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By Darlene Brady at 8:14 am, Jan 24, 2024

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

SPECIAL MEETING MINUTES

The Planning and Zoning Commission held a special meeting on Tuesday, January 23, 2024, beginning at 6:30 p.m. via zoom.

1. CALL TO ORDER

Mr. Wyrick called the meeting to order at 6:32 p.m. and read the public notice into the record.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

Commissioners Present: Wes Wyrick, Chairman; Karen Casey, Sarah Chase, Darrell Cherniske, Larry Dumoff (6:57 p.m.), Shelby Green, Alice Hicks, Anne McAndrew (6:52 p.m.)

Staff Present: Tai Kern, Land Use Administrator
Donna Hayes, Assistant Land Use Administrator

Guest Present: Glenn Chalder, Planimetrics

Mr. Wyrick reminded the Commission that they have worked very hard on the changes to these regulations and noted that there was a public informational meeting. He then turned the meeting over to Mr. Chalder.

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

Mr. Chalder said that this meeting was a public hearing to discuss the changes to the regulations noted below. The information was posted on the Town's website.

3.A.1. Subdivision Regulation Amendments

Mr. Chalder said that the regulations had not been updated in some time and some of the sections have been made out of date based on statute changes. Changes were made to institute best management practices and to make them compliant with current statutes. Mr. Chalder then reviewed the regulations section by section highlighting the changes that were made. For specific discussion, the recording of this meeting can be found on the Town's website.

3.A.2. Conservation Development Zoning Regulation Amendments

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Mr. Chalder then spoke to the changes to the Conservation Development Zoning Regulation. For specific discussion, the recording of this meeting can be found on the Town's website.

3.A.3. Unfinished Subdivisions Zoning Regulation Amendment

Mr. Chalder spoke to the changes which are based on changes to state statutes and changes which coincide with the changes to the Subdivision Regulations. For specific discussion, the recording of this meeting can be found on the Town's website.

3.A.4. Group and Family Home Day Care Zoning Regulation Amendments

Mr. Chalder explained that the regulation change is required by PA 23-142. For specific discussion, the recording of this meeting can be found on the Town's website.

Mr. Chalder then returned the public hearing back to Mr. Wyrick and opened it up to public hearing.

Mr. Jos Spelbos commented that he had submitted a letter regarding the changes to the regulations which is attached to these minutes. Mr. Spelbos said that he would prefer the percentages remain at 25%. Multiple fees for affordable housing, keeping the density bonus outside of the conservation area.

Ms. Connie Manes, on behalf of the Kent Conservation Commission, said her comments are similar to Mr. Spelbos. Ms. Manes submitted a letter and read it into the record (copy attached).

Mr. Justin Potter, President of Kent Affordable Housing, made comments regarding affordable housing and the lack of incentives to provide lots for affordable housing. With regard to the conservation development regulation, Mr. Potter felt there were some conflicting paragraphs.

Mr. Matt Winter discussed section 6732 noting his opinion that 15% or more be changed to 25%. With regard to section 6734 he questioned whether that is limited to one lot or if all of the conservation could be traded for affordable. Mr. Chalder said that it would be one lot or site and went on to further explain how the land set asides would be handled. Mr. Winter then addressed comments on Page 5 which goes back to a discussion held in the fall on sections 6741.a, 6742.c.

Mr. Chalder said that he has responses on the comments with regard to the comments made by the public. With regard to the set aside percentage, Mr. Chalder said that it could be changed by the Commission if they wish but felt that the amount could remain the same, but the configuration could be different. With regard to comments made by Ms. Manes and Mr. Spelbos on open space, changes could be made. With the suggested changes made by Mr. Spelbos, changes could be made to make it fall in line with their comments. With regard to Mr. Potter's comments, there are some other comments that the Commission might want to discuss. With regard to Mr. Winter's comments, Mr. Chalder said that the original approach had been to be neutral in terms of the number of units.

Mr. Chalder said that he felt that he covered all the comments that were made. With regard to Mr. Spelbos' letter, Mr. Chalder reviewed it as well and has made some suggestions to the Commission under separate cover. (attached)

Mr. Potter then commented again on the conservation development. Mr. Chalder responded by explaining the rationality for the wording was so that comments can be presented by other agencies with regard to each separate parcel.

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Mr. Wyrick asked if there were any further comments from the general public.

