

MINUTES
ZONING COMMISSION – REGULAR MEETING
WEDNESDAY, January 17, 2024 at 7:00 P.M.
Simsbury Library FSPL Room
725 Hopmeadow Street, Simsbury, CT 06070

I. CALL TO ORDER – Chairman Elliott called this meeting to order at 7:00 p.m.

Present: Town Planner, George McGregor; Zoning Chairman, Bruce Elliott; Zoning Commission Vice Chairman, Tony Braz; Zoning Commissioners, Kate Beal, Shannon Leary, and Tucker Salls; Zoning Commission Alternate Members: Jackie Battos, David Moore, Joshua Michelson.

Absent: Diane Madigan

- Commissioner Battos is seated as a full member in Commissioner Madigan's absence.

II. APPROVAL OF MINUTES

- January 3, 2024 Regular meeting
 - Vice Chairman Braz had the following revisions:
 - Line 20 should indicate "special meeting" not "regular meeting".
 - Line 107 should add the word "increase" after 4%.
 - Line 134 should add the phrase "in additional tax revenue".
 - Line 142-143 require clarification. Town Staff to review and revise.
 - Chairman Elliott had the following revisions:
 - Line 217 should include the phrase "She requested that Commissioner Salls recuse himself".
 - Line 218 the word "How" should be replaced with "Who".

MOTION: Commissioner Braz made a motion to approve any amendments and accept the minutes as written. Commissioner Leary seconded the motion. The motion carried unanimously. (6-0-0)

III. APPOINTMENTS

- Appointment of a Regular Zoning Commissioner to the Business Development Committee
 - No action taken

IV. NEW BUSINESS – Site Plan Approval

Application ZC #23-43 of Esther and Richard Derr, applicant and record owner, for Zoning Commission Site Plan approval to permit a +/- 600 sq. ft. attached accessory dwelling unit at 76 Hedgehog Lane (Assessor's Map B08 Block 203 Lot 005), zone R-160.

- Mr. Derr, applicant and record owner, addressed the Commission and is requesting a site plan amendment for a finished living space above the attached garage for his elderly father.
- Chairman Elliott inquired if the 600 sq. ft. size meets the applicant's needs. Mr. Derr confirmed 600 sq. ft. is sufficient.
- Chairman Elliott noted that all Zoning Commission requirements have been met and adhered to as part of this application.

MOTION: Commissioner Battos moved to approve **Application ZC #23-43** of Esther and Richard Derr, applicant and record owner, for Zoning Commission Site Plan approval to permit a +/- 600 sq. ft. attached accessory dwelling unit at 76 Hedgehog Lane (Assessor's Map B08 Block 203 Lot 005), zone R-16. The Commission finds that the application for a site plan has met the standards set in Section 3.5 and the Site Plan Criteria in Section 11, and is subject to the following conditions:

1. An administrative zoning permit is required for construction.

Commissioner Beal seconded the motion. The motion carried unanimously. (6-0-0)

V. PUBLIC HEARINGS

Application ZC #23-36 of the Simsbury Zoning Commission, applicant, for a text amendment to the Simsbury Zoning Regulations pursuant to sections 4.5, 5.5, and 17.4 and the establishment of a new section 8.7 to allow mobile food vendors as an accessory use in business, industrial, professional office and planned area development districts. *This item has been continued from the 11-20-2023 regular meeting.*

- Joan Coe, 26 Whitcomb Drive, commented that food trucks should be allowed under strict compliance with the regulations.
- Steve Antonio, 133 Holcomb Street, commented that the Commission should accept the previous proposal, which had been vetted by the Health Department, Town Planner, and other stakeholders, but was then discarded without a vote. He noted that this version was modeled after the town of Colebrook. He noted West Hartford allows food trucks and, as a result, a few restaurants have closed and converted to mobile food vendors, which allows them to save on rent. He believes that Simsbury will see vacant building spaces as food trucks will be provided with an unfair competitive advantage, as they are less costly to operate.
- Sarah Nielsen, Simsbury Main Street Partnership, noted that this version of the amendment unfairly hurts tax-paying businesses and property owners. Ms. Nielsen noted that Simsbury prioritizes its tax-paying business and property owners and is exclusionary to a point. This proposed text amendment favors non-tax paying businesses, which will

85 result in the closure of our small business restaurants. She believes the first stakeholder-
86 vetted text amendment should be accepted, as it addressed these concerns.

