

From: Carrie Vibert October 19, 2012 2:51:59 PM
Subject: Planning Commission Minutes 09/25/2012 ADOPTED
To: SimsburyCT_PlanMin
Cc:

PLANNING COMMISSION MINUTES
SEPTEMBER 25, 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. The following members were present: Ferg Jansen, Richard Cortes, William Rice, Tina E. Hallenbeck, Gary Lungarini, Robert Kulakowski 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 Lungarini to serve as alternate for Commissioner Drake.

III. DISCUSSION AND POSSIBLE DECISION

A. CGS 8-24 referral from Board of Selectmen regarding possible recommendation of Town acceptance of a gift of approx. 5.1 acres of property) map block lot 38A and Lot 39 on Riverside Road

Mr. Peck said this was a referral from the Board of Selectmen. He said at the BOS regular meeting they were asked to accept the gift of approximately 5.1 acres located at 90 Riverside near Warners. He said the property is held by a remainder trust with a small amount of back taxes owed (not pertinent to this discussion) and the Town Engineer asked the BOS to accept the gift and waive the outstanding taxes. He said prior to the BOS meeting there was a meeting with Town Counsel, who indicated there was no provision to waive the taxes and prior to accepting the gift, the Planning Commission, the Open Space Committee, and the Conservation Commission must review it before the BOS can make their decision. He asked staff to go out and photograph the proposed open space and provided the photos to the

Commissioners. He said there are issues to consider: 1) in terms of cleanup needed before the Town would take it; and 2) exactly where the property boundaries are - in a deed in Vol. 109, Pg. 497 it is referred to as a "swamp property" and on a subsequent deed as a "swap property". He said the staff photos indicate and he recommends that 1) the property needs to be cleaned up before the Commission or Town decides to take it; and 2) there are potential liability issues regarding the Town accepting the property, leaving the tax issues to the Board of Finance and BOS, the property has numerous violations, including old oil tanks, junk vehicles, trash including tires, old wood pallets, and old rusted equipment. He recommended taking soil samples to determine whether there is contamination on the property. His recommendation was against accepting the property as a gift at this time; and if it turns out to be contaminated, he recommended it be cleaned up before considering accepting the property. He said there are questions regarding who owns the items on the property and the current attorney for the trust and abutting property owner should get together and determine how to clean it up. He said it is a zoning violation and they will send a notice of violation to the current property owner and they need to decide how to get it cleaned up.

Commissioner Hallenbeck made a motion to open the discussion.

Chairman Paine agreed with Mr. Peck's recommendation that all these issues need to be resolved. He said STP tanks indicate a fuel tank rating and likely fuel storage and it is a very marshy area with potential problems. Regarding the donation, Mr. Peck explained the trust is without funding and the previous owner wanted to leave it to the Land Trust, which declined to accept ownership. He added because the owner has died and there is no more funding, the trust has begun to accumulate back taxes and decided to approach the Town. He said there appears to be an access way along the power lines to the property, but they are still not exactly sure where that access is, so access, clean up, and the Land Trust with abutting property turning it down are issues to consider. He said there is potentially a good trail through the property. It is his recommendation to take a careful look at this property first. He said the tanks on the property could be causing significant damage and result in serious fines. He felt the Town Engineer would want to see information from soil testing. He stated the property was put into the trust in a 1954 Deed, but there is some discussion about changes to boundaries and property lines. Regarding sending out the violation letter, Mr. Peck indicated that Mr. Beach is doing that right away, but he does not know exactly when the cleanup will take place and said it is a slow laborious process. He believes the dumping on the property may be recent, but because it is adjacent to wetlands the Conservation agency is also very concerned.

Commissioner Rice made a motion to respond negatively to the referral

regarding property at 90 Riverside Road pending further investigation into the condition of the property regarding materials on site and soil conditions.

Commissioner Hallenbeck seconded the motion, and it was passed with Commissioner Jansen abstaining.

Mr. Peck will draft a letter to the BOS citing the reasons discussed and the motion passed.

B. Revisions to Draft Subdivision Regulations

Chairman Paine stated the Town Attorney has not yet provided his comments on the Subdivision Regulations. Mr. Peck took into account the Commissioners' comments received, with excellent input from Commissioner Rice. He did some reorganization, and after discussion with Mr. Beach, added back the important section about development above a certain topographic line, similar to current regulations. He added Appendix 15 Clarification Graphics which will be used "as may be needed" when something arises where they need to clarify a document. He said the Subdivision Regulation Revision History will be added as an iteration of changes that have taken place. He ran the draft Subdivision Regulations by the Town Engineer, who is comfortable with them and said they are easy to follow. Mr. Peck said the Commission can act this evening or wait to hear from the Town Attorney before acting and invited any other questions.