Mr. Cherniske moved to close the public hearing at 7:23 p.m. Ms. Casey seconded and the motion carried unanimously.

Mr. Wyrick then asked Mr. Chalder to go over his report to the Commission. Mr. Chalder wanted to discuss the subdivision regulations first. The comment on this new regulation discusses the open space. Mr. Wyrick said that he always considered 15% not to be a steep slope and does not feel that the percentage should not be changed. He does not believe that the percentage should be lowered. Ms. Chase asked if the slopes was aesthetically driven or site driven. Mr. Chalder said that it was site driven. Mr. Chalder said that slopes between 15% and 25% would present difficulties during construction. Ms. Chase asked if the slope requirement could be adjusted so that it could be changed based on site issues. Mr. Chalder said that he felt that the difference between 15% and 25% would only change the layout of the site. He said that he would lean toward the 25% but left it up to the Commission to decide. Ms. Hicks said that she strongly believes it should be 25% on the proportionality factor. Mr. Cherniske said that he agrees that he likes consistency and is still unsure how he would like to move forward. Ms. Casey feels the same as Mr. Cherniske but her instincts are leaning toward 25%. Ms. Chase said she was leaning toward the 25%. Ms. Green said that she was as well. Mr. Dumoff said that he likes the 25% but was concerned about the economics. Ms. McAndrew said that she was with the majority in leaning toward 25%. Mr. Wyrick said that they don't want to make subdivision regulations that will deter development and advised that Mr. Chalder should change it to move to 25%.

Ms. Hicks moved to change the proposed subdivision regulation from 15% to 25% of the proportionality factor for subdivision regulations. Ms. Chase seconded the motion and the motion carried 6 to 1 with Mr. Wyrick voting in the negative.

Ms. Chase moved to approve the amended subdivision regulations with an effective date of January 31, 2024. Mr. Dumoff seconded and the motion carried.

Mr. Chalder then moved on to agenda item 3.A.3 for approval.

Ms. Casey moved to approve the proposed zoning regulation regarding incomplete subdivisions with an effective date of February 10, 2024. Mr. Cherniske seconded. Ms. Casey amended the motion to include an effective date of February 10, 2024. Mr. Cherniske seconded the amendment and the motion carried unanimously.

Mr. Chalder then moved on to agenda item 3.A.4. and commented that there were not public comments.

Ms. Casey moved to approve the proposed zoning regulation regarding Group and Family Home Day Care Zoning Regulation Amendments effective February 10, 2024. Mr. Cherniske seconded and the motion carried unanimously.

Mr. Chalder then moved on to agenda item 3.A.2. and referred back to Mr. Spelbos' comments which are included in Mr. Chalder's report to the Commission. He then referred to his report and suggested possible changes. It was decided to make the section consistent. Ms. Chase asked if there were any requirements for there to be consistency between open space and affordable housing. Mr. Chalder said there was. With regard to open space, Mr. Wyrick asked if homeowner associations were considered as managers of open space. Mr. Chalder said that they were. Mr. Wyrick liked the special permit language for item #4.

Mr. Chalder said that the language in #3 could be abused some way or another. Ms. McAndrew asked if this could come back negatively toward the Commission. Mr. Chalder said that he did not think so because it was a special permit. Ms. Green commented that a threshold might be advantageous. Mr. Chalder said that could be

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done. Mr. Wyrick said he did not have an opinion on this. He believes having flexibility is a good thing. Ms. Casey agreed with Mr. Wyrick. Mr. Chalder asked if they wanted to leave 6733.3 in or remove it? He believes that the special permit gives the Commission the freedom to craft their approval. Ms. Chase asked if there was some way to make it less arbitrary. Mr. Chalder said that they could delete #3 and just go with #4. He does not know of any other town that has a section similar to #3 and this is very creative. Mr. Chalder wants the Commission to be comfortable with the section and feels that #3 is very creative. Section #4 could be made a special permit and #3 could be eliminated. Mr. Wyrick said that he likes that action. Via Ms. Kern, Ms. Manes commented that there was some vagueness in #4. Mr. Chalder said that once the section is amended by adding "special permit", that situation would be addressed. Mr. Wyrick said that he would modify #4 to be a special permit and asked the difference between lot and site. Mr. Chalder said that he could add "or 1 house site". He said that the items on the table are to remove 6730.3, leave in 6730.4 with two modifications: special permit and add "or 1 house site". Mr. Cherniske said that he likes the proposed changes.

