property they are looking at as Phase 2 of the process. He said it should be done in the next 2 weeks and lot lines will be the same. He said the special needs housing on the neighboring piece is proceeding with permits and is a separate property. Regarding any changes to the plan triggering a re-evaluation by the Planning Commission, he said the lot lines are the same and the process is the same and the developer is trusting the process and going ahead and giving their land to NU. Chairman Paine requested Mr. Peck provide a status report at the next meeting.

Regarding the Big Y Application, Mr. Peck said the newspaper article was erroneous. He said the Zoning Commission approved the application last night with 3 special exceptions and a number of modifications and did not refer the Application to the Planning Commission. He said their current plan is to finish the State traffic process, break ground in the spring, and try to be open by next October.

VI. APPROVAL OF MINUTES of June 26, 2012

The following changes were made to the June 26, 2012, minutes:

On Line 36, "than" is corrected to "then".

On Page 3, all spellings of "marane" are corrected to "moraine".

On Line 110, "?" is changed to "Roskear".

On Line 148, "that" is inserted after "motion".

Commissioner Hallenbeck made a motion to approve the June 26, 2012, minutes as amended. Commissioner Rice seconded the motion as amended, and it was passed unanimously.

VII. ADJOURNMENT

Commissioner Jansen made a motion to adjourn the meeting at 7:50 p.m. Commissioner Prell seconded the motion, and it was passed unanimously.

Tina E. Hallenbeck, Secretary