Chairman Paine asked on Pg. 11 in the last paragraph before section C., which says "within 30 days after submission of the plan;" does it need to specify it is when the Planning Commission accepts those plans? Mr. Peck said State law does that for the Commission; when an Application is submitted, the date of submission is actually the date of the next Planning Commission meeting or when it is brought to the Commission that night. Chairman Paine noted 2 spelling errors on Pg. 32 in the Subdivision flow diagram. He felt anyone in Town can easily understand the Subdivision process using this document. Mr. Peck said this is an administrative process and shows what Applicants must do, unless they request a waiver, which they can do with the approval of 3/4 of the Commissioners. Mr. Peck brought to the Commissioners attention the 1300 foot cul de sac length used by a number of towns in the document, but that length is not written in stone as long as they have the approval of the Fire Marshall, Town Engineer, and Public Works director if it's a public road. He said the other underlined items in the draft are for the Commissioners to notice before they approve it. Commissioner Rice noted 1) on Pg. 38 "Appendix 5" should be deleted; 2) lines on Appendix 7 need reformatting; 3) on Pg. 43, Mr. Peck confirmed that the Commission's purview includes soil erosion and sediment control, but the Commission can delegate it to the Zoning

Enforcement Officer or the Commission can state at the time of subdivision approval they wish to retain control; while the Soil Erosion and Sediment Control Regulations are a separate document from the Subdivision Regulations, they are referenced in the Subdivision Regulations as are Road Design Standards. Mr. Rice asked about the discussion of residential vs. nonresidential standards. Mr. Peck said there are no different standards aside from Zoning Regulations which are the guide for lot size. Mr. Peck said there are 2 different definitions for residential and nonresidential and fee in lieu of is also added increasing flexibility. He believes the Conservation Commission should make any recommendations regarding wetlands to the Planning Commission. Chairman Paine noted on Pg. 6 alphabetic order should be checked, but overall was very pleased with the document. Regarding a live test before adopting the Subdivision Regulations, Mr. Peck said the Town Engineer ran a subdivision through the process using the outline and found it to be very helpful.

IV. COMMUNICATIONS AND ADMINISTRATIVE BUSINESS

Mr. Peck said the Ellsworth property has been submitted and will be reviewed by the Commission at the next meeting. He asked the Commission whether they want to take this 4-lot subdivision to a public hearing; it is not required by law because it is a subdivision and not a re-subdivision. He said it is 1) on East Weatogue in the Historic District and Ms. Charest is checking on whether the Historic District Commission anticipates any issues with it; 2) it is on a scenic way; and 3) there was request for waiving the open space because property behind it is proposed for purchase by the Land Trust. He said having a public hearing does not cost the applicant any more time, but it does allow public comment. The Commissioners agreed that whenever possible the meetings should be opened to the public.

Commissioner Hallenbeck made a motion to hold a Public Hearing regarding the Ellsworth property.

Commissioner Rice seconded the motion, and it was passed unanimously.

Mr. Peck said the State has decided to redo the Plan of Conservation and Development (POCD) utilizing a cross-acceptance process with a more rigorous public process so when it is adopted it contains concerns worth discussing. He said the POCD is important because of items like a state-wide map with various colors showing neighborhood conservation areas and priorities in the Plan, e.g. "Neighborhood Conservation Areas" that include "urban" would not apply to Simsbury which is more rural. He said the Office of Policy Management (OPM) does this plan and he would like them to understand Simsbury spends a lot of time doing a lot of planning for downtown and has other villages, and he wants to assure the map properly

reflects those so the Town is not prevented from getting State grants or funding for projects. He said the State will not lend towns money or give grants if the State Plan Code doesn't reflect it. He asked the Commissioners to look at the Town map with green areas for conservation, pink for neighborhood conservation, and yellow/beige for growth areas. He said it shows the aquifer protection areas and growth areas for the Town. He wants to assure the State Plan reflects the 2007 Town POCD, the Town Center Plan, and the Rte. 10 Corridor Study; the Plan was redrafted about a year ago as it did not yet reflect what the Legislature wanted. His major concern is they need to be really clear about the work done and that the rest of the Town is also reflected. He asked the Commissioners to take a look and let him know their comments by 10/5/2012. Chairman Paine agreed the State Plan should be consistent with the work the Town has done.

V. APPROVAL OF MINUTES of September 11, 2012

The following changes were made to the September 11, 2012, minutes:

On Line 32, "recollected" is changed to "recalled".

On Line 68, "Dick Davis ?" is corrected to "T.J. Donohue" and all subsequent references to "Mr. Davis" are corrected to "Mr. Donohue".

On Line 96, "Mr. Sawitzky" is corrected to "Mr. Sawitzke".

Commissioner Hallenbeck made a motion to approve the September 11, 2012, minutes as amended. Commissioner Lungarini seconded the motion as amended, and it was passed unanimously.

Mr. Peck expressed as the October season approaches that it has been a pleasure to work with the Commission and hopes to do so for a while.

VII. ADJOURNMENT

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

Tina E. Hallenbeck, Secretary