Mr. Cherniske moved to change 15% to 25% from 6730.2, remove section 6730.3, leave in section 6730.4 with two modifications to include making it a special permit and adding the wording of "or 1 house site" effective February 10, 2024. Ms. Chase seconded. During discussion, Ms. McAndrew said that she is concerned that there was not enough strength to deal with a greedy developer. Mr. Chalder said that he thought there was enough protection. The motion carried unanimously.

4. ADJOURNMENT

Ms. Hicks moved to adjourn at 8:23 p.m. Ms. Casey seconded and the motion carried unanimously.

Respectfully submitted,

Donna M. Hayes
Donna M. Hayes, CZEO
Assistant Land Use Administrator

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KENT CONSERVATION COMMISSION

Kent Town Hall
41 Kent Green Boulevard
Kent, Connecticut 06757

January 22, 2024

Via Email landuseadmin@townofkentct.org

Attn: Tai Kern, Land Use Administrator
Town of Kent Planning and Zoning Commission

Proposed Conservation Development Zoning Regulation

Dear Ms. Kern,

On behalf of the Kent Conservation Commission please accept this letter regarding the above-referenced Regulation.

We support zoning regulations that are protective of natural resources and provide for residential quality of life through the mindful provision of open space in Kent. These include zoning regulations providing for reservation of open space as delineated in the proposed Subdivision Regulations Sections 3B and 3D, and the proposed Conservation Development regulation, which provides an incentive to protect natural resources by allowing greater density of development in a proportion of a property in exchange for restricting from development land of high conservation value.

We support the proposed Conservation Development regulation with the exception of paragraphs 3 and 4 of Section 6730, which allow the Planning and Zoning Commission to reduce by an unquantified amount - potentially even to eliminate - conserved space in exchange for the inclusion of affordable housing within a subdivision.

We do not deny that there is a lack of affordable housing in Kent, and generally support incentives that increase the likelihood that such housing will be developed, *including* the provision in the proposed Conservation Development regulation allowing a proportionate density bonus for Conservation Developments that include a percentage of affordable housing. However, a Conservation Development regulation which compromises its purposes by chipping away at open space requirements - which can be used in such a way that results in development with no conservation - is not fulfilling its conservation purpose.

Conservation Developments do not merely serve nature, they provide high-quality residential living proximate to buffering open space, wildlife, and outdoor recreation – benefits that all people should enjoy. An incentive for the development of affordable housing which decreases open space requirements serves neither conservation nor residents of resultant affordable housing - who lose out on natural land buffers and places to be outside. The Conservation Development regulation as proposed creates unnecessary compromise to social equity, and instigates conflict - sacrificing future residents' access to open space and pitting conservation against development when these two public benefits should be complementary.

Please consider revising the proposed Conservation Development regulation by removing 6730.3 and 6730.4. Please continue to provide zoning that incentivizes the development of affordable housing within Kent's regulations, such as through density bonuses, without compromising the purpose of Conservation Developments.

We hope these comments are helpful and thank you for your work and the opportunity to contribute our observations.

Sincerely,

A handwritten signature in purple ink, appearing to read "Connie A. Manes".

Connie A. Manes, Esq.
Chair, Kent Conservation Commission

To: Kent Planning & Zoning Commission

From: Glenn Chalder, AICP

Date: January 16, 2024

Subject: **Input Received Prior To Public Hearing**

- **Zoning Regulations**
- **Subdivision Regulations**

The attached pages organize comments received by January 15, 2024 on the proposed Subdivision Regulations and the proposed amendments to the Zoning Regulations (conservation development, unfinished subdivisions, childcare). Additional comments may be received at or before the public hearing.

Overall:

1. The comments have been organized by Section and by page number.
2. The right-hand column suggests a possible action for consideration by the Commission and these have been color-coded so the Commission can focus in on material issues.

