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By Darlene Brady at 12:11 pm, Jul 09, 2021

TOWN OF KENT
PLANNING AND ZONING COMMISSION
41 Kent Green Boulevard, P.O. Box 678, Kent, CT 06757

REGULAR MEETING MINUTES

The Planning and Zoning Commission held a regular meeting on Thursday, July 8, 2021 at 7:00 p.m. via zoom.

1. CALL TO ORDER

Mr. Winter called the meeting to order at 7:01 P.M.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

Commissioners Present: Matthew Winter, Chairman; David Birnbaum, Karen Casey, Darrell Cherniske, Alice Hicks, Adam Manes, Anne McAndrew, Marc Weingarten, Wes Wyrick

Staff Present: Donna M. Hayes, LUA

Mr. Winter elevated Mr. Birnbaum to voting status.

3. READING AND APPROVAL OF MINUTES:

3.A. Regular Meeting Minutes of June 10, 2021.

Mr. Manes moved to approve the Regular Meeting Minutes of June 10, 2021, with the understanding that Ms. Hayes will add the start time of the meeting to the minutes. Mr. Cherniske seconded and the motion carried unanimously.

3.B. Special Meeting Minutes of June 24, 2021.

Mr. Weingarten moved to approve the Special Meeting Minutes of June 24, 2021, with the understanding that Ms. Hayes will add the start time of the meeting to the minutes. Mr. Birnbaum seconded and the motion carried unanimously.

3.C. Special Meeting Minutes of June 29, 2021.

Mr. Weingarten moved to approve the Special Meeting Minutes of June 29, 2021, as written. Mr. Manes seconded and the motion carried unanimously.

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Having a full member Commission at this point in time, Mr. Winter returned Mr. Birnbaum to alternate status.

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.

5.B. DISCUSSION AND POSSIBLE DECISION

No action taken.

6. NEW BUSINESS:

Mr. Weingarten moved to hear agenda items 6.B.1. and 6.B.2. at this point in the agenda.

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

- 6.A.1.** Application #'s 52-21SP and 53-21C, Paul Szymanski, P.E., Arthur H. Howland & Associates, for North Main Street, LLC, 0 North Main Street, Map 3 Block 15 Lot 5, proposed conservation development of 13 lots.

Mr. Winter opened the public hearing at 7:19 and read the legal notice into the record.

Mr. Paul Szymanski, P.E., presented this portion of the application to the Commission on behalf of the owners. He stated that the property was located in the VR-2 district and that the proposal was to construct 13 single-family homes with associated garages. There will be two community spaces; one along North Main Street and the other to the rear of the property. The roadway will be built to Town standards and would not be a private road. The area will be serviced by both Town water and sewer. A conversation with a representative of the Sewer Plant confirmed that there was sufficient capacity to handle the additional structures. Existing wooded areas would remain along both the front and rear portions of the property in order to provide screening. All existing rock walls and meadows will remain. There are no wetlands or watercourses located on the property and the construction will have no direct impact on the upland review area. There will be a small community pool with an associated structure; the rest of the area would be a mix of woods and hay. They plan on using the existing curb cut to enter the development. Based on the new regulation that was recently adopted, the maximum number of lots allowed would be 19; their proposal is 13 lots between 15,065 sq. ft and 27,844 sq. ft. Each lot will be individually owned. The roadway has been designed based on the 2001 ASTO guidelines and a turning template was used to ensure compliance with fire equipment radius requirements. There are no vernal pools and the property does not fall within the Natural Diversity Database map. The property does not fall within the floodplain and there are no ridgeline protection areas on the property. There is a north to south wildlife corridor which will remain open space and they will be leaving the buffer to the river. The design complies with the minimum square coverage percentage and complies with the setback requirements. Mr. Szymanski will provide the Commission with additional information.

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Ms. McAndrew asked if a prospective buyer could merge the lots in order to create a larger house. Mr. Szymanski referred the question to the property owners.

