

From: Lois Laczko November 18, 2009 10:47:36 AM  
Subject: Planning Commission Minutes 10/27/2009 ADOPTED  
To: SimsburyCT\_PlanMin  
Cc:

ADOPTED

PLANNING COMMISSION MEETING  
October 27, 2009  
REGULAR MEETING

I. CALL TO ORDER

Chairman John Loomis called the regular meeting of the Planning Commission to order at 7:00 p.m. in the Main Meeting Room of the Simsbury Town Offices. The following members were present: Susan Bednarczyk, Chip Houlihan, Mark Drake, Julie Meyer, Ferg Jansen and Carol Cole. Also in attendance were Hiram Peck, Director of Planning, as well as other interested parties.

II. SEATING OF ALTERNATES

Chairman Loomis appointed Commissioner Drake to serve in the absence of Commissioner Post.

III. CONNECTICUT GENERAL STATUTE 8-3a REFERRAL FROM THE ZONING COMMISSION on a Zone Change from I-1 to B-2 on property located at Autobon, 83 – 93 Wolcott Road. I-1 Zone (continued from meeting of 10/13/09)

Chairman Loomis stated that Commissioners Cole, Meyer and Loomis attended the site walk for this property. Commissioners Bednarczyk, Drake and Jansen visited the site individually.

Attorney George submitted four letters from neighboring property owners, stating that they are in favor of this zone change.

Commissioner Meyer questioned if the site plan was approved. Attorney George stated that the site plan was approved in July 2007 by the Zoning Commission. He stated that the change is depicting the landscaping changes and the display area for the cars that will be for sale.

Commissioner Meyer questioned if Mr. Blanchette was currently selling cars at his business on Herman Drive. She also questioned if that business was

located in an I-1 zone. Attorney George stated that he is selling cars; he does have his dealer's license. Mr. Peck stated that this is a pre-existing, non-conforming use that has been on that property for many years.

Commissioner Meyer questioned when the property was zoned I-1. Mr. Peck stated that he is unsure of the timeframe. It is a pre-existing, non-conforming use with a valid permit to sell motor vehicles at the Herman Drive site. She question how a license was obtained in the 1990's for this use. Commissioner Drake stated that this is a State issue.

Chairman Loomis stated that the limitation of vehicles on display was discussed. Mr. Blanchette positioned two cars in spaces during the site walk to show how they would be utilized. Chairman Loomis feels that there is ample space for 15 cars for sale on the site. He feels that this is a reasonable limitation.

Commissioner Bednarczyk stated that there will be an impact of changing this zone from I-1 to B-2. She feels that it will be taking away good industrial land. She stated that this zone change would not be in line with the POCD. Commissioner Jansen stated that manufacturing could still be done in a B-2 zone.

Commissioner Meyer questioned if they could just zone Lot 89 as B-2 where the auto repair and the display of cars for sale would be and leave the rest of the property industrial. Attorney George stated that he did look at this as an option although changing the zone for the whole property takes all of the other non-conforming uses and makes them conforming. He asked that the Commission consider the site as a whole.

Commissioner Bednarczyk stated that the I-1 and I-2 zones are the highest form of taxes the Town can have; mixed use is not necessarily the highest form of taxes. She stated that the POCD keeps this area as industrial. Commissioner Bednarczyk agreed with Commissioner Meyer regarding only changing Lot 89 and maintaining the rest of the property as I-1. Mr. Peck stated that spot zoning is taking only a small portion and rezoning it. The opportunity that is being presented by this applicant is to correct some of the existing non-conforming uses with this change in zone. He stated that the B-2 zone has a variety of other potential uses and has more flexibility in terms of tax revenue.

Commissioner Jansen questioned if the residence could still be on the property because of the pre-existing use. Mr. Peck stated that it could.

Commissioner Meyer questioned why the Town had industrial zones if all of the uses could fit into the commercial zone. Mr. Peck stated that historically, the original thought was that this area would become an industrial park. This is just not happening. He stated that currently,

the potential for mixed uses or other uses that can be integrated into the area have become more and more viable.