Notation	Possible Approach
MAKE CHANGE	Planimetrics suggests the comment be addressed in the way suggested
MODIFY REQUEST	Planimetrics suggests a modification to the change suggested by the comment
DISCUSS WITH PZC	The comment may raise a strategic issue for discussion by the Commission or may be a topic where Planimetrics seeks additional input from the Commission
NO CHANGE	The suggested change is not recommended by Planimetrics
x	General comment / No change requested

SUBDIVISION REGULATIONS

Comment	Section	Page	Source	Response
1. In the table of contents of the Subdivision Regulations the appendices have to be corrected	TOC		Spelbos	MAKE CHANGE
2. In section 3D5b of the Subdivision Regulations (SR) ... the slope grade has been reduced from 25 to 15%. I think this is a mistake for several reasons: <ul style="list-style-type: none"> • It is inconsistent with sections ZR 6720.1d and 6740.1a which use 25%, and with the soil-based zoning which considers slopes of less than 25% buildable (zoning classes A, B, C in ZR 3240) while steeper slopes (zoning class D) can not be used towards the minimum lot size requirement. 6740.2 and 6740.3 already take the slope into account. • Steep slopes are typically defined as being 25% or more. On a 20% slope the elevation difference between the front and back of a typical house is about half a story, which is no problem. Driveways up or down a slope can curve and be graded to bring the grade to less than 15%; also usually no problem. • Thirdly, Kent has a lot of slopes over 15%, <u>so you would limit development rights</u> more than is reasonable and you limit design flexibility. On top of that most slopes below 15% are rated as prime or important farmland soils (a resource priority). 	3.D.5.b	14	Spelbos	<p>DISCUSS WITH PZC</p> <p>This provision in the Subdivision Regulations relates to the composition of the open space, not to the number of lots. It may limit some of the flexibility in laying out a subdivision.</p> <p>It is OK for these numbers to be different but it might be simpler and more user-friendly to use a consistent standard of 25%</p> <p>Common soil slope classifications:</p> <ul style="list-style-type: none"> • 0-3% • 3-8% • 8-15% • 15-25% • 25%+

Comment	Section	Page	Source	Response
3. In SR section 3D8b the open space requirement does not apply if the subdivision contains ≥20% affordable housing. This should not apply to conservation developments.	3.D.8.b	16	Spelbos	<p>NO CHANGE</p> <p>CGS Section 8-25 specifically exempts a subdivision from any open space set-aside requirement when more than 20% of the units are deed-restricted as affordable housing.</p> <p>The percentage threshold relates to the <u>percentage of units</u>, not to the percentage of open space land so there is no conflict with a conservation development.</p>

ZONING REGULATIONS

ZR 6700 – CONSERVATION DEVELOPMENTS

Comment	Section	Page	Source	Response
4. In ZR-3240 the reference to 5250 should be changed to 6750.	3240	47	Spelbos	MAKE CHANGE
5. In 6720.1 add conservation biologist also to paragraph at end of this section.	6720.1	NEW 3	Spelbos	MAKE CHANGE
6. In section ... 6730.2 of the Zoning Regulations (Conservation Development) (ZR) the slope grade has been reduced from 25 to 15%. I think this is a mistake for several reasons: <ul style="list-style-type: none"> It is inconsistent with sections ZR 6720.1d and 6740.1a which use 25%, and with the soil-based zoning which considers slopes of less than 25% buildable (zoning classes A, B, C in ZR 3240) while steeper slopes (zoning class D) cannot be used towards the minimum lot size requirement. 6740.2 and 6740.3 already take the slope into account. Steep slopes are typically defined as being 25% or more. On a 20% slope the elevation difference between the front and back of a typical house is about half a story, which is no problem. Driveways up or down a slope can curve and be graded to bring the grade to less than 15%; also usually no problem. Thirdly, Kent has a lot of slopes over 15%, <u>so you would limit development rights</u> more than is reasonable and you limit design flexibility. On top of that most slopes below 15% are rated as prime or important farmland soils (a resource priority). 	6730.2			<p>DISCUSS WITH PZC</p> <p>Repeat of Comment #1</p> <p>This provision in the Zoning Regulations relates to the composition of the open space in a Conservation Development, not to the number of lots. It may limit some of the flexibility commonly associated with a Conservation Development.</p> <p>It is OK for these numbers to be different but it might be simpler and more user-friendly to use a consistent standard of 25%</p> <p>Common soil slope classifications:</p> <ul style="list-style-type: none"> 0-3% 3-8% 8-15% 15-25% 25%+