Ms. Angelica Bacon, Mr. Andrew Bacon and Mr. Erik Tietz introduced themselves as the current owners of the property. All three have an architectural background and explained that their design concept was based on creating houses that would be connected to community. The houses themselves were designed to be basic houses with no home office space; the community barn would be used as a gathering space and a space in which people could work if necessary. The location of the property in relation to the walkability to Town was another draw. The houses will be constructed using as much natural material as possible. Cluster placement of the houses allows for open space. The design is not an expensive design but a thoughtful design. The placement of the houses will leverage the view and will contain an efficient layout. Community and proximity to Town instead of isolation is the driving force behind the design.

Mr. Weingarten questioned the screening ability of the landscape plan submitted. He stressed the fact that this particular piece of property is considered the northern gateway to the Town. Mr. Szymanski stated that the plans that were submitted contained only those trees that were 18" in diameter or larger and that there were much smaller trees that would remain to provide screening. He noted that lots 9, 10, 11 and 12 were pulled back farther away from Route 7 in order to protect the existing forested area. The owners of the property offered to provide 2 or 3 site pictures to help the Commission better understand what it would look like from the roadway.

Mr. Weingarten asked if the open space would be deeded to the Town as noted as a possibility in the new regulation. Mr. Szymanski replied that they were proposing an HOA which was another option in the regulation. With regard to the roadway, Mr. Szymanski said that they were designing it to Town specifications and that it would be a public roadway.

Mr. Weingarten asked if the owners were expecting the Commission to also approve the community facility without seeing a floor plan of the structure. Mr. Szymanski said that one would be provided.

Mr. Weingarten asked about the pricing of the housing. Mr. Szymanski explained that the market is so volatile that quoting a price at this point in time would be a guess at best. When asked if the houses would be affordable housing, Mr. Szymanski replied that they would be market rate housing. Mr. Weingarten asked if the property owners had the financing required to complete the project. Mr. Winter asked if the intent was to build out the subdivision. Mr. Bacon replied that they planned on building what is presented and that they do not want the buyers to come in and request changes to suit their tastes; the houses will be not be made affordable but attainable. When asked if the houses would be built to sell or to rent, Mr. Bacon replied that they will be built to sell but the market will make the final decision.

When asked about the Town maintaining the roadway, Mr. Szymanski said that was correct. He went on to say that all the drainage would remain onsite and that there was maximum infiltration on the lots because they were keeping the lots level. The HOA could share in the maintenance of the basins as part of maintaining the aesthetics of the development.

Mr. Winter explained that the ARB will want to take a look at this and that he would expect the applicants to go through that process. Mr. Szymanski was agreeable.

Ms. Hicks asked how they were going to keep the owners from changing the landscape of the property by cutting down the trees the Commission is depending on to provide screening. Mr. Szymanski said that the trees located on the northern end of the property will be designated as open space and not owned by a specific lot. A

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declaration of restrictions will be created as part of the HOA. Ms. Hicks would like further clarification of the restrictions and Mr. Szymanski said that he would provide an explanation of what the declaration would entail.

Ms. Hicks asked who owned the Community structure. Mr. Szymanski explained that it would be owned by the association and the dues that are charged each owner would cover the cost of any taxes and utility usage.

Ms. Casey expressed concern over the sight lines. Mr. Szymanski explained that the curb cut request goes before the State DOT. The application process begins after they receive zoning approval and have submitted a bond and proper insurance.

Ms. Casey asked if there was any way to reduce the number of houses in order to protect the open space view. Mr. Szymanski said that they were allowed by the regulation to construct 19 houses and that by only building 13 they have protected the view.

Ms. McAndrew asked if there would be a cul de sac at the end of the roadway. Mr. Szymanski replied that it would be a hammerhead design. This enables better distribution of snow and reduces the amount of impervious surface.

Mr. Winter asked if Mr. Szymanski would provide the sight lines and the information that is going to the DOT.

