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Dawn Bradley,
Town Clerk

TOWN OF KENT
PLANNING AND ZONING COMMISSION
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JANUARY 12, 2017 REGULAR MEETING MINUTES

The Town of Kent Planning and Zoning Commission held a regular meeting on Thursday, January 12, 2017 at 7:00 p.m. in the Kent Town Hall.

1. CALL TO ORDER

Mr. Johnson called the meeting to order at 7:03 p.m..

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

Commissioners Present: John Johnson, Chairman; Karen Casey, Alice Hicks, Anne McAndrews, Matt Winter,

Staff Present: Donna Hayes, Land Use Administrator

Mr. Johnson elevated Ms. McAndrews to voting status.

3. READING AND APPROVAL OF MINUTES:

3.A. Regular Meeting Minutes of December 8, 2016.

Ms. Hicks moved to approve the Regular Meeting Minutes of December 8, 2016, as written. Mr. Winter seconded and the motion carried unanimously.

3.B. Special Meeting Minutes of December 22, 2016

Mr. Winter moved to approve the Special Meeting Minutes of December 22, 2016, as written. Ms. Hicks seconded and the motion carried unanimously.

4. PUBLIC COMMUNICATIONS (ORAL):

No action taken.

5. OLD BUSINESS:

5.A. PUBLIC HEARINGS (Possibility of closure, discussion and decision on the following):

No action taken.

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5.B. DISCUSSION AND POSSIBLE DECISION

5.B.1. Rewrite of Zoning Regulations

Ms. Hayes advised the Commission that she is still working on determining which changes should be incorporated into the proposed regulations and received offers of assistance from both Attorney Zizka and Mr. Chalder. She plans on having this done within the week.

No action taken.

6. NEW BUSINESS:

6.A. PUBLIC HEARINGS (Possibility of closure, discussion and decision on the following):

6.A.1. Application #'s 110-16SP, 111-16C, The Kent Affordable Housing, construction of 3 townhouse style affordable units, 19 Maple Street Extension, Map 4 Block 42 Lot 5.

Mr. Johnson opened the public hearing at 7:06 p.m. and read the legal notice into the record.

Ms. Virginia Bush-Suttman, President of Kent Affordable Housing addressed the Commission and introduced Mr. Daniel Schiesel and Mr. Stephen Lasar. Mr. Lasar, architect for KAH, explained that he had submitted a new plan which shows the location of the sewer and water hookups as well as additional drainage on the northeasterly side of the property, a sign and two pole lights in the parking lot.

The Commission then discussed the Staff Report that Ms. Hayes created. At the last meeting, Mr. Winter had asked that Ms. Hayes review the minutes from the approval of phase II of Stuart Farms to see if any mention had been made with regard to meeting the soil based lot size criteria. Ms. Hayes advised the Commission that she had reviewed the minutes as well as listened to the meeting recordings and found that there was no discussion. Mr. Winter said that he believes that the Affordable Housing Regulation eliminates the need for soil classification and was comfortable with the fact that it is not required.

Ms. Hayes said that the issue with the application is the fact that the lot on which the housing is proposed does not meet the criteria of the regulation which states that the lot must be one acre in size. Mr. Winter agreed. Mr. Schiesel asked if there were any other issues and Ms. Hayes said that she did not find any during her review.

Mr. Johnson asked Mr. Schiesel if he had spoken with Mr. Gary Hock with regard to the "±" on the survey and Mr. Schiesel replied that they are 297 square feet short of reaching one acre. Ms. Hayes told the Commission that she had received two surveys from Mr. Hock; one showing the existing lot size and the other showing what was needed to make the lot 1 acre. Ms. Bush-Suttman said that due to the State's involvement and mortgage on 15 Maple Street Extension, it would be near impossible to get them to agree to a lot line revision. Mr. Lasar asked if it would be possible for the Town to give them what was needed. It was suggested that they contact the Kent Land Trust or the Braden Family Trust. Mr. Schiesel said that he did approach the Kent Land Trust who said there was nothing they could do. Ms. Hayes asked if it would be possible to combine the two lots together and Ms. Bush replied that she felt it would be equally as difficult because of the State's involvement. Mr. Schiesel said that they approached the Braden Family who suggested that they apply for a variance. Ms. Hayes said that she did not think there was a hardship and Mr. Lasar said that there was not enough time.

Mr. Winter asked what the timing would be and Ms. Bush-Suttman said that if everything goes according to plan, they would receive their money by December of 2018 and could start construction in the spring of 2019. Mr.

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Winter asked if conditioning the approval on Kent Affordable Housing getting the property necessary to make the lot one acre would be sufficient for them to move on to the next step. Ms. Bush-Suttman replied that as long as the approval fits within the Town's Regulations.

