

From: Carrie Vibert October 17, 2012 4:30:34 PM
Subject: Planning Commission Minutes 10/09/2012 DRAFT
To: SimsburyCT_PlanMin
Cc:

PLANNING COMMISSION MINUTES
OCTOBER 9, 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, Robert Kulakowski and Mark Drake. 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 Kulakowski to serve as alternate for Commissioner Hallenbeck.

III. PUBLIC HEARING(S)

A. Application #12-03 of Timothy E. Ellsworth, Owner, requesting a subdivision of property located at 120 East Weatogue Street (shown on Assessor's Map H12, Block 106, Lot 036 and Assessor's Map H11, Block 106, Lot 037); see lot line revision filed on the Town of Simsbury Land Records 3/5/2012, Map #3977) to allow for the creation of 4 lots. Zone R-40 and R-80.

Chairman Paine stated this hearing will be continued to the 10/23/2012 meeting.

T.J. Donohue stated this property consists of 105 acres, of which the Applicant seeks to subdivide a 14.099 acre parcel on East Weatogue Street. He said this has been a long planning process and the Ellsworths have owned this property for over 5 decades and, if all goes well, 90 acres will be sold to the Simsbury Land Trust. He said this Application is to divide the existing 14-acre lot into 4 lots. He has provided Town staff with a copy

of the Title Certificate and explanation of why the 14 acre lot is eligible for subdivision, and copy of a supplemental title certificate that technically explains both the historic 12-acre lot and, by lot line revision, the addition of acreage. He also provided a letter from the Health District. He introduced Phil Doyle of LADA to go over the schematics.

Mr. Doyle said subdivision regulations require a topographic plan, which was provided in sealed packet plans to the Town. He said the total 105+- acre Ellsworth property has a separate 14-acre parcel up front for the subdivision application. He said the Application package includes the filing fee, application to the Farmington Valley Health District, and a letter to the Simsbury Fire Marshall. He said there is a letter to the WPCA because there is only public water on East Weatogue Street, so septic systems require Health District approval. He said there is a letter from Henry Moeller, Certified Soil Scientist, regarding whether there are wetlands or water courses on the site. He said 2 copies of the drainage report were provided to the Town Engineer for review and they are awaiting written approval from Mr. Sawitzke. He said the package includes an aerial photo context map (11x17), a zoning compliance map (11x17) that demonstrates subdivision, list of property owners, and 2x3 foot sheet full set of drawings. He said they received today the Farmington Valley Health District approval and email from the Fire Marshall stating there are no issues regarding the subdivision. He said the required topographic plan shows the outline of the property with metes and bounds and is a survey plan; the site is broken into a number of different zones: a yellow dashed line separates R-80 in the back of the property from R-40 along the street. He said the ridge line protection area established elevation at 250 feet and runs almost parallel to the R-40 zone. He said the green dashed line designates the East Weatogue Historic District; back from the street frontage is not in the Historic District. He pointed out the existing houses with shared driveway on the property. He said there is no proposal in this Application to disturb any portion of the property above the 250 foot elevation nor to move before the Historic Commission because they are not proposing houses; an Applicant proposing to build a house would have to go through HDC review. He said they propose to subdivide 3 lots out of the 14-acre parcel in compliance with R-40 zone standards. He said these lots are proposed as frontage lots and they are not proposing any common development pieces with roads; it is a straightforward 3-lot subdivision. He said the 3rd sheet of the required subdivision plat shows the various zones and breakout of the proposed lots; they meet zoning standards, including 50-foot setback, 10,000 sq. ft. rectangle, meet the slope requirements, and public water will be taken from the street. He said beyond the required plans, they have provided additional backup information to assure Mr. Peck, Town Planner, and Mr. Sawitzke, Town Engineer, that development of these properties will have no impact on municipal roads and

surrounding properties. He said Kevin Clarke prepared the test holes and the schematic plans include a conceptual house and driveway location, which were approved by the Farmington Valley Health District. He stated a number of years ago, East Weatogue was designated a scenic road, which affects the clearing of trees in the right of way, and they had all the trees surveyed and labeled by species; this Application would remove no trees, including for the indicated driveway locations. He said the upper portion of the property, shown on sheet 5, indicates the existing houses and septic systems would not change. He said the erosion control plan was developed to guide future builders and was also provided to the Health District, including tree protection and other details.