Commissioner Cole questioned what the intentions are for this area of Town. Mr. Peck stated that the Zoning Commission is making changes to their Regulations, not the mapping.

Commissioner Houlihan stated that the Zoning Regulations, where the Special Exception is made to the B-2 General Business Zones, they lump together automobile sales, repair and storage as one item. The compatibility comes out of the zoning code.

Chairman Loomis suggested that, as part of the referral, space be limited to 15 cars for sale. The Commission agreed that this was a fair number, as did the applicant.

Commissioner Jansen made a motion that the Planning Commission make a positive referral to the Zoning Commission regarding the Connecticut General Statute 8-3a referral from the Zoning Commission on a Zone Change from I-1 to B-2 on property located at Auto-bon, 83-93 Wolcott Road. As a result of this review, site visit and discussion the Planning Commission finds, as follows. The proposed zone change for the subject property in its entirety would:

1. Permit a mix of uses on the property that would not adversely affect any goals or policies of the adopted Plan of Conservation and development and would enhance the business activity and productivity of the land and buildings in the area.
2. Permit some of the existing uses to become more conforming than is currently the case. This is especially true for the existing nonconforming residential uses.
3. Permit the applicant to provide a service to his customers which is found to be a reasonable and customary accessory use to the repair of automobiles for which a site plan has already been approved at this site. It is noted that the historic use of the site for motor vehicle repair has been found and determined to be a preexisting non-conforming use which has subsequently been approved by the Zoning Commission through the approval of the site plan for this site.
4. The area which is shown in cross hatch on the submitted plan for this zone change referral application is found acceptable and does not screen the front of the existing building on the site or cover a disproportionate portion of the site.
5. The uses abutting and adjacent to the subject site would not, in the Planning Commission's opinion, be adversely affected by the proposed change in zone as requested, but in fact would be enhanced by the additional commercial activity in this area.

The Planning Commission, based on the above, recommends approval of the

proposed zone change so as to allow the display and sale of no more than fifteen (15) motor vehicles for sale at this location and only in the area to the southwest of the main building designated for the display of vehicles for sale. Commissioner Drake seconded the motion.

Commissioner Houlihan suggested the following reference to the POCD be incorporated into this motion: 1. The Special Areas section on the Wolcott Road Simsbury Airport, the Plan states that the Simsbury Airport area has developed into a vibrant manufacturing and commercial area for businesses from small to medium occupying one and two story buildings. The area provides a high density commercial district.

2. The Economic Development section states that the new economic development in Simsbury enhances the community by adding new jobs by diversifying land use and by increasing the grand list. Policy 2 encourages the Commission to diversify Simsbury's tax base and grow the grand list through expanded economic development strategies. Policy 6 contains this Commission's recommendation to the Zoning Commission to amend the Zoning Regulations in a manner that will responsibly foster a dynamic and prosperous business climate.

3. By reference to the Zoning Code, Article 7, Section F, paragraph 2, subparagraph (b), which pertains to the Special Exceptions in the proposed zone, the Zoning Regulations combine automobile sales repair and storage as a singular category, indicating that these uses may be combined and that they are presumptively compatible uses under the existing zoning code.

Commissioner Meyer questioned the wording regarding Number 2 of the draft motion. She suggested that it read, "Permit existing uses to become conforming."

Commissioner Jansen amended his motion as follows:

Commissioner Jansen made a motion that the Planning Commission make a positive referral to the Zoning Commission regarding the Connecticut General Statute 8-3a referral from the Zoning Commission on a Zone Change from I-1 to B-2 on property located at Auto-bon, 83-93 Wolcott Road. As a result of this review, site visit and discussion the Planning Commission finds, as follows. The proposed zone change for the subject property in its entirety would:

1. Permit a mix of uses on the property that would not adversely affect any goals or policies of the adopted Plan of Conservation and Development and would enhance the business activity and productivity of the land and buildings in the area.
2. Permit existing uses to become conforming.
3. Permit the applicant to provide a service to his customers which is found to be a reasonable and customary accessory use to the repair of automobiles for which a site plan has already been approved at this site.

