

From: Lois Laczko December 2, 2009 11:55:28 AM  
Subject: Planning Commission Minutes 11/10/2009 ADOPTED  
To: SimsburyCT\_PlanMin  
Cc:

ADOPTED

PLANNING COMMISSION MEETING  
November 10, 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, Gerry Post, Chip Houlihan, Carl Eisenmann, 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

There were none.

III. POSSIBLE APPROVAL OF MINUTES from the October 27, 2009 meeting

Several edits were made to the minutes.

Commissioner Post made a motion to approve the October 27, 2009 minutes as amended. Commissioner Houlihan seconded the motion, which was unanimously approved.

IV. CONNECTICUT GENERAL STATUTE 8-3a REFERRAL FROM THE ZONING COMMISSION on a proposed Text Amendment to the Town of the Simsbury's Zoning Regulations, pursuant to Article Ten, Special Regulations, Section H, Regulations Governing Uses Which Sell Alcoholic Beverages for a proposal to amend the wording of the existing zoning regulation.

Chairman Loomis stated that if no action is taken tonight, then the Zoning Commission would take that as a positive referral.

Mr. Peck stated that the Regulation proposal is a change in wording of Article 10 Section 8. He stated that the existing regulation states,

“that permitted uses which sell or serve alcoholic beverages”. The proposed wording of the amendment states, “selling, serving, giving away, distribution or consumption of alcohol”. Mr. Peck stated that this attempt is to clarify what selling or serving means. He stated that the other main change is another section of the Regulation that allows stores that sell alcoholic beverages be relocated within 1,000 feet of their existing location without the need for another Special Exception permit. He stated that this does not make much sense; the original intent was to prevent the proliferation of package stores. Whenever a package store relocates, they need a new special exception permit. The Zoning Enforcement Officer needs to sign off that it meets all of the Zoning Regulations.

Regarding defining selling and serving alcoholic beverages, Mr. Peck stated that there has been a great deal of discussion of how to properly regulate alcohol on public property. There has been a policy in Town regarding BYOB. The Zoning Regulation will define what this means so it can be properly regulated. The Board of Selectmen will then decide if they will continue to allow BYOB or not have it part of the regulation.

Chairman Loomis questioned who would need to get a permit. Mr. Peck stated that the public gathering permit is currently being revised to see how this process will work. There are many different departments involved when getting this permit; this part will not change. They will be changing the order of the process to try and simplify getting the permit. These changes will also help regarding the timeframe of the applicant getting their information submitted.

Commissioner Jansen stated his concern regarding not wanting this to be used for people to have BYOB instead of purchasing alcohol at an event. He does not want to lose the opportunities of getting great events in Town because they may not get enough revenue from the sale of alcohol. He stated that this is a business decision for some.

Commissioner Bednarczyk stated that insurance companies feel that it is better for people to purchase alcohol at an event. She stated that the REACH Foundation did not apply for a permit to serve alcohol at their event.

Commissioner Meyer stated that this will force anyone who wants to sell, use, give away, etc., to go through the proper channels to get the permit.

Mr. Peck stated that the Town cannot prohibit BYOB if the Board of Selectmen allows it. He feels that this is why a clear policy is needed. They need a clearer policy for enforcement.

Commissioner Post stated that, after reviewing the language, he is

concerned that the Town may put high priced venues over the Symphony and other similar events; he does not want these events to get pushed out. Mr. Peck stated that this will not have any impact at all. This issue rests with the Board of Selectmen and the Performing Arts Commission.

On the Town side, Commissioner Post stated that he feels this new language and clarification is long overdue, although he is just trying to be cautious and to look at the future.

Chairman Loomis questioned if the Hartford Symphony Orchestra could request a special permit on behalf of their audience and be a BYBO only. Mr. Peck stated that an organization could be whatever they propose to do; it would be up to the applicant as long as everything is properly controlled.

Commissioner Houlihan questioned that when someone is applying to Performing Arts Center (PAC), they need to be aware that if they have BYOB, they will need to deal with the Town's regulatory process. Mr. Peck stated that when someone applies for a public gathering permit, they have to first meet with Town staff.

Commissioner Post questioned what constituted a public gathering. Mr. Peck stated that the Police Department determines this; there is no set number.

Regarding Article 10 Section H, Commissioner Meyer stated that the (I) does not belong. Mr. Peck stated that he purposely changed it that way. Commissioner Meyer stated that the word "may" should be changed. She stated that it reads, "the Zoning Commission, upon issuance of special permit, which may be issued in conjunction with a public gathering permit". She asked Mr. Peck to explain this. Mr. Peck stated that the word "may" is used because they may get a permit; Zoning may not approve it.

Commissioner Houlihan stated that this is dealing with Town property as opposed to private. He stated that an event on private property is a one-time only event. He stated that when, in number 2, it talks about the future character of the neighborhood, he is not sure if there is any significance for the future. He stated that he does not understand this criteria. Also, in Number 3, he stated that retail outlets are discussed. He suggested that there needs to be a logical break between public and retail. Also, this does not address non-public property.

Chairman Loomis stated that they could recommend, as part of their referral, that these areas be clarified or separated regarding what is public and what is private.

Mr. Peck stated that public gathering permits are usually for where the public is invited to attend. He stated that clarification is needed. The

private property to which the public is invite could be one category and then clarification would be needed for the difference between public and private.

