

1 **DRAFT MINUTES**

2
3 **Meeting Date: May 15, 2023**

4 **ZONING COMMISSION**

5 **TOWN OF SIMSBURY**

6 **REGULAR MEETING – SUBJECT TO APPROVAL**

7 **MONDAY, MAY 15, 2023 at 7:00 P.M.**

8
9 **PRESENT: Regular Members** - David Ryan, Bruce Elliott, Anne Erickson, Kevin Gray, Diane
10 Madigan, Donna Beinstein, **Alternate Members** - Tucker Salls and Melissa Osborne

11
12 **ALSO PRESENT:** Planning and Community Development Director George McGregor,
13 Assistant Town Planner Brittany MacGilpin, Town Counsel Robert DeCrescenzo and
14 Commission Clerk Jackie Lachance

15
16 I. **CALL TO ORDER** – Mr. Ryan called this meeting to order at 7:00 p.m.

17
18 **MOVED:** Mr. Gray moved to vote on each application after the public hearing. Ms.
19 Erickson seconded the motion.

20 **VOTE:** Ryan - aye; Elliott - aye; Erickson - aye; Gray - aye; Madigan - aye; Beinstein - aye.
21 Motion passed 6-0-0.

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23 II. **APPROVAL OF MINUTES**

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25 - May 1, 2023 regular meeting

26 **MOVED:** Mr. Elliott moved to approve the regular meeting Minutes as
27 submitted.

28 Ms. Madigan seconded the motion.

29 **VOTE:** Ryan - aye; Elliott - aye; Erickson - aye; Gray - aye; Madigan - aye;
30 Beinstein - abstain. Motion passed 5-1-0.

31
32 - May 1, 2023 special meeting - Correction to Line 27 – language to be changed to agree
33 to have a one day transaction for vendors.

34 **MOVED:** Mr. Elliott moved to approve the special meeting Minutes as corrected.
35 Mr. Gray seconded the motion.

36 **VOTE:** Ryan - aye; Elliott - aye; Erickson - aye; Gray - aye; Madigan - aye;
37 Beinstein - abstain. Motion passed 5-1-0.

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39 III. **PUBLIC HEARINGS**

40
41 **Application ZC #23-12** of Thomas Anderson, Owner, Susan Dzis, Applicant, for a
42 Special Exception pursuant to Section 4.5 of the Simsbury Zoning Regulations to permit

43 a ± 2,200 sq. ft. school in a Professional Office Zone at 507 Hopmeadow Street
44 (Assessor's Map G13 Block 103 Lot 022).

45
46 Susan Dzis and Tom Anderson presented this application. Ms. Dzis gave a background
47 on the existing building and how it will be used for a preschool. The Commission
48 inquired about the use of buses, the drop off process, play area and fencing.

49 There was no public comment.

50 **MOVED:** Mr. Gray moved to close this public hearing. Ms. Beinstein seconded the
51 Motion.

52 **VOTE:** Ryan - aye; Elliott - aye; Erickson - aye; Gray - aye; Madigan - aye; Beinstein -
53 aye. Motion passed 6-0-0.

54
55 The Commission inquired about restroom facilities.

56 **MOVED:** Ms. Madigan moved to approve this application:

57 The Commission finds that the application for a special exemption has met the
58 standards set in Section 4 (Business Districts) and the special exception criteria in
59 Section 12, and is subject to the following conditions:

- 60 1. An administrative zoning permit is required for construction.

61 Mr. Gray seconded the Motion.

62 **VOTE:** Ryan - aye; Elliott - aye; Erickson - aye; Gray - aye; Madigan - aye; Beinstein -
63 aye. Motion passed 6-0-0.

64
65 **Application ZC #23-19** of Simsbury Grist Mill, LLC, Owner, Chris Nelson, Applicant,
66 Site Plan Amendment pursuant to Section 11 and a Special Exception pursuant to Section
67 6 of the Simsbury Zoning Regulations for the replacement of an existing ± 754 sq. ft.
68 Pedestrian bridge in the floodplain zone, for an accessory food truck, and for outdoor
69 dining space at Millwright's Restaurant in a PAD Zone at 77 West Street (Assessor's
70 Map F11 Block 103 Lot 005-21).

