



ESSEX PLANNING COMMISSION

Regular Meeting
July 11, 2013
Essex Town Hall – Room A

MINUTES

1. Call to Order and Seating of Members:

Chairman Tom Danyliw called the meeting to order at 7:31 p.m. In attendance were Commissioners Linda Herman, Alan Kerr, and Carla Feroni. Seated for Ralph Monaco was Alternate Bob Laundy. Also in attendance were Bob Doane, PE, and Planner John Guskowski.

2. Approval of Minutes: June 13, 2013

Motion to approve minutes of June 13, 2013 by Bob Laundy, seconded by Linda Herman. Motion carried, with Alan Kerr and Carla Feroni abstaining.

3. New Business

a. Subdivision Regulation Amendments – Conservation Land Priorities

Chairman Danyliw stated that the Commission had been developing and discussing the proposed amendments to the Subdivision Regulations for several months and believed that they were ready to be acted upon.

Motion to approve proposed amendments to Subdivision Regulations, Sections 3.5, 5.8, and 6.12 by Linda Herman, seconded by Bob Laundy. Motion carried unanimously.

[Full text of subdivision amendments approved is attached to these Minutes]

b. Subdivision Application – Hunter's Trail Extension

John Guskowski noted that the resubmission for Hunter's Trail Extension had not been submitted, but that Bob Doane of Doane-Collins had submitted to the Land Use Office an application for subdivision of land of Tom & Sally Riggio at Orchard Heights.

Bob Doane explained that this application had been approved back in 2008 but because of some confusion relating to easement and homeowners' association documents, the mylars had not been filed. He stated that the public improvements had all been completed, and the proposed legal documentation was included with the application materials. He further requested that the entirety of the prior subdivision file be included with the record application materials. John Guskowski reviewed the timelines for decision with the Commission, confirming that a Public Hearing was not required, and stated that he had to

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review the application for completeness and content and determine the fee per the new Fee Ordinance. Chairman Danyliw noted that this application was submitted after the agenda was established, and opted not to add it to the official agenda. He stated that the application would be deemed received statutorily within 35 days and that the review of the application and probable decision would take place at the September 12, 2013 Planning Commission meeting.

4. Old Business

a. Natural Hazards Mitigation Plan

John Guszkowski stated that the Plan development was ongoing and that he and Jeremy DeCarli of RiverCOG were in the process of interviewing public officials for input, including the Building Official/Fire Marshal, First Selectman, Finance Director, and Public Works Director. Carla Feroni asked for an update on the status of the contract, deadlines, and finances. John Guszkowski will follow up with RiverCOG on those details.

b. PoCD Updates – Statement of Intent and Goals

John Guszkowski stated that more documentation for review would be available at the next Planning meeting.

c. Ivoryton and STEAP Grant Updates

John Guszkowski stated that the STEAP grant for the “Civic Campus” improvements was progressing well and bid documents were being sent out within the week. Bid opening would be in mid-August. He also noted that Governor Malloy issued a press release that day announcing that Essex will be given \$435,000 for the development of a “Shared Street for the Arts” in Ivoryton along Main and Summit Streets.

d. ADRS Recommendations – Zoning Regulations

John Guszkowski stated that he prepared a proposed Zoning Regulation amendment that would allow commercial structures to exceed the current height cap of 30’ in most districts where commercial uses are allowed in order to allow for higher facades and peaked roofs. This language follows both the existing note in Section 80C, but also the specific guidance of the Architectural Design Review Subcommittee recommendations. The proposed regulations would read:

Addition to sections 70B, 71B, and 82C

“NOTE: The maximum building height shall be determined by measuring vertically from the average ground level at the base to the average roof height. Ten (10) percent of the footprint area may exceed the 30 foot height limitation not to exceed an overall height of 35 feet for commercial structures. This shall apply only to facades and streetscapes, at the discretion of the Zoning Commission, to enhance and unify the architectural character of the neighborhood.”

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The Commission discussed this proposed amendment, and Carla Feroni asked how this regulation would interact with the Gateway Zone, and which would prevail if there were conflict. John Guskowski stated he would pursue an answer to this. Carla Feroni also questioned the potential affect of the additional height on residential views.

Motion to endorse the proposed Zoning Amendments and forward them to the Zoning Commission as a formal application by Bob Laundry, **seconded** by Linda Herman. **Motion carried unanimously.**

5. Report of Committees and Officers

a. Report from Inland Wetlands Representative

Claire Tiernan was absent, so there was no report.

b. Report from RiverCOG Representative

Alan Kerr stated that RiverCOG finally established a meeting schedule, which will take place on the fourth Monday of the month. He had no further report.

