

TOWN OF KENT
PLANNING AND ZONING COMMISSION
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APRIL 23, 2015 SPECIAL MEETING MINUTES

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2015 APR 28 A 8:57

BY *Donna M. Hayes, TC*
TOWN CLERK

The Town of Kent Planning and Zoning Commission held a special meeting on Thursday, April 23, 2015 at 6:15 p.m. in the Kent Town Hall.

1. CALL TO ORDER

Mr. Johnson called the meeting to order at 6:16 p.m.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

Commissioners Present: John Johnson, Chairman; Karen Casey, Darrell Cherniske, Adam Manes, Matt Winter

Staff Present: Donna M. Hayes, Land Use Administrator

Guest Present: Glenn Chalder, Planimetrics

3. READING AND APPROVAL OF MINUTES:

No action taken.

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

5.B.1. Application #'s 16-15SP and 17-15C, Kent Affordable Housing, 15 Maple Street Extension, phase 2 construction of 5 affordable housing units, attached manager's office and associated site work, Map 4 Block 42 Lot 4.

Ms. Hayes reminded the Commission that the discussion on this application had taken place at the previous regular meeting and all that needed to be done was to make a motion to approve by reading the Resolution of Approval.

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Mr. Manes moved that the Kent Planning and Zoning Commission approve Application #'s 16-15SP and 17-15C, Kent Affordable Housing, 15 Maple Street Extension, phase 2 construction of 5 affordable housing units, attached manager's office and associated site work, Map 4 Block 42 Lot 4.

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 March 7, 2015.*
 - B. May 29, 2014 letter from Donna M. Hayes, Land Use Administrator, regarding Zoning Board of Appeals approval of application #05-14.*
 - C. June 23, 2014 letter from Donna M. Hayes, Secretary/Clerk, enclosing formal variance.*
 - D. Site Plan application dated March 7, 2015.*
 - E. Proposed Site Plan, Stuart Farm Apartments Phase II Expansion, by Brian Neff, L.E., dated March 6, 2015.*
 - F. Soil Erosion and Sediment Control Plan, Stuart Farm Apartments Phase II Expansion, by Brian Neff, L.E., dated March 5, 2015.*
 - G. Zoning Location Survey Prepared for Kent Affordable Housing, Inc. Stuart Farms, by Robert L. Hock, LLS, dated November 16, 2012 and revised to March 4, 2015.*
 - H. Stuart Farms Apartments Phase II, Units F & G Floor Plans & Elevations, page 1, by Stephen Lasar Architects, AIA, dated March 6, 2015.*
 - I. Stuart Farms Apartments, Units H, I & J Floor Plans, page 2, by Stephen Lasar Architects, AIA, dated March 6, 2015.*
 - J. Stuart Farms Apartments, Units H, I & J Floor Plans, page 3, by Stephen Lasar Architects, AIA, dated March 6, 2015.*
 - K. Stuart Farms Apartments, Elevations, page 4, by Stephen Lasar Architects, AIA, dated March 6, 2015.*
 - L. Stuart Farms Apartments, Elevations, page 5, by Stephen Lasar Architects, AIA, dated March 6, 2015.*
 - M. February 19, 2015 letter from the Kent Sewer Commission to Ms. Virginia Bush-Suttman.*
- 2. That any negative impact to the roadway, as determined by the highway department, as a result of runoff from the property will be immediately corrected by the property owner.*
- 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.*

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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.*
-

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 11th day of May, 2015.

Mr. Winter seconded and the motion carried unanimously.

5.B.2. Creation of Kent Incentive Housing Zone Study Subcommittee

Ms. Hayes explained that this had been discussed at the previous regular meeting. As a result of the discussion, she had drafted the motion for the creation of the subcommittee. All that needed to be done was to make the motion.

Mr. Winter moved to create the Kent Incentive Housing Zone Study Subcommittee which shall consist of 4 members: John Johnson, Adam Manes, Matt Winter, Richard Chavka and 2 alternates to be appointed at a later date. Complying with the Incentive Housing Zone Program Notice of Grant Award, this subcommittee will be charged with the implementation of Phase I Pre-Development of the HOMEConnecticut Program through the creation of a draft Incentive Housing Zone regulation and sketch plans of housing scenarios and road/utilities layout. The creation and presentation to the Planning & Zoning Commission of the required documents shall be completed prior to the award end date of June 30, 2017 at which time the subcommittee will be disbanded. Mr. Manes seconded and the motion carried unanimously.

5.B.3. Regulation Re-write – review of second version.

Mr. Chalder explained to the Commission that he had prepared a subset of changes to the regulations through April, 2015 and suggested the Commission discuss that before reviewing chapters 1, 2 and 3.

He began by pointing out the addition of a preamble and the inclusion of a reference to a new zoning map under section 1.410. Mr. Chalder also pointed out a new #15 on page 40 which states "A residential subdivision of a parcel of twenty (20.0) acres or more in area if such subdivision is not a Conservation Development as provided in Section XXX." Ms. Hayes asked for clarification about whether or not the change had been made making a conservation development a subdivision by right and a traditional subdivision requiring a special permit. Mr. Chalder replied that it had. Mr. Winter said it is pointed out on page 90 but after reading the language, it was his interpretation that there could be no subdivisions of less than 20 acres. Mr. Chalder said that was not the case and will work on the language to make it clearer.