71
72 Staff updated the Commission of the Design Review Board's positive referral and the
73 wetlands approval of this application. Mary Ellen Nelson, Jack Kemper and Tyler
74 Anderson presented this application. The Commission inquired about alcohol from the
75 food truck and if the bridge would be heated.

76
77 **Public Comment:**

- 78 1. Lori Boyko of 61 West Street - Ms. Boyko is not in favor of the food truck
79 operating on site as she has a rental property adjacent to this property and believes
80 the food truck causes a nuisance for her tenants.

81
82 The Commission discussed the proximity to residents and the food truck. It was noted

83 that the food truck and smoker were decreased in size and the location was moved from
84 previous years.

85
86 **MOVED:** Mr. Gray moved to close this public hearing. Mr. Elliott seconded the
87 Motion.

88 **VOTE:** Ryan - aye; Elliott - aye; Erickson - aye; Gray - aye; Madigan - aye; Beinstein -
89 aye. Motion passed 6-0-0.

90
91 **MOVED:** Mr. Gray moved to approve the special exception application based upon the
92 following findings:

93 The Special Exception Criteria found Section 12 of the Town of Simsbury Zoning
94 Regulations, have been substantially met or satisfied. Those considerations
95 include:

- 96 1. Orderly Development;
- 97 2. Property Values;
- 98 3. Public Safety;
- 99 4. Traffic Considerations;
- 100 5. Landscaping and Buffers; and
- 101 6. Relationship to Utility Systems, Drainage Systems, and Impact on Community
102 Facilities.

103 The Application is not expected to have any negative impacts on the above
104 considerations.

105 Ms. Madigan seconded the Motion.

106 **VOTE:** Ryan - aye; Elliott - aye; Erickson - aye; Gray - aye; Madigan - aye; Beinstein -
107 aye. Motion passed 6-0-0.

108
109 **MOVED:** Mr. Gray moved to approve the site plan amendment based upon the following
110 findings:

- 111 1. The Application meets the site plan requirements set forth in Section 11 of the
112 Zoning Regulations;
- 113 2. The Application meets the Floodplain Zone requirements, as applicable, set
114 forth in Section 6 of the Zoning Regulation.

115 And is subject to the following conditions:

- 116 1. The project shall be developed in substantial conformance to the Site Plan dated
117 4-10-23 prepared by Loureiro Engineering Associates.
- 118 2. The project shall be developed in substantial conformance with the architectural
119 plans dated 4-5-23, prepared by Cianci Engineering, LLC and Kemper Associates
120 Architects, LLC
- 121 3. An administrative zoning permit is required prior to the issuance of a building
122 permit.

123 Ms. Erickson seconded the Motion.

124 **VOTE:** Ryan - aye; Elliott - aye; Erickson - aye; Gray - aye; Madigan - aye; Beinstein -
125 aye. Motion passed 6-0-0.

126

127 **IV. NEW BUSINESS**

128

129 **Application #ZC 23-18** of Dorset Crossing, LLC, Owner, David Ziaks, Applicant, for a
130 modification to the Dorset Crossing PAD Master Plan pursuant to Section 8 of the
131 Simsbury Zoning Regulations at 30 Dorset Crossing (Assessor's Map I04 Block 403 Lot
132 013-A). (Introduction, timeline, and referral to select commissions).

133

134 Dr. Anthony Giorgio and David Ziaks presented this application. Dr. Giorgio gave the
135 background on the property and the need to change some of the office space to residential
136 space. Dr. Giorgio indicated that he would be interested in making some of the
137 apartments affordable housing.

138

139 The Commission inquired about the open space, requiring the affordable housing aspect
140 and pricing for the affordable housing portion.