Regarding schematic sight distance locations for the driveways, he said Lot #2 has over 400 feet from both directions, Lot #3 has 500 feet to the north and 275 feet to the south, and Lot #4 has 290 feet to the north and over 400 feet to the south. He said the only onsite wetland or water course is Lucy Brook, which is over 400 feet from the edge of the closest proposed lot to the site. After speaking with Howard Beach, it was discovered that there is an offsite wetland within 100 feet on the other side of East Weatogue Street and they have filed an application with the Conservation Commission/Inland Wetlands and Watercourses Agency that there is no impact. He stated they meet all of the Zoning standards and believe they have answered all staff and Health District questions. He showed the Commissioners the location of the 200-foot frontage for the homestead lot #1 with the driveway centered and the remaining lots have 200 feet of frontage. Mr. Donohue said the existing historic house on the homestead lot was designed by a student of Frank Lloyd Wright and will remain on the lot

Chairman Paine opened the hearing to the public.

Ann Weld of Heather Drive asked about the subdivision regulation requirement for 20% open space and how it will be handled. Mr. Peck confirmed the Commission will decide as part of this process whether the 92 + acres going to the Land Trust constitutes a reasonable amount of open space; at least 5 votes are required. She stated her understanding the Land Trust has until 12/2013 to raise the funds and asked if approval would be conditional. Chairman Paine said there would be a condition put upon approval of this Application that by a certain date, either the Land Trust would purchase the land or monies come to the Town, possibly by a fee in lieu of. She asked about the driveway locations as designated on the plans and approved by the Health District. Mr. Peck said on sheet 4 is a schematic of where a house or driveway could be located, but if there was a different plan, it would need to be reviewed and approved by Planning, Zoning, the Town Engineer, the Health District, re: septic, and then the Building Department. He said, based on the grading, the driveway and

septic locations meet current regulations; if changed, they would be analyzed on a lot-by-lot basis. She expressed concern about driveway locations and street driving speed. Mr. Peck said the scenic road ordinance calls for minimizing disturbance of vegetation in the right of way and that sight lines be safe. He said stone walls are encouraged to be preserved. Regarding roadway drainage, there will be no new drainage in the right of way; however, there are yard drains proposed on the property itself, which will connect into the existing culvert, and the Town Engineer will review and comment on whether these are adequate.

Mr. Donohue said the Applicant should not be punished for providing very detailed information, and most of these questions relate to what happens in the future. Ms. Weld said her concern is safely entering/exiting her driveway. Chairman Paine stated that, before permits are issued, the Town's approval and the Health District will have to meet that criteria and the drawings were done to show the subdivision works; any deviation will have to be approved. Mr. Peck said the drainage needs to be maintained sufficiently so it doesn't adversely affect the street; the southern-most lot and middle lot show detention basins and the northern-most lot shows a drain; they take into account grades on East Weatogue and where they crest and where drainage is currently.

Sue Bednarczyk of 119 East Weatogue Street said people are entitled to develop their property and not affect other people's lots. She is not opposed to the subdivision but is opposed to drainage onto her property and is concerned about open space and said this is a commercial transaction. She said the slope is steep, suggested a field trip by the Commission, and asked that the hearing be kept open, as she has not yet had a chance to meet with the engineer.

Regarding the open space proposal, Mr. Donohue said initial discussions with the Commission clearly requested a waiver of the open space requirement for this subdivision in the context of the contract and generosity of the Ellsworths in the contract price. He said they will work out what is appropriate and would like the Commission's feedback. He said the parcel with a conservation easement could be between the 3 lots and the main house; however, a waiver is requested and the Town staff doesn't want open space in the middle of a development like this. He said members of an open space community want to contribute to other open space in the Town. He said, in preserving the significant homestead, it would be appropriate to have more land with it and, if that is desired, they prefer an easement in this area; they would like the Commission to articulate the reasons and how to implement it. Commissioner Jansen saw no reason the Town would want open space in this location, and if this deal is completed, 2.8 acres are being given up and 90 acres gained, which is a great benefit to the Town. Commissioner Rice asked, if the large parcel were excluded, would the

conservation easement be between Lots 1, 2, 3 and 4. Mr. Donohue confirmed that there was plenty of land to accommodate that.