- 87 • Sharon Thomas, 42 Brettonwood Drive, recommended that the prior document be
88 provided as she has not seen that version. As a resident, she likes to visit local
89 restaurants but also likes different cuisines and recommended that perhaps there could be
90 a space fee charged. She believes food trucks should be allowed for businesses that are
91 not restaurants.
- 92 • Nord Christensen, 35 West Mountain Road, commented that food trucks do not pay
93 taxes. He supports Steve Antonio's and Sarah Nielsen's remarks and does not agree with
94 the current proposal.
- 95 • Lori Boyko, 15 Oakhurst Road, commented that all zoning provisions must comply with
96 the law. Adding a restaurant-only provision would provide competitive advantages to
97 some business owners and disadvantages to other business owners and the public, which
98 is in opposition to the CT constitution equal protection clause. Successful food trucks
99 may bring people into town who would spend money in other retail stores. Food trucks
100 may find a market here and might grow into a local permanent establishment. She
101 identified a concerned that the Main Street Partnership, to which tax dollars are donated
102 every year by Simsbury Selectman for economic development, has spearheaded a
103 lobbying campaign to write the Zoning Commission in support of restaurants to the
104 detriment of other Simsbury businesses and residents, which is not a good use of the
105 Town's funds. She believes food trucks should be allowed in town with certain
106 commercial provisions.
- 107 • Steve Antonio, 133 Holcomb Street, addressed the Commission again, noting that food
108 trucks are proposed as an accessory use to an existing business. He requested that the
109 original document be provided online. Main Street is not a private organization and is
110 supporting the business in town. A food truck is only taxable when it is an accessory use
111 to an existing Simsbury business.
- 112 • Chairman Elliott asked for feedback from the Commissioners about whether to leave the
113 public hearing open.
- 114 • Commissioner Battos recommended keeping the public hearing open and would like to
115 discuss with Town Staff the previous proposal that has been referenced. Commissioner
116 Beal agreed.
- 117 • Commissioner Salls inquired if another public hearing would be required if the previous
118 version of the proposal is utilized. Mr. McGregor responded that as the previous version
119 is less permissive than what was advertised, another public hearing is not needed. Mr.
120 McGregor will confirm with the Town Attorney. Commissioner Salls recommended the
121 public hearing remain open.
- 122 • Chairman Elliott noted that there was a process in 2023 to generate a draft text
123 amendment to address the use of food trucks. There was a meeting with interested parties
124 and the Commission members. A draft document was considered at a public hearing and
125 ultimately the Commission withdrew that application after hearing from the public and
126 giving the matter further consideration. That prior version limited sites for food trucks to
127 existing restaurants and bars. A new document was drafted, which is being presented at
128 today's public hearing, dated October 2, 2023, which doesn't limit food trucks to

properties of existing restaurants and bars. It allows mobile food vendors at a variety of zones. Chairman Elliott asked Mr. McGregor to make the previous text amendment available to the public.

MOTION: Commissioner Salls moved to continue the public hearing to the meeting of the Zoning Commission on February 21, 2024. Vice Chair Braz seconded the motion. The motion carried unanimously. (6-0-0)

Application ZC #23-38 of SL Simsbury LLC, Owner, Holden Sabato, applicant, for a Type 4 Master Site Development Plan (MSDP) pursuant to Section 5.0.B.4 of the Hartford-Simsbury Form-Based Code (HSFBC) for the construction of a 580-unit residential development at 200 Hopmeadow Street (former Hartford Insurance property - south) (Assessor's Map F17, Block 154, Lot 009-2) Simsbury, CT 06070. Zone HS-FBC. *This item has been continued from the 1-03-2024 regular meeting.*