On page 43, Mr. Chalder said that he made some basic changes to #'s 4 and 5 by adding wording regarding the Regulations intent. With regard to #5, Mr. Chalder said that he changed the duration of time that a temporary structure, such as a trailer, can be on the property. He did this by making the special permit valid for one calendar year. If the applicant does not come back for a renewal, then the ZEO would send out a Cease and Desist order requiring that the trailer be removed. Having the applicant return on a yearly basis would also give the ZEO an

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opportunity to refer the applicant to the Commission for review based on past history. Mr. Cherniske asked if the Commission could add additional conditions based on how the permit holder had conducted business. Mr. Chalder said that could be an issue and that the idea of making the applicant come back each year would be a way to keep conversation open and prevent any future issues. Mr. Manes asked what would constitute mismanagement and how the Commission would go about having the trailer removed once the use is abandoned or misused. Mr. Chalder said that if the trailer/temporary housing is not removed after the Cease and Desist Order is issued, the Town might have to go to housing court and explain the original intention for the adoption of the regulation. Mr. Cherniske said that he feels the section is good and that creating it in conjunction with the Right to Farm Ordinance shows that the Town is farm friendly and is willing to work with the farmers to provide them with the tools they need to be successful.

Mr. Chalder said that there is another alternative and that would be through a municipal license and the Town would be responsible for granting the license based on P&Z input. If there was a violation, the Town could cancel the license and have the trailer removed. The question came up as to what would happen if people were living in the temporary housing and whether or not an eviction process would have to begin. Ms. Casey said that she likes the way the section is written because it gives flexibility to both parties. Mr. Winter asked Mr. Cherniske if he thought one would work better than the other. Mr. Cherniske replied that he would like to keep it under Planning & Zoning's purview because the special permit could always be revoked. He continued that the fact that the trailer is on a farm should have no impact on how the situation is handled should the applicant violate the conditions of the special permit. Mr. Winter said that he would like to see temporary housing and special events handled via a Town Ordinance, but if the Commission wanted to keep it within their purview he had no issue with that. Mr. Cherniske agreed that the special events should be handled via a Town Ordinance because they would require special services coordination. Ms. Hayes commented that the Mass Gathering Statute requires approval by the Selectman's Office. Mr. Johnson asked why the duration of the temporary housing changed from a growing season to 12 months. Both Ms. Hayes and Mr. Winter replied that it was based on the letter that Ms. Emily Curtis-Murphy read from Ms. Meghan Haney explaining that some farms do require year round help. Mr. Manes suggested that the Commission ask for legal interpretation with regard to allowing a temporary structure to remain on a property indefinitely. Mr. Johnson thought that once yearly action was taken, the clock starts anew. Mr. Chalder feels that yearly renewals eliminates the Validating Act but suggested that Ms. Hayes check with Attorney Zizka for his interpretation.

Page 45 addresses the new dimensional standards based on the changes to the soil classifications. Mr. Chalder said that he printed out pages 46, 47 and 48 to show how the soil codes were changed from letter codes to number codes. He continued that he tried to back into the letter codes and was not able to do it and recommended that the Town just go to the number codes and eliminate the soil codes. Mr. Winter confirmed that the letter code column would be removed.

Mr. Winter said that he is still not on board with changing the minimum lot size. Ms. Hayes read an email into the record from Ms. Hicks which states: "Please convey my view to the Commission that I strongly urge an upgrade to our current soil-based zoning regulation. It seems that several approaches have been presented which offer alternatives, not dependent on density, which are not very punitive to current property owners." Mr. Chalder said that he has created an exemption in the regulations for someone who has two acres of class I soils but there could be some impact for those on larger lots. There is also some flexibility under the conservation approach provided they applicant applies under that approach. Mr. Chalder urged the Commission to contact Mr. Bart Clark to take a look at the updates for his opinion.

Mr. Johnson asked Mr. Winter if his concerns stem from possible impacts to the landowners. Mr. Winter said he likes the idea of soil based zoning and the idea of conservation development. He does not like the idea of changing from a 1 acre to a 2 acre minimum lot size. His concern is the property owner who, for example, has a 10 acre, class 1 soil, lot that can be subdivided into 10 separate, 1 acre lots. With the change, that landowner will

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now only be able to get 5 separate 2 acre lots, cutting in half the subdivision capabilities of the lot. Mr. Winter continued that he likes that there is a possibility of 1 acre lots in a conservation development of 20 acres or more and there is also something in section 9 that could be beneficial. Mr. Johnson said that his initial reaction is that anytime you try to implement planning through zoning, it impacts some landowners; some positively and some negatively in terms of value. He continued that he is not necessarily opposed to that and feels that there will be a relatively small number of landowners impacted. Mr. Winter agreed with Mr. Johnson and said that overall it will be a net positive impact. Mr. Winter still questioned what the Commission is gaining by changing the minimum lot sizes. Mr. Cherniske replied that they are not trying to have 10 septic systems on a 10 acre, class I soil type.