Chairman Loomis highlighted the new wording of the Regulation again for the Commission members. He also asked that they consider the following three areas of the Plan of Conservation and Development in support of the Planning Commission's referral: Policy 2, Objective A under Economic Development; Policy 6, Objective A under Economic Development; and the Goal and Policy 2 under Community Facilities and Recreation.

Mr. Peck stated that a public hearing is scheduled regarding this issue on November 16th.

Commissioner Houlihan made the following motion: that the Planning Commission recommend adoption of the proposed Zoning amendment with the following recommendations: 1) that the amendment include events being held solely on private property; and 2) break out the final three elements, which are unrelated to events and public or private property because they deserve to be treated separately from the event planning on the first page. This recommendation is consistent with the Plan of Conservation and Development under the Economic Development Chapter, Policy 6, which recommends developing special exception regulations for specific uses that deserve more scrutiny. The use of alcohol at events is one such item. Secondly, under Economic Development (Policy 2) Objective A, is to promote positive relationships with local merchant, vendors and the like. This allows flexibility for people in the locality. Thirdly, under Community Facilities, Policy 2, this policy evaluates the utilization of facilities and expands their uses. This policy is served by having a regulation that will address the issue of alcohol use at events on public property. Commissioner Post seconded the motion. Commissioners Meyer, Bednarczyk, Loomis, Post, Jansen and Houlihan voted in favor of this motion.

Commissioner Bednarczyk left the meeting at 8:00 p.m.

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

Mr. Peck stated that the Charrette consultant will be coming back to Simsbury on November 17th to meet with the Land Use Boards and Commissions. The meeting will be held at 7 p.m., although a location has not yet been found; they would like the meeting to be held in the Town Center. He stated that at this meeting, the consultant will explain their process since the Charrette and the basic structure of how the regulation will work.

Chairman Loomis questioned if they would get a sense of the final product

at this time. Mr. Peck stated that he is unsure.

Commissioner Jansen suggested that this meeting be televised on SCTV. Mr. Peck stated that he would look into doing that.

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

Mr. Peck stated that the draft report was distributed; he has already received some comments back, which he has forwarded to the consultant. He stated that he worked with the Design Review Board regarding their Guidelines that will appear in the IHZ Regulation. He stated that he has also distributed a copy of Marblehead Smart Growth District Design Standards to the DRB members. Mr. Peck stated that Concord Square needs to be finished with their study by the end of the year.

Mr. Peck stated that the idea of the IHZ was to create property that is properly zoned so that an applicant could come in and make a site plan application and get an approval in a short period of time. The idea was to create a lot of housing, although there needs to be a balance. He stated that he would not be surprised if some of the proposed IHZ districts fall out of this process because they may be seen as too much housing in the wrong location.

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

Mr. Peck stated that the Zoning Commission has scheduled several workshops, including their first one on November 16th. He stated that he is unsure if these will take place until the upcoming new members are seated on that Commission.

Mr. Peck stated that there have not been any changes made to the PAD Regulation since it was given to the Zoning Commission.

#### VIII. APPROVAL OF 2010 REGULAR MEETING SCHEDULE

Chairman Loomis stated that the meeting schedule remains the second and fourth Tuesdays of each month with no meetings in August. He proposed to eliminate the December 28th meeting date; the Commission members agreed.

Chairman Loomis appointed Commissioner Eisenmann to serve in the absence of Commissioner Bednarczyk.

Commissioner Houlihan made a motion to approve the 2010 Regular Meeting

schedule as amended. Commissioner Post seconded the motion, which was unanimously approved.

#### IX. STAFF REPORT(s)

Mr. Peck stated that he attended a meeting with economic development people who discussed fiscal impact assessments and economic impacts assessments and various projects. They discussed the difficulties of getting that information to be more useful to Towns. He stated that fiscal impacts assessment is the revenues and impacts that would accrue to a Town given a particular project. The economic impacts assessment is a much broader component to the development.

Mr. Peck stated that fiscal impacts submitted by an applicant cannot be used in the decision making process. There is no mechanism in the State Statutes to allow Towns to do fiscal zoning. The Planning Commission, though, could use this as a policy document when making recommendations to the Zoning Commission.

Chairman Loomis stated that it is recommended in the POCD to have a net economic benefit Board to identify the economic net bottom line. He stated that there is no such vehicle that exists for them today, although the Zoning Commission could not use this as part of their decision making anyway. Mr. Peck stated that something needs to change at the State level before this could happen.

Mr. Peck stated that the Town is currently reviewing their tax abatement program to restructure it and to attract and keep good companies in Simsbury.

#### X. COMMUNICATIONS AND ADMINISTRATIVE BUSINESS

Chairman Loomis asked that Mr. Peck schedule to have Mr. Sawitzke come to their first December meeting to give the Commission a Capital Improvement update.

Commissioner Meyer stated that she has continued to wait for over three months for the resolution of her issue regarding an interpretation of Simsbury Subdivision Regulation Section 3-9c with respect to conservation easements taken in lieu of fee simple open space. She stated that she has an e-mail from the Town Attorney stating that she should have it by October 30th. To date, she has not received a written response. She stated that it is her opinion that Town citizens who are abutters to potential proposed subdivisions would want clarification regarding this issue.

#### XI. ADJOURNMENT

Commissioner Jansen made a motion to adjourn the meeting at 8:30 p.m.  
Commissioner Meyer seconded the motion, which was unanimously approved.

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Gerry Post, Secretary