Mr. Weingarten asked if the residents would be full-time or part-time residents. Mr. Bacon replied that the goal is create a community and the hope is that the residents would be full-time.

Mr. Cherniske asked when they planned on building the barn as the aesthetics of the barn would definitely set the tone for the whole development. He hoped that the meadow that was shown in the presentation would not end up being a mowed golf course and asked how they could ensure that did not happen. Mr. Bacon stated that the Kent Land Trust barn on the southern side of the Town was their incentive. He stated that they are not looking for a golf course and that they would continue to maintain the meadow as a meadow. The only grassy area will be the area around the pool. The barn would also be used to screen the area. Mr. Cherniske said that he would like to see some sugar maples on the landscaping plan and that a barn is not a barn without a meadow. Mr. Szymanski stated that the meadow will only be mowed 2x a year. Mr. Winter stated that he agreed with Mr. Cherniske. In order to not occlude the view of the meadow, Mr. Winter asked if there was a way to push back the 4 lots on the northern side in order to keep the view shed. Mr. Szymanski said that he would look to see if there was a way to move lots 9, 10, 11 and 12 back but that in addition to the open space there is a protected bank as well.

Mr. Justin Potter asked if the sidewalks were being extended to the development. Mr. Szymanski stated that they are not proposing the extension of the sidewalk as that would be a much longer process with the State DOT.

Mr. Spelbos asked if they considered moving the barn across the road or turning it to a 90 degree angle. It would still be in the meadow and it would provide more of a view. Mr. Bacon replied that the did look at the configuration but that the inspiration for the barn was the Kent Land Trust barn. Ms. Bacon stated that once they provided a view from the road, it would be better understood.

Mr. Spelbos asked about the access to the pool area. Mr. Szymanski replied that there would be a walking path within the meadow. Mr. Bacon added that there is a slope and that they would be able to get a vehicle back there but there is no parking.

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Mr. Spelbos commented that there were really 15 lots within the subdivision because of the barn and the pool house. Mr. Szymanski replied that those two lots were not single-family lots; not available for purchase and that they were owned by the association.

Mr. Spelbos asked if the pool area was considered in the open space calculation. Mr. Szymanski replied that it was not. He added that the area would be kept as meadow.

Ms. McAndrew asked if the Community House would be open to the community or just to the association. Ms. Bacon replied that it is not a commercial property and that there are no plans to allow it to be used by anyone other than the association.

Mr. Winter explained that the Commission should be reviewing the application based on the new regulation, the Village Residential district regulation and that he would like to have the Kent Volunteer Fire Department review the plan as well. All the conditions of the special permit and site plan application process should be reviewed and that he did not expect a decision until September. Ms. Hayes requested that the plan be reviewed by the Town engineer. The Sewer Commission and the ARB should also review.

Mr. Wyrick asked if a public offering was being created at this point in time. Mr. Szymanski said that they would only be creating documentation pertaining to the aesthetics and preservation at this point in time.

Mr. Weingarten moved to table Application #'s 52-21SP and 53-21C, Paul Szymanski, P.E., Arthur H. Howland & Associates, for North Main Street, LLC, 0 North Main Street, Map 3 Block 15 Lot 5, proposed conservation development of 13 lots until the next regular meeting. Mr. Wyrick seconded and the motion carried unanimously.

6.B. DISCUSSION AND POSSIBLE DECISION

6.B.1. Application #56-21C, Kent Affordable Housing for Building 15 LLC, 16 Landmark Lane, Map 19 Block 42 Lot 45, change of use from commercial to residential.

Ms. Hayes read an email from the property owner asking that the application for the change of use be officially withdrawn.

Mr. Manes moved to accept the withdrawal of Application #56-21C, Kent Affordable Housing for Building 15 LLC, 16 Landmark Lane, Map 19 Block 42 Lot 45, change of use from commercial to residential. Mr. Weingarten seconded and the motion carried unanimously.