It is noted that the historic use of the site for motor vehicle repair has been found and determined to be a preexisting non-conforming use which has subsequently been approved by the Zoning Commission through the approval of the site plan for this site.

4. The area which is shown in cross hatch on the submitted plan for this zone change referral application is found acceptable and does not screen the front of the existing building on the site or cover a disproportionate portion of the site.

5. The uses abutting and adjacent to the subject site would not, in the Planning Commission's opinion, be adversely affected by the proposed change in zone as requested, but in fact would be enhanced by the additional commercial activity in this area.

Approval of this zone change would be consistent with the 2007 POCD in the following respects:

1. The Special Areas section on the Wolcott Road Simsbury Airport, the Plan states that the Simsbury Airport area has developed into a vibrant manufacturing and commercial area for businesses from small to medium occupying one and two story buildings. The area provides a high density commercial district.

2. The Economic Development section states that the new economic development in Simsbury enhances the community by adding new jobs by diversifying land use and by increasing the grand list. Policy 2 encourages the Commission to diversify Simsbury's tax base and grow the grand list through expanded economic development strategies. Policy 6 contains this Commission's recommendation to the Zoning Commission to amend the Zoning Regulations in a manner that will responsibly foster a dynamic and prosperous business climate.

3. By reference to the Zoning Code, Article 7, Section F, paragraph 2, subparagraph (b), which pertains to the Special Exceptions in the proposed zone, the Zoning Regulations combine automobile sales repair and storage as a singular category, indicating that these uses may be combined and that they are presumptively compatible uses under the existing zoning code.

The Planning Commission, based on the above, recommends approval of the proposed zone change so as to allow the display and sale of no more than fifteen (15) motor vehicles for sale at this location and only in the area to the southwest of the main building designated for the display of vehicles for sale. Commissioner Drake seconded this amended motion.

The motion was approved. Commissioners Drake, Meyer, Bednarczyk, Loomis and Jansen voted in favor. Commissioner Houlihan abstained.

IV. POSSIBLE APPROVAL OF MINUTES from the October 13, 2009 meeting

Several edits were made to the minutes.

Commissioner Meyer made a motion to approve the October 13, 2009, minutes as amended. Commissioner Jansen seconded the motion, which was approved. Commissioners Houlihan and Bednarczyk abstained.

#### V. THE TOWN CENTER CHARRETTE NEXT STEPS

Mr. Peck stated that the Charrette process is proceeding along. He stated that Code Studio would like to come back to Simsbury in order to talk to the Land Use Commissions. He is in the process of finding funds to make this happen. He stated that the Design Review Board approved a request for the transfer of a minimum of \$5,000 for the consultant to come back to Town. Mr. Peck stated that he would like to have Code Studio come back in November to discuss the draft. He is hopeful that a public hearing can be held in January.

Commissioner Houlihan made a motion that the Planning Commission recommends that the Board of Selectmen and the Board of Finance approve the expenditure of at least \$5,000 to facilitate the visit of Code Studio and related consultants to Simsbury to discuss the interim status of their work product. Commissioner Meyer seconded the motion, which was unanimously approved.

#### VI. STATUS OF THE INCENTIVE HOUSING ZONE STUDY

Mr. Peck stated that the draft study has been received. He will be meeting with the consultant and also the landowners this week. He stated that the study needs to be finished by December. The Regulation then needs to go to the Zoning Commission.

Chairman Loomis questioned how difficult it would be to integrate the IHZ with the Charrette. Mr. Peck stated that the IHZ may not work well in the Town Center. The Charrette product may work just as well and it may not be necessary to integrate them. He stated that it may turn out that the IHZ may be better for other areas of Town. He stated that the Statute, under the IHZ, requires increased density.