Mr. Lasar asked if the approval could be granted without the condition since the lot is pre-existing non-conforming. After discussion, Ms. Bush-Suttman said that in order to get approval at this meeting, she would accept one with a condition that additional land be acquired to meet the one acre requirement. She said that she would speak with the Braden family as well as the Kent Land Trust. Mr. Schiesel said that he thought that the Kent Land Trust would require a reciprocal amount of land if an agreement was reached. Ms. Hicks said that the Kent Land Trust could swap land. Mr. Schiesel said that it would be very difficult.

Mr. Johnson asked Ms. Hayes and Mr. Winter if they could interpret §14.2. Mr. Johnson said that if the Commission agreed that it was a non-conforming lot, he felt the approval could be granted. Mr. Winter said that he seems to make sense to him, but he would still like another opinion. Ms. Hayes asked Ms. Bush-Suttman when the lot was created and she replied that she believes it was created somewhere around 1970. Ms. Hayes said that the question becomes whether or not the lot was legally created. It was suggested that the drafted Resolution of Approval be granted with the understanding that legal opinion would be sought. If it is legally determined that the lot is truly a non-conforming lot and could be built upon, the Commission could amend the Resolution of Approval.

Mr. Winter thought that sounded reasonable and asked if all the other requirements of the Regulations had been met. Mr. Lasar said that they had and Ms. Hayes agreed. Mr. Winter told Mr. Johnson that he respected his comment but would prefer to approve the application via the prepared Resolution of Approval and ask for legal opinion. Ms. Hicks agreed.

Ms. Casey said that she agreed with Ms. Hayes. She continued that §16.3 states that the applicant must prove a demonstration of need and asked how many units are in Kent. Ms. Bush-Suttman replied 29 with no vacancies. She said that Templeton Farm has 24 units with a 2 year wait. Ms. Casey said that she feels more comfortable obtaining a legal opinion. Ms. Bush-Suttman said that there are also 9 units at risk of being lost because the buildings are on the market. She said that the goal of the State of Connecticut requires 10% affordable housing in order to protect it from a threat of development outside of the regulations. Ms. Casey feels that the Commission is being pressured to make a decision because of poor timing.

Mr. Johnson asked if there were any further questions or comments. Mr. Schiesel asked if the Commission will please speak with their attorney regarding the existing non-conformity of the lot. Mr. Lasar asked if there could be a special meeting once the legal decision is rendered.

Ms. Casey asked what the process would be to get the lot line revised with the State. Mr. Schiesel said he was not sure and Ms. Bush-Suttman replied that it would be a nightmare and could set them back two years. Mr. Bachrach said that it would fair to say that they would approach the other neighbors first.

Mr. Johnson said that there are options for Kent Affordable Housing to pursue and the Commission will pursue legal opinion on §14.2. Ms. Casey said that she feels that they should go back to the neighbors and try to get the land and then come back to the Commission via a special permit. Mr. Johnson said that he would like to pursue the Resolution of Approval and asked Ms. Casey if she was alright with that. Ms. Casey replied that she really feels pressured by this application and feels that a legal opinion is necessary. Mr. Johnson asked Ms. Hayes if she had a problem with the contingency and she replied that she did not. It would give Kent Affordable Housing the approval to move forward, but also allows them time to work on obtaining the additional land if the legal opinion states that it is required for them. Mr. Winter agreed and said that it would give Kent Affordable Housing the

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time to pursue either getting the additional land from the adjoining property owners or applying for a variance through the Zoning Board of Appeals.

Mr. Winter moved to closed the public hearing at 8:00 p.m. Ms. Hicks seconded and the motion carried unanimously.

Ms. Casey moved to approve waivers to §4.3.3. and §4.3.12. Mr. Winter seconded and the motion carried unanimously.

Ms. Hicks moved to approve Application #'s 110-16SP, 111-16C, The Kent Affordable Housing, construction of 3 townhouse style affordable units, 19 Maple Street Extension, Map 4 Block 42 Lot 5 and read the following Resolution of Approval into the record:

RESOLVED: *That the Kent Planning and Zoning Commission approve the applicant's Application #110-16SP and #111-16C, Kent Affordable Housing, 19 Maple Street Extension, construction of 3 affordable housing rental units, Map 4 Block 42 Lot 5.*

This resolution is approved subject to the following conditions:

- 1. The Commission considers the factual representations made by the applicant and its agents, representatives and consultants with regard to the nature, scope, location, extent, timing, frequency and all other aspects of the proposed use to have been critical in the Commission's determination that the Special Permit could properly be approved. Therefore, the applicant shall be bound by all such factual representations as though expressly made conditions of this approval, except as modified by this resolution. The applicant's factual representations include, but are not limited to, those made in the following documents:*
 - A. Special Permit application dated December 13, 2016.*
 - B. Site Plan application, with attachments, dated December 13, 2016.*
 - C. 19 Maple Street Extension Apartments Site Plan prepared by Stephen Lasar Architects, AIA, dated December 28, 2016.*
 - D. North-West and South-West Elevations prepared by Stephen Lasar Architects, AIA dated December 30, 2016.*
 - E. First Floor Plan, 19 Maple Street Extension prepared by Stephen Lasar Architects, AIA, dated December 30, 2016.*
 - F. Soil Erosion & Sediment Control Plan, 19 Maple Street Extension Apartments prepared by Brian E. Neff, LE, dated December 29, 2016.*
 - G. Affordable Housing Proposal, 19 Maple Street Extension, Kent Affordable Housing, undated.*
 - H. A letter from Elissa G.T. Potts, Chairman, Kent Sewer Commission dated January 3, 2017.*
- 2. That prior to the start of construction, additional acreage be acquired in order to increase the lot size to the 1 acre requirement under §7.5.7. of the current Town of Kent Zoning Regulations.*
- 3. That each condition attached to this special permit approval is an integral part of the approval and inseparable from it. Should any of the conditions attached hereto be found by a court of competent jurisdiction on appeal to be void, then, in that event, the special permit granted herein is void and of no legal effect.*
- 4. The violation of any of the conditions of this special permit approval may be grounds for revocation of the special permit pursuant to section 4.15.8 of the Zoning Regulations.*

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In granting the above special permit application, the Commission states on its record that, in the Commission's judgment, the proposed project will conform to the requirements of the Rural District and that it satisfies the factors the Commission must consider in reviewing such amendments, as set forth in the Plan of Conservation and Development and the Zoning Regulations of the Town of Kent.

Adopted by the Kent Planning and Zoning Commission this 30th day of January, 2017.

Mr. Winter seconded and the motion carried unanimously.

6.B. DISCUSSION AND POSSIBLE DECISION

- 6.B.1.** Modification to Application #97-15C, 3 Maple Street, LLC, Map 19 Block 42 Lot 33; modification to include the enlargement of the westerly porch.

Ms. Hayes told the Commission that this had been left on the agenda so that she could advise the Commission that the revised site plan had been submitted as conditioned in the motion of approval.

- 6.B.2.** Reappointment of John Baker, Ellen Corsell and James Mauri to two year terms expiring August 9, 2018.

Mr. Winter moved to reappoint John Baker, Ellen Corsell and James Mauri to two year terms expiring August 9, 2018. Ms. Hicks seconded and the motion carried unanimously.

- 6.B.3.** Modification to Application #62-15C, Kent Center, LLC, 9 Maple Street, change of use from office to retail, 5 Old Barn Road, Map 19 Block 42 Lot 35.

Ms. Hayes explained that she had received the modification to the alternative signage program for a new and after pulling the file realized that the location was listed as being office. In order to approve the sign for a retail establishment a change of use needs to be approved. Mr. Winter asked if a parking plan had been submitted along with the sign request. Ms. Hayes replied that it had not. Mr. Winter said that in order to approve the new use he would need to see what impact the use would have on parking. Ms. Hicks agreed. It was decided that the applications be tabled to the next regular meeting. The Commission asked Ms. Hayes to send a letter to the property owner requesting that a parking plan be submitted for the change of use and that all future changes in use include a parking plan.

Mr. Winter moved to continue Modification to Application #62-15C, Kent Center, LLC, 9 Maple Street, change of use from office to retail, 5 Old Barn Road, Map 19 Block 42 Lot 35 to the next regular meeting. Ms. Hicks seconded and the motion carried unanimously.

- 6.B.4.** Modification to Application #62-15C, Kent Center, LLC, 9 Maple Street, new signs for The Village Herbalist at 5 Old Barn Road, Map 19 Block 42 Lot 35.

See the discussion from agenda item 6.B.3.

Mr. Winter moved to table Modification to Application #62-15C, Kent Center, LLC, 9 Maple Street, new signs for The Village Herbalist at 5 Old Barn Road, Map 19 Block 42 Lot 35 to the next regular meeting. Ms. Hicks seconded and the motion carried unanimously.

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7. STAFF REPORT:

7.A. Part Time Land Use Clerk

Ms. Hayes said that she had two viable candidates that she would like to interview and a tentative date for the interviews was scheduled for Thursday, January 16th at 6:00 and 7:00 p.m.

8. REPORT OF OFFICERS AND COMMITTEES:

8.A. Presentation of Incentive Housing Zone Subcommittee

No action taken.

9. OTHER COMMUNICATIONS AND CORRESPONDENCE:

9.A. Administrative Permits and Certificates of Compliance

No action taken.

9.B. State of Connecticut, Connecticut Siting Council, T-Mobile Request Determination, 136 Bulls Bridge Road.

No action taken.

9.C. Monthly Financials: July through November 2016

No action taken.

9.D. Northwest Hills Council of Governments January 4, 2017 Letter Regarding CLEAR Land Use Academy Training Sessions

No action taken.

10. ADJOURNMENT

Mr. Winter moved to adjourn at 8:30 p.m. Ms. Casey seconded and the motion carried unanimously.

Respectfully submitted,



Donna M. Hayes, CZEO
Land Use Administrator