141

142 **MOVED:** Ms. Erickson **MOVED**, The Zoning Commission REFERS ZC 23-18, Dorsett
143 Crossing, a Master Plan Amendment to a Planned Area Development, to the
144 Conservation Commission, Planning Commission, and the Design Deview Board for a
145 Preliminary review of the Application, with comments requested by **June 5, 2023**.

146 Ms. Madigan seconded the motion.

147 **VOTE:** Ryan - aye; Elliott - aye; Erickson - aye; Gray - aye; Madigan - aye; Beinstein -
148 aye. Motion passed 6-0-0.

149

150 **V. OLD BUSINESS**

151

152 **Application ZC #23-03** of Vessel RE Holdings, LLC, Applicant, EAY Properties, LLC,
153 Owner, for a Site Plan pursuant to CGS 8-30g for construction of a \pm 46,252 sq. ft.,
154 64-unit (reduced from 80-unit) multi-family development, at 446 Hopmeadow Street
155 (Assessor's Map G13 Block 142 Lot 003C) Simsbury, CT 06070, zone R-15. (Opened
156 03/20/23. Closed 05/01/23).

157

158 The Commission discussed the issues of concerns that were brought up during the public
159 hearing portion of this application.

160

161 **MOVED:** Mr. Gray **MOVED**, the Simsbury Zoning Commission **APPROVES**

162 **Application ZC #23-03** of Vessel RE Holdings, LLC, Applicant, EAY Properties, LLC,

163 Owner, for a site plan pursuant to CGS 8-30g for construction of a ± 55,030 sq. ft., 64-
164 unit multi-family development, at 446 Hopmeadow Street. (Assessor's Map G13, Block
165 142, Lot 003C) Simsbury, CT 06070, zone R-15. based on the following findings:

- 166
167
- 168 a. The Application meets the requirements of CGS 8-30g.
 - 169
 - 170 b. The Application provides 30% of the units as affordable, consistent with the
171 requirements of 8-30g. The need for affordable housing outweighs the concerns
172 offered during public testimony on the record.
 - 173
 - 174 c. According to the submitted Wetlands report, The Simsbury Conservation
175 Commission/ Inland Wetlands & Watercourses Agency has considered the *Criteria*
176 *for Decision* found in Section 10.2 of the Town Inland Wetlands and Watercourses
177 Regulations and finds the project meets all of the standards for approval and will not
178 adversely impact the wetlands and watercourse.
 - 179
 - 180 d. Although a great deal of public testimony was offered, generating a host of concerns
181 and potential issues, the record does not provide expert testimony or evidence that a
182 substantial public interest related to health, safety, and welfare exists other than
183 parking.
 - 184
 - 185 e. The modifications and conditions set forth below are intended to mitigate the issues
186 that have been identified on the record.

187
188 And subject to the following conditions:

- 189
- 190 1. The project shall be developed in substantial conformance with the site plan titled,
191 *Site Development Plans*, dated December 16, 2022, REVISED March 30, 2023, with
192 Sheets SL-1 and GD-1 Revised April 4, 2023 prepared by H&H Engineering.
 - 193
 - 194 2. The project shall be developed in substantial conformance with the Stormwater
195 Management Report, prepared by H&H Engineering, dated December 16, 2023 and
196 REVISED March 30, 2023.
 - 197
 - 198 3. The project shall be developed in substantial conformance to the landscaping Plan,
199 dated March 20, 2023, prepared by Thomas Graceffa Architects.
 - 200
 - 201 4. The project shall be developed in substantial conformance with the revised
202 architectural set stamped received by the Planning Department, dated March 30, 2023
203 and the illustrative architectural plan set prepared by Robert Demarais, PE., dated
204 May 1, 2023.
 - 205