6.B.2. Modification to permit #72-07C, Kent Green, LLC, 10 – 14 Kent Green Blvd., Map 19 Block 42 Lot 8: modification to include new sign for “Rojas Tacos”.

Mr. Casey apologized for not appearing at the last meeting and stated that there was a miscommunication between the tenant and himself.

Mr. Manes moved to approve Modification to permit #72-07C, Kent Green, LLC, 10 – 14 Kent Green Blvd., Map 19 Block 42 Lot 8: modification to include new sign for “Rojas Tacos”. Mr. Weingarten seconded and the motion carried unanimously.

The Commission moved on to item 6.A.1. at this point in the agenda.

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7. STAFF REPORT:

7.A. Scheduling of special meeting with Attorney Zizka to discuss recent legislative changes.

Ms. Hayes explained that due to a number of legislative changes, she spoke with Attorney Zizka about making a presentation to this Commission as well as any other Commission/Board that might be interested in participating. She advised them that a Doodle poll would be generated with suggested dates. Ms. Manes, Chairman of the Conservation Commission said that she would her commission to be included.

8. REPORT OF OFFICERS AND COMMITTEES:

8.A. POCD Subcommittee

Ms. Hayes commented that she had a conversation with Mr. Chalder today with regard to setting up a time when he could visit the office to review information from past POCD's. Mr. Chalder said that he would probably visit the library in order to see if there was any information that might be useful. Ms. Hayes said that she had an initial conversation with Ms. Brady, Town Clerk, about the use of the Town's website and constant contact. Mr. Weingarten said that there were other committees that are now being formed that should be contacted with regard to possible input into the POCD.

9. OTHER COMMUNICATIONS AND CORRESPONDENCE:

9.A. Administrative Permits and Certificates of Compliance – June 7, 2021 – July 2, 2021.

No action taken.

Mr. Winter reported that he had a conversation with a member of the ARB with regard to what they feel is a lack of the guidelines necessary to make sound decisions on applications that come before them. Ms. Hayes suggested that this be put on next month's agenda for discussion. She will provide a copy of the ARB's application/regulation and statute for discussion.

Mr. Wyrick left the meeting at this point in the meeting.

Mr. Manes moved to go into Executive Session for agenda items 10 and 11 at 8:55 p.m.. Mr. Weingarten seconded and the motion carried unanimously.

10. EXECUTIVE SESSION: Pending Litigation: High Watch Recovery Center, Inc. v Town of Kent Planning and Zoning Commission in Superior Court, Judicial District of Litchfield at Torrington dated November 27, 2020. Discussion of strategy and negotiations with legal counsel.

11. EXECUTIVE SESSION: Pending Litigation: The Roberti Family, LLC v Town of Kent, Connecticut and Planning & Zoning Commission of the Town of Kent, Connecticut in the United States District Court for the District of Connecticut filed April 24, 2020. Discussion of strategy and negotiations with legal counsel.

Mr. Manes moved to come out of Executive Session for agenda items 10 and 11 at 9:07 p.m. Mr. Weingarten seconded and the motion carried unanimously.

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12. Open session involving discussion and possible action on Pending Litigation: High Watch Recovery Center, Inc. v Town of Kent Planning and Zoning Commission in Superior Court, Judicial District of Litchfield at Torrington dated November 27, 2020.

Mr. Manes moved to follow the direction and advice of the Planning & Zoning Commission's attorney. Mr. Weingarten seconded and the motion carried unanimously.

13. Open session involving discussion and possible action on Pending Litigation: The Roberti Family, LLC v Town of Kent, Connecticut and Planning & Zoning Commission of the Town of Kent, Connecticut in the United States District Court for the District of Connecticut filed April 24, 2020.

Mr. Manes moved to continue as we have in the past until there is a reason to do otherwise. Mr. Weingarten seconded and the motion carried unanimously.

ADJOURNMENT

Mr. Manes moved to adjourn at 9:10 p.m.

Respectfully submitted,

Donna M. Hayes

Donna M. Hayes, CZEO
Land Use Administrator

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