Mr. Peck said, regarding the Conservation Commission Application, the Environmental Officer will decide if it will be handled administratively or if a full application is needed. He clarified this Application is to establish the lot lines, whether they have any adverse impact on the wetlands, and if the Commission is willing to forego a complete review until an Application is received. He expects to have this information to the Commission well in advance of the next meeting. He said the Town Engineer is reviewing the drainage and will provide a report prior to the next meeting. Regarding the request for an open space waiver, his understanding is the Commission must decide with 5 votes following discussion. He said if approval conditions or modifications are necessary, the Commission can make them part of its final decision. He emphasized for the public record that drainage is a concern and they want to ensure there is no adverse impact and that the scenic road ordinance is adhered to, as well, but no houses are proposed at this time. He said whether this proposal is built or another proposal, they will still have to adhere to regulations.

Mr. Peck said there will likely be 3 options at the next meeting: to deny the application, approve it as presented, or approve it with conditions. He said it is road-front property and suggested the Commissioners take a look at it before the next meeting. Tim Ellsworth, an owner who was present, gave his approval. Commissioner Drake asked if the funds cannot be raised what happens to the Land Trust 92+ acres. Mr. Peck confirmed it is a separate lot and the open space would have to happen within the 14 acres. He noted the owner has other options for this property and could subdivide and develop it. Commissioner Drake said this option provides open space and public access to a high quality property, which is a plus to this subdivision, and the Ellsworths are donating land to the Town. Chairman Paine asked the Commissioners to take a look at the property prior to the 10/23/2012 meeting. Mr. Peck said any information received will be added to the file. Ms. Wells said there are 3 events being held by the Land Trust regarding the Ellsworth property and a fund-raising dinner Thursday night at Rosedale Farm.

IV. DISCUSSION AND POSSIBLE DECISION

A. Proposed Zoning Regulation revisions

Mr. Peck said renumbering of sections is underway. He said there is a new State law regarding the palliative use of marijuana and the Zoning Commission will decide whether to have a public hearing, which would come to the Planning Commission on referral. He said they are looking at a

definition of who would distribute it and his draft indicates licensed and registered pharmacists. He said the other important part is who will produce it; Connecticut is one of 17 states that have legalized marijuana and the Town may not be interested in allowing production, except possibly indoors. He said applicants for producing must pay a nonrefundable \$25,000 fee by 7/2013 to the State, but the State has not yet drafted regulations for the 10 to 12 producers allowed. He said the Zoning Commission will decide which parts of the regulation will go to public hearing at their next meeting. He invited the Commission's comments and suggestions.

Regarding the subdivision regulations, Mr. Peck confirmed the public hearing is closed and corrections have been incorporated and state revised/adopted as of 10/9/2012; he suggested if the regulations are adopted this evening they become effective 10/31/2012 so they can put legal notice in the paper with allowed appeal period. He said the subdivision regulations appear complete and should be helpful to applicants.

Mr. Peck said an approval with modifications is essentially a final approval and allows a map to be filed and lots sold, as long as all the modifications have been met; a conditional approval allows the Commission to see if the conditions have been met and the Commission can then revise the approval. On page 23, section 11.c, about conditional approval with modifications, Mr. Peck said this would be used primarily with large subdivisions. Mr. Peck said staff works to get Applicants to comply with regulations as closely as possible.

The Commission plans to vote on this at the 10/23/2012 meeting.

V. COMMUNICATIONS AND ADMINISTRATIVE BUSINESS

None.

VI. APPROVAL OF MINUTES of September 25, 2012

On Line 179, "Commissioner ?" was changed to "Commissioner Lungarini".

Commissioner Jansen made a motion to approve the September 25, 2012, minutes as amended. Commissioner Rice seconded the motion, and it was passed unanimously.

VII. ADJOURNMENT

Commissioner Jansen made a motion to adjourn the meeting at 8:10 p.m.

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

Tina E. Hallenbeck, Secretary