- 206 5. The project shall be developed in substantial conformance to the Housing
207 Affordability Plan, prepared by Alter & Pearson, dated January 12, 2023.
208
- 209 6. For a period of three years from the approval date, the Applicant shall complete and
210 submit two inspection and maintenance reports each year (one no later than June 30th
211 and one no later than December 31st), and annually thereafter, prepared by a
212 registered engineer in the State of Connecticut., for all onsite stormwater facilities, to
213 the Planning Department. The Planning Department shall make these reports
214 available to the Commission upon receipt.
215
- 216 7. Prior to the issuance of a building permit, the Applicant shall submit an Erosion and
217 Sediment Control Bond, in a form acceptable to the Town, in the amount of \$50,000.
218
- 219 8. The parking lot lighting shall be limited to utilizing lighting fixtures having a Kelvin
220 rating not to exceed 3,000 Kelvins utilizing the lighting fixtures as specified in the
221 lighting plan prepared by Photinus, dated Revision 4, 2022.
222
- 223 All exterior lighting shall utilize energy and time management controls such that the
224 parking lot lights shall be at 100% illumination through 10 PM and at 40%
225 illumination through 6 AM.
226
- 227 Subject to building code requirements and fire safety requirements, public area
228 interior lighting visible from the exterior of the building shall be set at 100%
229 illumination through 10 PM and at 40% illumination through 6 AM.
230
- 231 9. The vinyl fence depicted at 36 inches on the site layout SL-1 sheet referenced in
232 condition #1 shall be increased to minimum height of 48 inches.
233
- 234 10. The Applicant shall submit an Integrated Pest Management Plan, with form and
235 substance acceptable to the Town, prior to the issuance of a building permit.
236
- 237 11. The Applicant shall complete and submit to the Planning Department a Phase I
238 Archeological Study, prior to the issuance of any building permit on site. The
239 Applicant shall follow the recommendations and conclusions of the Phase I.
240
- 241 12. Prior to the issuance of any building permit for the project, all relevant documents
242 shall be revised to reflect the final unit count and any other changes or modifications
243 directed and approved by the Zoning Commission, as necessary, including, but not
244 limited to, the Housing Affordability Plan and Full Site Plan set.
245
- 246 13. The Applicant shall reserve right-of-way, for future dedication at the request of the
247 Town and/or the Connecticut Department of Transportation, a 10-foot-wide area for a
248 future sidewalk along the Hopmeadow St. frontage.
249

- 250 14. The project proposes a maximum of 102 total parking spaces for 64 residential units.
251 The parking ratio is 1.59 spaces per unit. The standard parking ratio in the Town wide
252 Simsbury Zoning Regulations are 2 spaces per residential unit, regardless of unit type.
253 The site plan does not provide areas for overflow parking nor does it provide parking
254 for guests or visitors. Therefore, parking is likely to overflow onto Hopmeadow St.
255 (Route 10) creating an extremely unsafe condition for residents of the project and the
256 public and introduces vehicular conflicts with parked vehicles along a heavily
257 travelled corridor. There is limited shoulder area along this stretch of Hopmeadow St.
258 therefore, the number of units is limited to 48 units on three floors.
259

260 Ms. Erickson seconded the motion.

261 **VOTE:** Ryan - aye; Elliott - nay; Erickson - nay; Gray - aye; Madigan - nay; Beinstein -
262 aye.

263 Motion failed to pass 3-3-0
264
265

266 **MOVED: Mr. Gray MOVED, the Simsbury Zoning Commission APPROVES**
267 **Application ZC #23-03** of Vessel RE Holdings, LLC, Applicant, EAY Properties, LLC,
268 Owner, for a site plan pursuant to CGS 8-30g for construction of a ± 55,030 sq. ft., 64-
269 unit multi-family development, at 446 Hopmeadow Street. (Assessor's Map G13, Block
270 142, Lot 003C) Simsbury, CT 06070, zone R-15. based on the following findings:
271
272

- 273 a. The Application meets the requirements of CGS 8-30g.
274
275 b. The Application provides 30% of the units as affordable, consistent with the
276 requirements of 8-30g. The need for affordable housing outweighs the concerns
277 offered during public testimony on the record.
278
279 c. According to the submitted Wetlands report, The Simsbury Conservation
280 Commission/ Inland Wetlands & Watercourses Agency has considered the *Criteria*
281 *for Decision* found in Section 10.2 of the Town Inland Wetlands and Watercourses
282 Regulations and finds the project meets all of the standards for approval and will not
283 adversely impact the wetlands and watercourse.
284
285 d. Although a great deal of public testimony was offered, generating a host of concerns
286 and potential issues, the record does not provide expert testimony or evidence that a
287 substantial public interest related to health, safety, and welfare exists other than
288 parking.
289
290 e. The modifications and conditions set forth below are intended to mitigate the issues
291 that have been identified on the record.
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293 And subject to the following conditions:

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1. The project shall be developed in substantial conformance with the site plan titled, *Site Development Plans*, dated December 16, 2022, REVISED March 30, 2023, with Sheets SL-1 and GD-1 Revised April 4, 2023 prepared by H&H Engineering.
2. The project shall be developed in substantial conformance with the Stormwater Management Report, prepared by H&H Engineering, dated December 16, 2023 and REVISED March 30, 2023.
3. The project shall be developed in substantial conformance to the landscaping Plan, dated March 20, 2023, prepared by Thomas Graceffa Architects.
4. The project shall be developed in substantial conformance with the revised architectural set stamped received by the Planning Department, dated March 30, 2023 and the illustrative architectural plan set prepared by Robert Demarais, PE., dated May 1, 2023.
5. The project shall be developed in substantial conformance to the Housing Affordability Plan, prepared by Alter & Pearson, dated January 12, 2023.
6. For a period of three years from the approval date, the Applicant shall complete and submit two inspection and maintenance reports each year (one no later than June 30th and one no later than December 31st), and annually thereafter, prepared by a registered engineer in the State of Connecticut., for all onsite stormwater facilities, to the Planning Department. The Planning Department shall make these reports available to the Commission upon receipt.
7. Prior to the issuance of a building permit, the Applicant shall submit an Erosion and Sediment Control Bond, in a form acceptable to the Town, in the amount of \$50,000.
8. The parking lot lighting shall be limited to utilizing lighting fixtures having a Kelvin rating not to exceed 3,000 Kelvins utilizing the lighting fixtures as specified in the lighting plan prepared by Photinus, dated Revision 4, 2022.

All exterior lighting shall utilize energy and time management controls such that the parking lot lights shall be at 100% illumination through 10 PM and at 40% illumination through 6 AM.

Subject to building code requirements and fire safety requirements, public area interior lighting visible from the exterior of the building shall be set at 100% illumination through 10 PM and at 40% illumination through 6 AM.
9. The vinyl fence depicted at 36 inches on the site layout SL-1 sheet referenced in condition #1 shall be increased to minimum height of 48 inches.

- 339 10. The Applicant shall submit an Integrated Pest Management Plan, with form and
340 substance acceptable to the Town, prior to the issuance of a building permit.
341
- 342 11. The Applicant shall complete and submit to the Planning Department a Phase I
343 Archeological Study, prior to the issuance of any building permit on site. The
344 Applicant shall follow the recommendations and conclusions of the Phase I.
345
- 346 12. Prior to the issuance of any building permit for the project, all relevant documents
347 shall be revised to reflect the final unit count and any other changes or modifications
348 directed and approved by the Zoning Commission, as necessary, including, but not
349 limited to, the Housing Affordability Plan and Full Site Plan set.
350
- 351 13. The Applicant shall reserve right-of-way, for future dedication at the request of the
352 Town and/or the Connecticut Department of Transportation, a 10-foot-wide area for a
353 future sidewalk along the Hopmeadow St. frontage.
354
- 355 14. The project proposes a maximum of 102 total parking spaces for 64 residential units.
356 The parking ratio is 1.59 spaces per unit. The standard parking ratio in the Town wide
357 Simsbury Zoning Regulations are 2 spaces per residential unit, regardless of unit type.
358 The site plan does not provide areas for overflow parking nor does it provide parking
359 for guests or visitors. Therefore, parking is likely to overflow onto Hopmeadow St.
360 (Route 10) creating an extremely unsafe condition for residents of the project and the
361 public and introduces vehicular conflicts with parked vehicles along a heavily
362 travelled corridor. There is limited shoulder area along this stretch of Hopmeadow St.
363 therefore, the number of units is limited to 32 units on two floors.
364

365 Ms. Erickson seconded the motion.

366 **VOTE:** Ryan - aye; Elliott - nay; Erickson - nay; Gray - aye; Madigan - nay; Beinstein -
367 aye.