- Mr. McGregor provided an update on the application. There is a revised staff report dated 1/17/2024, which includes the Planning Commission's review and referral of this application from 1/09/2024. The Commission found that the development proposal conformed to the policies of the POCD based on the following considerations, recommendations and modifications:
 - The Commission recommended the project include a true mixed-use approach, with the addition of integrated, non-residential elements (commercial, retail, office, etc.) The Commission stated that the mixed-use elements would provide a better "sense of place" than a 100% residential development. Further, the Commission added that the original intent of the Hartford-Simsbury Form Based Code for the south parcel was to include both residential and commercial uses.
 - To protect and preserve the scenic resource of the Talcott Mountain hillside and ridgeline, the Commission recommended that all four-story buildings be reduced in height to three-stories.
 - The Commission recommended the project include some home ownership opportunities to provide more diverse housing opportunities as opposed to a 100% rental project.
 - The Commission recommended that the applicant consider proffering a to-be-determined public amenity or public benefit onsite to mitigate impacts on community services.
 - The Planning Commission voted 5-0 with one abstention to forward this recommendation to the Zoning Commission.
- Mr. McGregor noted that the applicant has provided a revised Master Plan, which exchanges 64 residential units for 27,000 sq. ft. of commercial space. The applicant has provided a response letter dated 1/16/24 regarding the methodology of the school impact analysis. The applicant has submitted letters of support.

- 170 • Staff has received letters from the public that have been included in the public
171 materials.
- 172 • TJ Donohue, representing SLC Simsbury, Owner, of the Ridge at Talcott Mountain,
173 addressed the Commission and noted that given the Master Plan revisions that
174 have been made, the applicant offers to extend the dates required to February 5,
175 2023.
- 176 • Rod Sawicki, Project Manager from VHB, presented the revisions to the Master
177 Plan, noting that apartment buildings 1 and 2 have been removed, resulting in a
178 reduction of 64 units, bringing the total number of proposed units down to 518.
179 The buildings are being replaced with 27,000-28,000 sq. ft. of commercial, retail
180 office space with 80 dedicated parking spaces.
- 181 • Chairman Elliott inquired about what type of business will fill the commercial
182 building. Mr. Sawicki indicated it is a flexible space that could be utilized for a
183 variety of commercial purposes.
- 184 • Commissioner Beal inquired how the size of the commercial area was determined.
185 Mr. Sawicki responded that they reviewed the area of the property and analyzed
186 how it could best be tailored for commercial use.
- 187 • Commissioner Salls inquired about market trends relating to the single-family
188 homes on the property. Mr. Sabato responded that given the high interest rates, it
189 has become unaffordable for many to purchase homes and rental homes may
190 provide a more affordable option.
- 191 • Vice-Chair Braz inquired if The Silverman Group has considered reduction of
192 units from four-story to three-story and the option to offer ownership
193 opportunities. Mr. Sabato responded that The Silverman Group does not want to
194 move forward with that recommendation but is working through alternate ideas.
195 The Silverman Group's business model does not offer ownership opportunities as
196 part of its developments.
- 197 • Commissioner Battos noted that market trends suggest interest rates are coming
198 down and has heard from numerous residents that they are looking to purchase
199 more affordable single-family homes. Commissioner Battos requested that The
200 Silverman Group seriously consider the recommendation to offer home ownership
201 as part of this application.
- 202 • Commissioner Salls recommended that The Silverman Group consider replacing
203 the single-family units with small, mid-sized developments such as quads or
204 duplexes to offset any shortfall associated with a reduction in units.
- 205 • Commissioner Beal inquired about the location of the commercial building,
206 noting it felt tucked back on the property and may not be attractive to business
207 tenants. Mr. Sabato responded that the alternative is for the building to be located
208 along Route 10, but based on the form-based code, this would block the view and
209 was not an ideal option. The current location still has frontage along Route 10.

