

TOWN OF SOUTH WINDSOR
PLANNING & ZONING COMMISSION

MINUTES

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OCTOBER 18, 2016

MEMBERS PRESENT: Gary Bazzano, Bart Pacekonis, Stephanie Dexter, Betty Kuehnel, Kevin Foley, Frank Bonzani, Kevin Greer

ALTERNATES PRESENT: William Flagg, Teri Parrott

STAFF PRESENT: Michele Lipe, Director of Planning; Lauren Zarambo, Recording Secretary

SPECIAL MEETING / MADDEN ROOM

CALL TO ORDER: Chairman Bazzano called the Special Meeting to order at 7:30 p.m.

PUBLIC PARTICIPATION:

Discussion/Decision/Action regarding the following:

1. Town of South Windsor – Change Order to review final design of the fence being replaced at football field

Superintendent of Parks John Caldwell described the amended plan for the replacement fence at the South Windsor High School football field. The original plan was for a ten foot high fence to run 900 feet but the budget did not allow for it as approved. They met again with neighbors and Town Council and revised the plan to have an eight foot high fence with acoustic fabric measuring 520 feet going the length of the entire football field plus the track. The rest of the fence will be black, eight foot high, chain link fencing. By reducing the length of fence and reducing the amount of fabric the cost will be close or a little less than what was originally anticipated.

Chairman Bazzano asked for public comment.

Mr. Michael Berghuis, abutting property owner on Mountain View Road, spoke in support of the changes proposed.

Chairman Bazzano prefaced that he asked for the change order to come back before the commission for review and approval.

Vice Chairman Pacekonis clarified that the fence will now go the length of the track, far away from the tennis courts. Superintendent Caldwell stated the fence is the same length as previously approved starting at Wapping School going down to the tennis courts past the pine tree line. The acoustic fabric will begin where the track starts its oval and run through the length of the rest of the track where it will turn back into the chain link fencing to run until just prior to Collins Crossing.

Commissioner Foley voiced support for the change and requested the plan as approved by Town Council, Town Manager, and now, the Commission, will be the final plan moving forward and will not be expanded. He asked for the cost of the project. Superintendent Caldwell stated the total cost is \$76,000.

Chairman Bazzano voiced concern whether this will set a precedent with neighbors for future school projects and asked the Town Council to be wary of making promises to residents that cannot be supported financially.

Commissioner Greer asked what had changed on the field besides the turf to have necessitated a \$76,000 fence and will there now be consideration for lights. Town Manager Matthew Galligan stated the principal is

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not interested in lights because of increased cost to the budget for both the lights and their maintenance and that the Board of Education and Town Council agreed.

Vice Chairman Pacekonis made a motion to approve the change order as described

Commissioner Kuehnelt seconded the motion

The motion carried and the vote was unanimous.

2. Discussion with Town Manager Matthew Galligan regarding potential development in the I-291 corridor area

Chairman Bazzano opened the discussion referencing Section 4.4.3 of the zoning regulations and asking whether a casino type of use is allowed and, if not, should the regulations be amended to allow for such a use, and what would be the process and timing, and how does it fit in with the State legislature.

Town Manager Galligan stated it is anticipated there will be an annual loss of \$70 million in state revenue by having a casino by MGM Grand in Springfield MA. Before it is up and running in 2018 a great deal of work with sewers and amenities must be completed in Springfield. The Connecticut Indian tribes would like to protect their revenue along the I-91 corridor. Until now Indian tribes were not allowed under state statute to develop land outside their tribal areas but the State legislature has passed a law to allow for development on other land through a request for proposal (RFP) competitive bidding process between towns. If a town is decided upon the tribes will have to return to the State legislature for permission to move forward.

The original bidding process took place but no town was decided upon so the RFP has been opened again. The developer of the proposed tech park in South Windsor, DCK, has come forward with a proposal which was brought to and approved unanimously by the Town Council to move ahead with the bidding process. Mr. Galligan stated there is nothing the Council has to do at this point since there will not be tax abatements offered for such a project. It is strictly a land use issue. Mr. Galligan went over the process that will be taken with the town agencies, application requirements, and public hearings involved. The developer will be responsible for cost estimates, the road network, state traffic commission, and state legislature. The tribes are presently evaluating the bids to find the best site and most efficient process in order to have a casino venue with a hotel and entertainment complex of retail and restaurants.

The sound stage project and the PURA fuel cell farm is still going forward for the I-291 Corridor. The Town Manager will be going to DEEP and then DECD has to give a letter of approval. All projects are working to transform the area into a viable destination. The revenue and job market across the board will be very strong.