368 Motion failed to pass 3-3-0
369

370 **MOVED:** Ms. Madigan **MOVED, the Simsbury Zoning Commission DENIES**

371 **Application ZC #23-03** of Vessel RE Holdings, LLC, Applicant, EAY Properties, LLC,
372 Owner, for a site plan pursuant to CGS 8-30g for construction of a ± 55,030 sq. ft., 64-unit
373 multi-family development, at 446 Hopmeadow Street. (Assessor's Map G13, Block 142,
374 Lot 003C) Simsbury, CT 06070, based on the following public testimony on the record and
375 the following finding findings:
376

- 377 a. The Application represents a substantial threat to public health, safety, and welfare and
378 these threats outweigh the need for affordable housing:
379
- 380 1. **Inadequate parking leading to unsafe parking conditions.** The project proposes a
381 maximum of 102 total parking spaces for 64 residential units. The parking ratio is 1.59
382 spaces per unit. The standard parking ratio in the Town wide Simsbury Zoning

383 Regulations are 2 spaces per residential unit, regardless of unit type. The site plan does
384 not provide areas for overflow parking nor does it provide parking for guests or visitors.
385 Therefore, parking is likely to overflow onto Hopmeadow St. (Route 10) creating an
386 extremely unsafe condition for residents of the project and the public and introduces
387 vehicular conflicts with parked vehicles along a heavily travelled corridor. There is
388 limited shoulder area along this stretch of Hopmeadow St.
389

390 2. **Traffic Conditions and Access to the Site.** The project proposes access to the 64-unit
391 development on Hopmeadow St. via an unsignalized access point. The Applicant failed to
392 adequately demonstrate how the access point would operate safely, considering the high
393 traffic in the corridor and the likelihood of backup delays associated with the light at the
394 intersection of Hopmeadow St. and Powder Forest Dr.
395

396 3. **Offsite, Erosion and Sediment impacts.** There is a strong potential for erosion and
397 siltation. The stormwater management facilities proposed are likely to create a
398 concentration of outflow, during large storm events, leading to offsite erosion and the
399 depositing of silt and sedimentation and contaminants in the wetlands and watercourse.
400 The project has not demonstrated that adequate protections are in place during large
401 storm events. The project did not respond to requests to diffuse the stormwater run-off in
402 these two locations. Thus, drainage patterns will be affected.
403

404 4. **Inappropriate Density, Scale, Form.** The project proposes 64 residential units on 1.9-
405 acre site, a density of 32 units per acre. At four stories, the structure represents the tallest
406 commercial residential structure in Simsbury. This is an urban density, with virtually no
407 local comparison. There is no open space proposed nor any community amenities. This
408 level of density, combined with the lack of open space, represents a substantial public
409 health threat to future residents. There is no place for children to play or residents to
410 recreate.
411

412 5. **Fire Safety.** Concerns of fire safety and access of fire vehicles on the east side of the
413 building and the lack of easement.
414

415 Mr. Elliott seconded the motion.

416 **VOTE:** Ryan - aye; Elliott - aye; Erickson - aye; Gray - nay; Madigan - aye; Beinstein -
417 nay.

418 Motion pass 4-2-0
419

420 **VI. GENERAL COMMISSION BUSINESS – None**
421

422 **VII. PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT UPDATES –**
423 None
424

425 **VIII. ADJOURNMENT**

426 **MOVED:** Mr. Gray moved to adjourn this meeting at 9:32 p.m. Ms. Beinstein seconded
427 the motion.
428 **VOTE:** Ryan - aye; Elliott - aye; Erickson - aye; Gray - aye; Madigan - aye; Beinstein -
429 aye. Motion passed 6-0-0.