Mr. Chalder said that the classifications are not rational; that changing the classifications rationalize the soil types; there is an exemption built into the new regulations; and encouraging conservation development might afford the property owner an additional lot that he might not have gotten previously. Mr. Chalder said that the decision rests with the Commission and if they decide to keep the minimum lots and just change the soil classifications, he would do that. Mr. Johnson said that the other question is whether or not the Town wants a community of 1 acre lots or 2 to 2.5 acre lots. He continued that most of the development will fall on flat, farm field kind of places where he would not want to encourage a development of 1 acre lots. Mr. Johnson said that it seems to him that a minimum of 2 acres would be better but also said that he is not entirely comfortable with that decision yet. Mr. Winter confirmed Mr. Johnson's thinking by saying that for the common good the change should be made. Mr. Winter said that he thinks that a reasonable argument. Mr. Chalder said that he would urge the Commission to get some feedback from Mr. Bart Clark and Mr. Brian Neff on the change and see what they think. Mr. Winter said that all of the changes being discussed are good. He is still objecting to the minimum lot size. Mr. Cherniske asked Mr. Winter if, philosophically, it makes a difference how many people are affected. Mr. Winter said that if it's for the greater good, he might not have a problem with it. Mr. Chalder said that Saddle Ridge seems to be out of character and would prefer to see a more conservation approach which could make the lots that could be developed more valuable. Mr. Cherniske said that the presentation at the public hearing will be key to acceptance.

On page 90, Mr. Chalder said that the threshold of 20 acres is still open to discussion as is section 6.430 where the process and determination of the maximum number of lots is discussed. Mr. Winter said that on page 46, the chart states that slopes over 15% would not be included in the total buildable lots. Mr. Chalder agreed.

Mr. Chalder said that the farmland soils and farmland soils of statewide significance have been added under section 6.440, page 91, as did areas identified as "town character areas".

Page 92 addresses the lot standards. Mr. Winter asked if he was misinterpreting the lot size based on their location. Mr. Chalder said that this does provide a more creative type approach, but there cannot be any more units on a lot than can be dictated by the type of soils. He considers this to be a "middle of the road" approach. Ms. Hayes asked why the minimum lot size is changing, but it is not changing under this section. Mr. Cherniske replied that it could be seen as an incentive to create a conservation subdivision and Mr. Chalder added that the initial number of lots created would not be affected, but the creation of the lot size, once it meets sanitary standards, could be affected. Based on Mr. Winter's interpretation, Mr. Chalder said that he would like to look at the language.

Mr. Johnson asked if Conservation Development would be "as of right". Mr. Chalder said that the process was explained on page 91. Mr. Manes asked when section 3 on page 91 would kick in. Mr. Winter said that he understood that no subdivision is permitted by right, but by site plan or special permit. Mr. Chalder said that it would fall under subdivision approval provisions. Mr. Johnson asked if the Commission can deny an application. Mr. Chalder said that as long as the applicant has met all the requirements of the provisions, he did not think they could. Mr. Johnson said that he would not want to make this process burdensome to the point where the applicant decides to go with a cookie-cutter, special permit approach. Mr. Chalder suggested setting up a pre-application

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review/informal discussion. Mr. Chalder said that one way to change this would be to revise the subdivision regulations. With regard to section 2 on page 91, it was decided that more discussion was needed.

Also regarding section 2 on page 91, Mr. Winter suggested not naming the Kent Land Trust and it was suggested that the wording be changed to "a land trust, or other conservation organization".

Mr. Chalder asked how the Commission would like to proceed. It was decided that this new subset be kept as a separate document for further discussion. Mr. Chalder suggested that the Commission review the latest draft, have another informational meeting and then go to public hearing. Mr. Winter agreed. Mr. Chalder said that if the Commission wanted, he would hold a public informational meeting just regarding the subset of changes.

After discussion, it was decided to meet on May 11th, June 1st and June 25th at 7:00 p.m. Mr. Chalder said that he will then work on any subsequent changes over the summer and suggested meeting as a group in the early fall.

No action taken.

6. NEW BUSINESS:

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

No action taken.

6.B. DISCUSSION AND POSSIBLE DECISION

No action taken.

7. STAFF REPORT:

No action taken.

8. REPORT OF OFFICERS AND COMMITTEES:

No action taken.

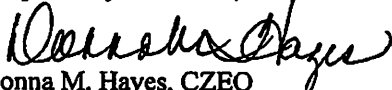
9. OTHER COMMUNICATIONS AND CORRESPONDENCE:

No action taken.

10. ADJOURNMENT

Mr. Manes moved to adjourn at 8:05 p.m. Mr. Cherniske seconded and the motion carried unanimously.

Respectfully submitted,


Donna M. Hayes, CZEO
Land Use Administrator

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