

MINORITY REPORT PAD SUBCOMMITTEE

July 27, 2009

OVERVIEW

The PAD Subcommittee concluded work drafting a Planned Area Development Regulation on July 21st, 2009 with a motion and majority vote to send the draft to the full Zoning Commission for further action at today's meeting.

The final count from members submitting a vote was four in favor and three opposed to forwarding the draft as written with several modifications to be amended to the document as the Town Attorney and Planning Director deemed appropriate. It should be noted that the final document submitted today has not been reviewed by the Subcommittee.

The PAD Subcommittee found common ground in the principle of promoting future sustainable development. As a very simplified definition, sustainability means that future generations of Simsbury residents will enjoy the same choices in Land Use that we do today.

However, beyond that common purpose, there were at least two strongly held and competing viewpoints for the role of a PAD regulation on how best to achieve sustainable development:

1st *As primarily an enabling mechanism for mixed-use development with broad, generalized requirements and undefined expectations resulting in outcomes to be determined – a re-active response to implementing policy and preserving business as usual*

And the alternative viewpoint:

2nd *As an effective tool to shape new places and stimulate redevelopment sites by emphasizing what we, as a community of stakeholders, specifically wish to protect and want to build – a pro-active response to implementing policy consistent with the 2007 Plan of Conservation and Development*

The two approaches are fundamentally different and most likely irreconcilable.

The 1st viewpoint is a simplified notion of regulating settling for “knowing what we don't want in Simsbury” being more important than “requiring what we do want”. This

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viewpoint eliminates specificity and represents a negative approach to regulating relying instead on the full discretionary powers of the Zoning Commission to eventually make the right decision without benefit of a means to measure good versus bad qualities of development. This position is supported by a Zoning Commissioner, two Economic Development Commissioners and a Conservation Commissioner.

The 2nd viewpoint promotes a forward-thinking positive approach beginning with building on what we have to determine what Simsbury wants and then how best to regulate to achieve that result. This 2nd approach is one that has gained increasing attention across the country in communities dealing with the same issues we have searching for effective means to offset the issues related to suburban sprawl. This position has the full support of a Zoning Commissioner, a Planning Commissioner, a Zoning Board of Appeals Commissioner and the Design Review Board Chairman - all of whom participated on the Subcommittee.

The Planning Director's attempt to bridge some of the gap between the two viewpoints to achieve a "balance" of competing ideas unfortunately created less clarity and more confusion within the current draft, and consequently not to the satisfaction of either side.

The current PAD draft regulation is predominantly representative of the 1st viewpoint. As an important note a good PAD regulation should be considered as a development engine, but ironically the current draft dismisses arguably the single, most important factor to both commissioners, Town residents and to the developer and that is predictability. Without predictability there is reduced certainty for approval which is counter to our best interests as well as the developer.

KEY OBSERVATIONS

What rules and regulations should govern and establish the boundaries of permissible decision making for a Planned Area Development?

We think a PAD regulation should have:

- Linkage to an adopted public policy
- Clearly defined boundaries for decision-making
- Specific standards to guide developers, commissioners, and staff alike
- Sufficient physical detail to allow for predictable outcomes

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The challenge in crafting a new regulation lies beyond simply enabling a mixed-use since that could be done easily in a few paragraphs using a conventional zoning format.

The challenge for Simsbury is to build well, and building well means in the best long term interest for Simsbury that includes provisions for mixed-use developments. That said there are desirable as well as undesirable mixed-use developments, and those distinctions should be identified and made clear.

The challenge is also to understand the nature of what is being regulated. Mixed-use can be anything and everything between a single building on a single parcel to a full blown village on multiple lots with multiple owners and all the levels of complexity between. Would a single 2 acre lot carry the same regulatory requirements as a 50 acre contiguous series of parcels? That is a rhetorical question of course.

Zoning discretion has always played a part in our community and will continue to do so. The answer to how much discretion lies somewhere within the continuum from complete zoning flexibility to total rigidity.

The issue then is not whether to preclude flexibility or discretion, but how far it should be permitted to go. Well-defined boundaries can ensure uniformity of application, equal treatment, yes – predictability, and the retention of legislative authority in legislative bodies where people can exercise some control.

A system works best that balances flexibility with restraint or, in other words flexibility with specifications. In the end when considering how much or how little specification, the discussion may reduce to a planning argument: To what degree should we specify in advance what land uses should be where and what criteria should guide decision makers in making discretionary decisions?

Specifications come from a planning process, supported by legislative action, offering policy guidance and criteria for decision making by competent administrators. That action plan was laid out in the adopted 2007 Plan of Conservation and Development.

The fundamental position of the minority members is that the plan or vision must precede the regulation – the Town must decide what is physically desirable before deciding how to build it and certainly before trying to regulate it. Boundaries within the two extremes are then defined by specifications both in amount and in detail. The distinctions are very important even critical for success.

RECOMMENDATIONS

The minority members recommend the following seven action steps:

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1. Temporarily defer further action on a PAD regulation to allow Zoning Commissioners time to:
 - (a) Benefit from the learned experiences for the Simsbury Center Form-Based Code
 - (b) Gain needed expertise from the commissioned design professionals in crafting the regulation
 - (c) Secure a commitment from the Board of Selectmen to provide financial resources needed to engage a land use attorney with recognized expertise in developing both mixed-use and form based type regulations
 - (d) Allow the residents to see the Simsbury Center process and encourage local ownership to ease the PAD implementation as an extension of the new Code
2. Elaborate on and more fully develop the Purpose section to include Smart Growth Principles as recommended by the State of Connecticut, the possibility of a Traditional Neighborhood Development, and basic site planning standards
3. Refine the four primary organizing districts or Special Areas described in the 2007 Plan of Conservation and Development in more detail as representing the most likely sites for a PAD "Floating" zone application to land
 - (a) Cluster (Edge), Hamlet (General), Village (Center), and Town Center (Core)
 - (b) Specify Public Space Standards for each of the four Special Areas to include:
 - Streets, civic places, sidewalks, street trees, street furniture, etc.
 - (c) Specify Building Form Standards for each of the four Special Areas to include:
 - Configuration, placement, features and functions of buildings that define and shape the public realm
4. Adopt the basic components of the 2007 Plan of Conservation and Development Special Areas Map as the basis for a town-wide regulating plan
 - (a) A Plan should accompany the Text for a complete regulatory document

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5. Prepare a comprehensive Glossary
 - (a) Definitions of uncommon technical terms and phrases used in the code targeting parallel with town center form based regulation to be produced from the charrette
6. Endorse a revised draft by ZC vote then schedule / conduct public hearing
7. Consider public input and revise the draft accordingly - vote on final draft

Submitted by: Julie Meyer – Planning Commission
Emile Dahlquist – Design Review Board
Bruce Elliott - Zoning Commission
John McCann - Zoning Board of Appeals