- 210 • Commissioner Leary noted the concerns regarding the size of the project, its
211 impact on the schools, and the lack of multi-use have been previously
212 communicated. She questioned why these changes are being proposed now. Mr.
213 Sabato noted that this is the third public hearing, and they have not received
214 formal Zoning Commission comments. After the Planning Commission's
215 meeting and its recommendations, they felt they would need to make revisions if
216 the project was going to move forward.
- 217 • Commissioner Beal inquired if The Silverman Group has experience with other
218 mixed-use properties. Mr. Sabato responded that most of their developments are
219 either fully residential or fully commercial and does not have a similar multi-use
220 development that could be provided as a comparison. He commented the design
221 of the commercial building allows for a broad market range of users.
- 222 • Commissioner Moore inquired about where signage for the commercial entities
223 would be. Mr. Sabato responded that this would be addressed at the Site Plan
224 phase.
- 225 • Commissioner Michelson recommended that The Silverman Group consider
226 increasing the level of affordable units if they are unable to provide home
227 ownership options.
- 228 • Chairman Elliott noted that the Zoning Commission has heard the applicant three
229 times. The Zoning Commission requested that the application be revised to a
230 multi-use development, as required under the form-based code. Mr. Donohue
231 responded that the code allows for the request to change provisions of the code.
- 232 • Laura Crosskey, President of Crosskey Architects, presented a rendering of what
233 the non-residential use building could look like. The building would be
234 approximately 27,000 sq. ft. It would be one-story with a height of 25 feet to give
235 the opportunity for a mezzanine level.
- 236 • Commissioner Salls recommended considering residential units on top of the
237 commercial building.
- 238 • Commissioner Battos requested that independent studies be completed to evaluate
239 this project's school system impact, fiscal impact, the town services impact to
240 fire, police, ambulatory, and social services, and a traffic impact.
- 241 • Mr. McGregor responded that the town code has provisions for independent
242 review of complex projects. Town Staff would identify through an RFP process
243 expertise in those categories. The proposal would go to the Board of Selectman
244 for their approval of the price to complete these studies. Mr. McGregor estimated
245 that this would be a 60 day or more process.
- 246 • Commissioner Leary agreed with the need to conduct independent studies and
247 suggested the studies may be able to be utilized or referenced for other projects.
- 248 • Mr. McGregor noted that the criteria should be confirmed before independent
249 studies are completed. For example, if the Commission is not comfortable with

580 residential units, then it wouldn't make sense to have a study completed on the impact of 580 residential units.

- Commissioner Beal commented that she would like to hear from the public and then the Commission should provide the applicant with clear recommendations.
- Commissioner Moore commented that the current studies submitted by the applicant are no longer applicable given the significant revisions to the Master Plan. He would like the Commission to consider doing independent studies, noting that a mixed-use property would have additional impacts on fire, safety, policy, traffic, and school systems.
- Chairman Elliott opened the floor to the public.
- Pat Weisbrick, 3 Lenora Drive, commented that as outlined in the form-based code, the primary purpose of this building was for a commercial space and not mixed-use. She noted that the town needs good jobs, not just retail jobs, to support the cost of living here. She noted that more rental units are not needed, as the current rental inventory is approximately 25% of Simsbury housing.
- Sheila Black, 5 Hawks Lane, would like to challenge The Silverman Group and the Town of Simsbury to pave the way in terms of town housing. She commented that rental units are short-sighted. There are many rental options available in town and in nearby towns, such as Granby, Avon, and Canton. As a real estate agent, she is finding that her clients want to purchase more affordable homes and often must wait until their lease agreement is up to avoid paying additional costs. She recommended The Silverman Group consider rent/own options. She would also like them to include other recreational uses such as pickleball courts, etc. She recommended completing a study on the impact to schools, fire, and ambulatory departments.
- Joan Coe, 26 Whitcomb Drive, commented that the Hartford Simsbury Form-Based Code was developed for this specific project. The Silverman Group should comply with these regulations, and the Zoning Commission should ensure the applicant is held to these standards. She also requested that Town Staff review whether Commissioner Salls has a conflict of interest relating to this application.
- Mark Conrad, 11 Pond Side Drive, He would like the Commission to consider the affordability issue in its decision.
- Susan Van Kleef, 6 Mallard Circle, is concerned about whether mixed-use is what the town needs. She is concerned that these buildings will be built to comply with form-based codes, even though there is no need. She also emphasized the affordability issue as being critical and recommended that the developer meet with the Sustainability Committee.
- Susan Masino, 41 Madison Lane, commented that the Commission is under no obligation to approve the application if the applicant is requesting variances to the code. She noted that town residents do not want the town to be covered with tall