Comment	Section	Page	Source	Response
7. In ZR-6750 no distinction is made between setbacks for principal and accessory buildings. 3140 allows 10' setbacks for accessory structures in the Village Residential District, so why not here in even smaller lots?	6750	NEW 6	Spelbos	<p>MAKE CHANGE</p> <p>For accessory buildings on individual lots:</p> <ul style="list-style-type: none"> Side yard setbacks = 10 feet Rear yard setbacks = 10 feet
<p>8. Under ZR-6730.3 as proposed the commission can allow affordable housing in conservation developments at the expense of some of the required open space. Wouldn't it be better to leave it to the commission if the inclusion of affordable units or lots in a proposed development comes at the expense of open space or as a density bonus in the area to be developed, depending on conditions?</p> <p>In ZR-6740.1b, in the village district only, a density bonus has been added for affordable housing, here not at the expense of the open space. Is this on top of the 6730.3 allowance?</p> <p>ZR-6730.4 and SR-3D5g also concern affordable housing.</p> <p>I think these sections need to be reorganized or combined into one consistent section.</p>	6730.3 6740.1	NEW 4	Spelbos	<p>NO CHANGE</p> <p>In 6730.3, the PZC <u>may</u> by Special Permit, reduce the open space required in a Conservation Development (i.e., below 40% or 50%) or modify the proportionality factor if affordable units will be created.</p> <p>In 6730.4, a lot deeded (in perpetuity) to a non-profit housing organization <u>may</u> be considered as a credit towards any open space dedication requirement.</p> <p>In 6740, a density bonus <u>may</u> be achieved in the village area when deed-restricted affordable housing is provided (PZC may consider term of restriction).</p> <p>It is unlikely that the PZC would authorize all three provisions on one application.</p>

UNFINISHED SUBDIVISIONS

Comment	Section	Page	Source	Response
9. No comments				x

CHILD CARE

Comment	Section	Page	Source	Response
10. No comments				x

To: Kent Planning and Zoning Commission

From: Jos Spelbos 1-9-2024

COMMENTS REGARDING SUBDIVISION REGULATIONS as proposed for January 23 public hearing and PROPOSED CONSERVATION DEVELOPMENT REGULATION dated 12-15-2023

Dear commissioners and Glenn,

Thanks again for addressing more of my earlier concerns and further tweaking and improving the regulations.

I do have a final couple of comments for your review.

1. In section 3D5b of the Subdivision Regulations (SR) and in 6730.2 of the Zoning Regulations (Conservation Development) (ZR) the slope grade has been reduced from 25 to 15%. I think this is a mistake for several reasons:

- It is inconsistent with sections ZR 6720.1d and 6740.1a which use 25%, and with the soil-based zoning which considers slopes of less than 25% buildable (zoning classes A, B, C in ZR 3240) while steeper slopes (zoning class D) can not be used towards the minimum lot size requirement. 6740.2 and 6740.3 already take the slope into account.
- Steep slopes are typically defined as being 25% or more. On a 20% slope the elevation difference between the front and back of a typical house is about half a story, which is no problem. Driveways up or down a slope can curve and be graded to bring the grade to less than 15%; also usually no problem.
- Thirdly, Kent has a lot of slopes over 15%, so you would limit development rights more than is reasonable and you limit design flexibility. On top of that most slopes below 15% are rated as prime or important farmland soils (a resource priority).

2. In SR section 3D8b the open space requirement does not apply if the subdivision contains $\geq 20\%$ affordable housing. This should not apply to conservation developments.

Under ZR-6730.3 as proposed the commission can allow affordable housing in conservation developments at the expense of some of the required open space. Wouldn't it be better to leave it to the commission if the inclusion of affordable units or lots in a proposed development comes at the expense of open space or as a density bonus in the area to be developed, depending on conditions? In ZR-6740.1b, in the village district only, a density bonus has been added for affordable housing, here not at the expense of the open space. Is this on top of the 6730.3 allowance?

ZR-6730.4 and SR-3D5g also concern affordable housing.

I think these sections need to be reorganized or combined into one consistent section.

3. In ZR-6750 no distinction is made between setbacks for principal and accessory buildings. 3140 allows 10' setbacks for accessory structures in the Village Residential District, so why not here in even smaller lots?
4. In ZR-3240 the reference to 5250 should be changed to 6750.
5. In 6720.1 add conservation biologist also to paragraph at end of this section.
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