c. Report from Economic Development Commission Representative

Bob Laundry reported that while he missed the last EDC meeting, he had been asked to request the input and participation of the Planning Commission in discussing vacant or underutilized properties around Town. He noted that locations like the former “Iron Chef” restaurant and the L.C. Doane property adjacent to the Train Station were of concern, and suggested that as part of the Plan of Conservation & Development update, the Planning Commission could convene a discussion involving EDC and Zoning about ideal uses for these (and other) sites and consider recruitment of future tenants or users. A discussion commenced among the Commissioners about the process of identifying uses and recruitment, and the relative roles of EDC and Planning. Bob Laundry stated that First Selectman Needleman and EDC agreed that the Town should have a point person on businesses moving to Town or recruitment, to be a sort of ombudsman to walk new businesses through permitting processes. There was a general discussion about recent proposals to expand gas station/convenience store operations. Linda Herman discussed the establishment of incentives to promote certain specific uses in targeted portions of Town, and Chairman Danyliw suggested that it was the role of EDC to identify the sorts of incentives that would be effective. Carla Feroni stated that the Town of Fairfield had a very professional recruitment video about doing business in Fairfield on the town website. The Commission will review key properties and redevelopment areas at upcoming meetings.

d. Chairman’s Report

Chairman Danyliw had no report.

The plain text below represents the existing language of the Subdivision Regulations. Where text is proposed for removal, it is indicated in red with a single-line strikethrough. For example: ~~language to be removed.~~

Where new additional language is proposed, it is indicated in bold, underlined green text. For example: **new language to be added.**

3.5 WAIVER OF SUBDIVISION REQUIREMENTS

When the Commission finds that extraordinary hardships or practical difficulties may result from compliance with these Regulations, the Commission may, by a 3/4th vote ~~of all members~~, approve waivers to these Regulations. The Commission shall state upon its records the reason for which a waiver is granted in each case.

5.8 OPEN SPACE

Land for parks, playgrounds, recreation areas and open spaces shall be provided and reserved in each subdivision as deemed necessary and in locations deemed proper by the Commission. The land reserved shall be of such suitable area, dimensions, topography and natural character as to satisfy the open space needs determined by the Commission. Such needs may include, but are not limited to the following:

- a. Preservation of natural resources such as, but not limited to, unusual topography, wetlands, aquifers, agricultural land, wildlife habitat, visual corridors, ridgelines and vistas;
- b. Retention of natural drainage ways;
- c. Avoidance of undifferentiated sprawl patterns, provision for visual edges, focal points and centers to enable people to relate to their surroundings and to integrate or separate various types of uses and activities;
- d. Provision for passive and/or active recreation;
- e. Enhancement of historic and cultural activities and locations; and
- f. Maintenance of scenic quality.

The reservation of land shall conform, to the greatest extent possible, to any plan of development for parks, playgrounds, recreation land, conservation or open space which has been formally adopted by the Planning Commission or by the Essex Conservation Commission.

5.8.1 Open Space Dedication Requirement:

In determining the need for reservation of open space, the Commission shall be guided

but not limited to a standard of 20% of the land area of the subdivision, and a minimum reservation area of one acre. Inland and tidal wetlands shall not be included as meeting of the open space area requirement. ~~The Commission may determine that a lesser area is sufficient to satisfy the need for such open space within the subdivision or that such reservation is not feasible because a) adequate existing parks, playgrounds, recreation areas and open space are available in the neighborhood; or b) there is no land in the subdivision suitable for such reservation.~~

5.8.2 Access and Location:

The area or areas reserved for open space shall be laid out so as to be used in conjunction with similar areas of adjoining subdivisions or of probable future subdivisions. Open spaces shall be easily accessible and shall be situated so as to preclude grouping of lots and open spaces in the extremities of the property. The Commission may require that proper pedestrian and vehicular access be provided for each such reservation.

5.8.3 Coastal Waterfront Sites:

In such cases where the proposed subdivision site abuts coastal waters, the Commission may require such open space in the form of public access to and along the waterfront.

5.8.4 Methods of Open Space Reservation:

Open space areas shall be permanently reserved for the designed use by means acceptable to and approved by the Commission, in accordance with Section 6.12.

5.8.5 Fee-in-lieu of Open Space:

In lieu of the above requirement to provide open space, the Commission may, at its discretion, approve the payment of a fee to the municipality by the applicant, or may approve the payment of a fee to the municipality and transfer land to the municipality by the applicant in accordance with the provisions of *Section 8-25 of the Connecticut General Statutes*. The procedure for determining if the Commission shall approve the payment of a fee in lieu of open space shall follow the Waiver provisions of Section 3.5 of these Regulations.

6.12 OPEN SPACE

In addition to the requirements of *Section 5.8*, open space within subdivisions shall comply with the following requirements:

6.12.1 Condition of Land:

Land reserved for open space shall not be used for the storage of equipment or the deposit of debris. The land so reserved shall not be excavated, filled or regraded, and

trees shall not be removed except in accordance with a grading plan submitted under *Section 4.4.6*.

6.12.2 Methods of Open Space Reservation:

Open space areas required under *Section 5.8* shall be permanently reserved for the designated use by means acceptable to and approved by the Commission. Such means and methods shall include but are not limited to the methods detailed below, in the indicated order of priority. The Applicant shall have the burden to prove that the indicated order of priority is not in the best interest of the Town. The methods detailed below are intended to provide guidance to the Commission and Applicants, and Applicants are strongly recommended to consult with Staff and the Commission informally in advance of making a formal proposal.