290 buildings. If the developer is willing to be flexible there are ways to be forward
291 thinking about accessible, inclusive, and affordable housing. She recommended
292 manufactured homes that can be single-story and customized for special needs,
293 which could also be either rentals or owned and they would not impact the
294 viewshed. She recommended having a bus line that goes by these developments
295 and that an environmental impact study be completed, in addition to the other
296 studies referenced. She was concerned about the timeline of the application,
297 noting that the public hearings began before the holiday season. She
298 recommended the Commission vote “No” on this application if it does not meet
299 Town regulations.

- 300 • Marsha Frankel, 1 West Street, noted that the town needs have changed over the
301 past 6 years, when this project began. She referenced the Mayor of Morristown,
302 New Jersey, who rejected a Silverman Group development in order to prioritize
303 the heart and soul of his town and to ensure development is appropriate to its
304 location. She recommended that the Zoning Commission consider and prioritize
305 what is best for Simsbury.
- 306 • Tom Turner, 11 Barnard Drive, commented that in MA and NY, the governors
307 have required that foreigners be housed in various intuitions, such as schools. Mr.
308 Turner noted that there is a possibility of a similar situation happening in
309 Simsbury.
- 310 • Lori Boyko, 15 Oakhurst Road, noted that our town has created a fair-rent
311 commission with the full authority to conduct investigations, issue subpoenas, and
312 order excessive rent be reduced to an amount it determines to be fair and
313 equitable. She is concerned about the current proposal even with the revisions.
314 She also expressed concern that the applicant did not provide adequate responses
315 to public comments as well as comments provided by Town Staff. She inquired
316 whether the town or the developer is responsible for the maintenance of multi-use
317 paths. She noted that the wetlands survey provided was completed 26 years ago
318 in 1997, suggesting a more recent study would be more relevant.
- 319 • Ann McDonald, 3 Tamarack Lane, inquired if the Wetlands Commission had
320 approved this application. She recommended that the independent studies be
321 completed, given the impact on town resources that this development will have.
322 She inquired if there is a three-story building maximum in the town by-laws. She
323 inquired if 10% housing would be required in perpetuity or if the owner could
324 lease affordable units at market price when the original lease ends. She
325 recommended having a water and an electrical grid study. She is concerned about
326 the traffic flow, given that when The Hartford Insurance Company was in
327 operation the traffic flow was going in an opposite direction. The proposed
328 development will result in traffic that will add to the same flow that exists now.

329 She recommended building prefabricated ranch homes, given the need for those in
330 town.

- 331 • Ellen Gilbert, 126 Hopmeadow Street, commented she has a letter that she will
332 provide to Town Staff about the Master Development Landscaping Plan. She
333 received 30 signatures from her condo complex, which neighbors this property.
334 She is concerned that this development will impact her condo complex and that
335 the berm, vegetation and trees that currently protect their privacy will be cut
336 down. This will also have an impact on their property values. She agreed that
337 independent reviews need to be completed.
- 338 • Terri Ann Flanagan-Snediker, 2 Meadowbrook Road, agreed that an independent
339 study needs to be completed on the traffic, the wetlands and the school system.
340 She encouraged the Zoning Commission take its time before issuing a decision on
341 this.
- 342 • Commissioner Beal commented that the public hearing should be extended so
343 additional information can be received.
- 344 • Mr. McGregor explained that the Commission has 35 days to close the public
345 hearing. Once the public hearing is closed, the Zoning Commission has 65 days
346 to render a decision. He noted that the independent studies need to be completed
347 prior to the public hearing being closed. Mr. McGregor confirmed the studies are
348 permitted under the town code, but the timelines would be tight, and the studies
349 may not be available in time for when a decision needs to be made.
- 350 • Commissioner Salls noted that any study completed should be based on any
351 revision the applicant makes to the current application.
- 352 • Mr. McGregor noted that four independent studies would require draft scopes,
353 RFPs, selection of the consultant via a public meeting and approval from the
354 Board of Selectman. Then the studies would need to be completed within 65
355 days. There is a risk that the studies would not be completed before the
356 Commission is required to decide.
- 357 • Commissioner Beal recommended that the Zoning Commission discuss the
358 project and determine specific points that they would like the applicant to
359 consider.
- 360 • Commissioner Beal requested that the buildings onsite be three stories or less.
361 She would like to further define mixed-use in today's context.
- 362 • Commissioner Salls recommended that single family homes be turned into
363 duplexes.
- 364 • Commissioner Braz is concerned with the number of units, even with the
365 proposed reduction. He is in favor of the design including a combination of
366 apartment buildings, duplexes and single-family homes. He would like the option
367 for home ownership on the site.