#### VII. STATUS OF THE PROPOSED PLANNED AREA DEVELOPMENT (PAD) ZONE

Mr. Peck stated that the Zoning Commission will be having several workshops, regarding the PAD Regulation, prior to their regularly scheduled meetings. If all of their questions have been answered at the end of these workshops, a public hearing may be scheduled for December 21st.

Chairman Loomis questioned what relevance, if any, the PAD has for the Town

Center, given the Charrette. Mr. Peck stated that Code Studio's product will not make any landowner do anything they are not willing or wanting to do. He stated that the Code may need to be altered; the Commission will need to decide what the best model is to use. The Code, PAD or IHZ may be the right model for the Center. He stated that they need to make sure that everything fits together seamlessly.

#### VIII. STAFF REPORT(s)

Mr. Peck stated that the Zoning Commission is looking at an amendment to uses involving alcoholic beverages. The current Regulations talk about selling and serving alcohol. The Town Attorney feels that giving away alcoholic beverages is not selling or serving. He stated that the Zoning Commission has asked that the Regulations be revised; the main change would be that, "The selling, serving, giving away, distribution or consumption of alcohol in any way as part of an activity or event may be permitted by the Zoning Commission upon issuance of a Special Exception Permit ..." He stated that the idea is to clarify what it means to sell or serve alcohol. The Zoning Commission feels that this revision is adequate.

Mr. Peck stated that the REACH Foundation did not return and submit everything within four weeks of their event. The Town Attorney stated that the Town could not deny their permit because of this. He stated that this is why they felt the need to clarify what happens if an applicant does not seek the permit or submit all of the information within four weeks of their event. Mr. Peck stated that they are not trying to penalize anyone, just to clarify what and when information needs to be submitted.

Mr. Peck asked that the Commission members review this revision in order to discuss it with a possible action at the next meeting. Chairman Loomis suggested that they compare this revision with the existing regulation.

#### IX. COMMUNICATIONS AND ADMINISTRATIVE BUSINESS

Commissioner Cole stated that CRCOG had a quorum at their last meeting, at which they passed the State Plan. She stated that their new project is regarding Smart Growth Guidelines for Sustainability, which their Policy Board has approved. She stated that CRCOG has recently received a grant from EPA to move forward. They will be establishing a new Committee on sustainability.

Commissioner Cole stated that CROCG may decide to meet every other month or just cancel some of their meetings because they are not receiving as many applications.

Commissioner Meyer asked for clarification regarding the letter received

from Mr. Duguay. She questioned if the Planning Commission should have received a referral based on the Zoning Regulations 12-C. Mr. Peck stated that Mr. Ritson will be in front of the Zoning Commission for his plan.

Commissioner Meyer stated that after reading Mr. Duguay's letter and reviewing the Regulation, she questioned if this was a use variance. She questioned if the new structure was an accessory to the principle business use or designed as part of a business complex. Mr. Peck stated that this does not matter because Mr. Ritson has received a variance from the Zoning Board of Appeals.

Commissioner Meyer stated that for the past month, she has had several communications with Ms. Glassman, the Town Attorney and Hiram regarding how the Simsbury Subdivision Regulation, 3-9C impacts conservation easement calculations. She stated that the Town Attorney has indicated that conservation easements are a form of open space and therefore, the Regulation that is stated in open space terms applies to the conservation easement. He has also indicated that a conservation easement is a form of open space. She stated that the Town Attorney has said that when an applicant does not provide this calculation, the application is incomplete. She stated that it is the Town staff's responsibility to make sure that applications comply with the Regulations so that the Commission can be informed and can make informed decisions. Commissioner Meyer stated that it is this Commission and Town staff who determine the completeness of an application.

Mr. Peck stated that the applicant has the ability to submit whatever they feel is a complete application.

#### X. ADJOURNMENT

Commissioner Jansen made a motion to adjourn the meeting at 8:50 p.m. Commissioner Drake seconded the motion, which was unanimously approved.

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Gerry Post, Secretary