- a. **Deeded to the Town of Essex:** Open space parcels may be offered to and accepted by the Town when the parcel is unique, significant, adjacent to existing municipal property, or which offers opportunities for passive or active recreation for Town residents. Where open space areas are to be conveyed to the Town, the applicant shall convey them at the stage and in the condition agreed upon in connection with the processing and approval of the subdivision.
- b. **Deeded to a non-profit organization acceptable to the Commission:** Open space parcels may be conveyed to a non-profit conservation trust where the parcel contains significant areas of wildlife habitat or is adjacent to other land owned by a non-profit land trust or where the addition of the parcel may enhance existing lands owned by such a trust, or where the Commission determines that such parcel is not appropriate for Town ownership. Such non-profit organization shall be a private non-profit, non-stock corporation which has as its purpose the preservation of open space land. The deed to such organization shall contain language satisfactory to the Commission requiring that the land be held in perpetuity as open space land for the use of the general public. If open space is to be conveyed to a non-profit organization, the Commission may require that a copy of the organization's Certificate of Incorporation be submitted for its review. The deed to the organization shall contain the provision that in event of the dissolution of the corporation, the property shall be conveyed to the Town of Essex, or subject to the approval of the Commission, to another non-profit corporation. The Commission shall have the right to reject any proposal for the transfer of open space land to a private non-profit organization if the Commission determines that such conveyance would not be in the best interest of the Town. The organization shall present evidence of liability insurance to the Town.
- c. **Held in corporate ownership by owners of lots within the subdivision:** Open space may be conveyed by warranty deed to a nonstock homeowner's association within the subdivision upon such terms and conditions as specified by the Commission. When tracts are conveyed in this manner, a copy of the bylaws of the homeowners' association shall be submitted as a part of the application for the subdivision. Membership in such corporation shall be mandatory for all lot owners within the subdivision. Each deed conveyance to lot owners shall include the provisions of the declaration of rights and responsibilities in regard to open space, and shall be recorded in the Essex Land Records. Wording on each deed shall

state that such open land is reserved for use only as open space in perpetuity and the homeowners' association must maintain adequate liability insurance for the property.

- d. **Perpetual conservation easement:** Where the right of use, interest or privilege, short of fee ownership in the open space owned by another, is obtained by the Town or acceptable non-profit organization, a deed stipulating that the owner transfers development rights to, and open space or scenic easements over, the land shall be required. The fee owner shall retain the fee title to the premises and all incidents of fee ownership therein, except the right to construct any structure, sign, fence, or other improvement thereon, or to alter the contours thereof. ~~Minimum lot requirements cannot be satisfied by use of land dedicated to open space.~~

6.12.3 Conditions of Open Space Conveyance:

Title to the open space land shall be unencumbered and shall be transferred at a time approved by the Commission, and in any case, not later than the time at which title to the streets in said subdivision is accepted by the town.

6.12.4 Deed Guarantees:

Regardless of the method employed, the instrument of the open space conveyance must include provisions suitable to the Commission and the Town Counsel for guaranteeing the following:

- a. The continued use of such land for the intended purpose;
- b. Continuity of proper maintenance for those portions of the common open space land requiring maintenance;
- c. When appropriate, the availability of funds required for such maintenance; and
- d. Recovering of loss sustained by casualty, condemnation or otherwise, and sufficient liability insurance.

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e. Planner's Report

John Guszkowski updated the Commission on the Town's interest in pursuing the State-Local Bridge Program funding for the two short spans of the Falls River on Ivory Street, the potential availabilities of properties adjacent to Town Hall, including the Perry property and Highland Hall. He also stated that while the Ingham Hill Road subdivision lawsuits were still pending, there was potential for the Trust for Public Lands to acquire the entirety of the "Preserve," which would then mean the lawsuit (and subdivision) would go away and the Town would likely be asked to participate in funding the preservation effort. Finally, he reported that that he had been working with the Selectmen and Police to acquire a speed monitoring sign, which will have the ability to take photos of vehicles speeding.

6. Correspondence and Invoices

Chairman Danyliw reviewed the correspondence, which included invoices from RiverCOG and Attorney Royston. John Guszkowski noted that the RiverCOG fees are lower because the per-capita contribution was decreased by the merger of CRERPA and Midstate RPA.

Motion to pay invoices by Linda Herman, **seconded** by Bob Laundy. **Motion carried unanimously.**

Alan Kerr raised the question of signage regulations, specifically relative to the new LED signs at the Cumberland Farms. He suggested that Planning should revisit signage regulations in the light of new technology. Linda Herman questioned the current variety of activity at Ivoryton Inn. The Commission requested copies of the most current set of Zoning Regulations, which John Guszkowski will acquire and distribute to the Commission for reference.

7. Adjournment

Motion to adjourn by Linda Herman, **Seconded** by Bob Laundy. **Motion carried unanimously.** Meeting adjourned at 8:42 p.m.

Respectfully submitted,

John Guszkowski
Consulting Town Planner

ATTACHMENT: Subdivision Regulation Amendments adopted 7/11/2013

RECEIVED FOR RECORD
7/12 2013 at 12:09 pm
Thomas D. Dolin
ESSEX, CT TOWN CLERK

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