- Commissioner Battos believes the development is too dense and suggested that some of the buildings be made into duplexes. She is also concerned about the impact this project will have on the view.
- Chairman Elliott is concerned that the current view study does not show that enough has been done to preserve the viewshed. There is not adequate consideration to the hillside and only provides consideration of the ridgeline view. He suggested relocating the larger buildings to the rear of the property.
- Mr. McGregor noted that the Zoning Commission by-laws require a 2/3 majority vote to continue the meeting past 10:00 pm and recommended that the Commission vote to continue the meeting.

MOTION: Commissioner Leary motioned to continue the meeting past 10:00 p.m. Commissioner Beal seconded. The motion carried unanimously. (6-0-0)

- Commissioner Moore noted that if the number of units was reduced and the height of the buildings was reduced, there may no longer be a need for independent studies.
- Commissioner Leary requested the applicant's thoughts are in terms of helping with transportation, which will make the units more accessible. Additionally, she would be interested to learn more from the applicant about single family homes meeting accessibility needs in terms of first floor living.
- Chairman Elliott noted that the POCD requires 10-20% of affordable housing. There needs to be further consideration of that issue by the applicant.
- Commissioner Salls recommended the applicant increase affordable housing from 10% to 20%.
- Commissioner Battos suggested that Town Staff and the applicant meet with the neighbors at 126 Hopmeadow to address their concern over the vegetation and berm separating the properties. Mr. McGregor noted that this requirement would be addressed as part of the Site Plan process.
- Commissioner Michelson commented that the reduction of the number of units on the same amount of land inherently reduces the number of affordable units.
- Commissioner Beal commented that the discussion of the number of stories and the height of a building are two separate items, and both impact the view. She suggested that the utilization of a flat roof as opposed to a pitched roof should be considered.
- Commissioner Moore commented that flat roofs can collapse under the snow load. He recommended that the Commission move to extend the public hearing.
- Commissioner Salls summarized the Commission's recommendations for the application:
 - Protection of the viewshed, including the hillside, should be considered

- Reduction in the number of units should be considered
- Increased commercial integration with the residential space should be considered
- Increased affordable housing should be considered
- Chairman Elliott noted that one commercial building is not enough to create a vibrant multi-use development.
- Commissioner Beal requested additional detail regarding how the commercial space could best be utilized, which would allow businesses to better envision themselves in the development.
- Mr. Donohue addressed the Commission, noting he would work with Town Staff to prepare for the February 5, 2024 meeting.

MOTION: Vice Chair Braz moved to continue the public hearing to the February 5, 2024 meeting of the Zoning Commission. Commissioner Salls seconded the motion. The motion carried unanimously. (6-0-0)

VI. ADJOURNMENT

MOTION: Commissioner Battos made a motion to adjourn the meeting. Vice Chair Braz seconded the motion. The motion carried unanimously. (6-0-0)

The meeting adjourned at 10:15 P.M.

Respectfully Submitted,

Cara Blackaby
Commission Clerk