Chairman Bazzano asked how the state legislature comes in to play a final role. Mr. Galligan stated the tribes will pick a site and return to the state for approval. South Windsor is in a strong position regarding access to the site via state and federal roadways.

The Chairman asked if anyone from the public had comments or questions.

Council Liaison Jan Synder asked the difference between this proposal and the current casinos already in place and asked if DCK owns the property. Mr. Galligan stated it is outside tribal land so that they will have

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to pay a full share of taxes and follow the regulations of the local municipality. DCK does own the property. The fuel cell farm and the studios will still be happening as separate projects.

Mr. John Caldwell, speaking as a resident of Nasisky Farm Road, asked for a rough number of the jobs to be created. Mr. Galligan stated he has requested that information.

Mr. Wes Farley of Ellington Road asked if the entire I-291 corridor will be involved. Mr. Galligan described the area of the old drive-in theater and the properties near it along Ellington Road.

Town Councilor Matthew Riley recalled the Town Council's discussion on the previous night about jobs translating into jobs for the area rather than the town. Mr. Galligan suggested construction jobs will be eminent and described jobs that will be across the entire spectrum of skill level. The service industry of South Windsor will be bolstered serving the new development. Councilor Riley asked about the possibility of an advisory referendum. Mr. Galligan stated it was discussed at the Town Council meeting and would have to be addressed in an executive session.

Ms. Cindy Beaulieu of Cody Circle clarified that the tribe would not receive tax abatement for the project. The Town Manager stated they would not.

Mr. Farley asked how property values may be impacted. Mr. Galligan stated a study will have to be done but if the project is done correctly, with additional hotels and retail, values will be increased. If done wisely, the Town Council could bring down property taxes which will bring up home values.

Chairman Bazzano asked for questions from the commissioners.

Commissioner Kuehnel asked a procedural question on whether the project will be decided through a committee or as a bill if the state legislature is the final authority on the project. Mr. Galligan thought it would be a committee decision with a full vote of the legislature at some point and will confirm that information.

Commissioner Foley noted the large amount of money involved with the project which makes it very attractive and then noted the annual cost of \$17,600 to educate one student and asked whether the Superintendent of Schools had been conferred with and how far the money could really go.

Chairman Bazzano stated the Commission will need to decide whether or not Section 4.4.3 allows for casinos as a permitted use or if the regulation should be amended. The Chairman noted that Attorney Olson interpreted casino as a prohibited use in this section.

Director of Planning Lipe noted the Use Table which governs the uses within commercial and industrial zones and that the table indicates the I-291 zone has additional regulations. Ms. Lipe explained because 'casino' is not listed in the table as a use, it will have to be determined whether 'casino' is similar under to something in the table to allow for it to be a permitted use. 'Amusement enterprises' and 'indoor recreation' could indicate a similarity. Attorney Olson also suggested that there are references to 'arcades' and 'coin operated' under the Prohibited Uses which could be qualified to not apply to a casino venue or be qualified by adding the use to the Use Table.

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Commissioner Dexter asked if #5 of that section is considered a catch all for things not specifically called out. Ms. Lipe explained they are all interpretive but it can be a clearer process if the sections are spelled out. She noted that the new town attorney is also looking at the regulations and will have his own interpretation. Commissioner Foley asked if the new town attorney could meet with Attorney Olson. Mr. Galligan stated he has asked for that to happen and would like the regulations to be clearer.

Commissioner Foley noted the commission, town council, and manager represent 26,000 people and cannot afford to blunder this. He stated if the attorneys know the laws in and out, and what is allowed to be changed, he would like to take their guidance and allow for their wording. The commissioner noted the price of the high school replacement fence costing the town dearly and encouraged having counsel from the town attorney and Attorney Olson.

Chairman Bazzano voiced interest in hearing the opinions of all commissioners on how the regulation is presently written and stated the town manager is looking for guidance whether the commission feels the regulations are written in a way that does or does not allow for a casino, if they would like to change it or if it is fine the way it is now.

Commissioner Dexter asked if the regulations could be changed to say it is not allowed. Chairman Bazzano clarified asking "To have it as a prohibited use in the regulations?" Commissioner Dexter agreed and asked for it to be spelled out and made clear. Commissioner Kuehnel stated her interpretation is that presently the regulations do not allow for a casino. Commissioner Dexter agreed.

Chairman Bazzano noted #2, #4, and #5 and the term 'similar uses' which opens it up to a lot more than a tavern. Commissioner Foley noted #5 which is open to adding everything in. Commissioner Kuehnel stated gambling is gambling and it would be hard to say other uses are similar and that an interpretation would have to be very broad to include it.

Director Lipe noted when the I-291 zone was put into the regulations it was meant to be a creative zone, a flex zone not slated for anything specific. It is considered a performance zone which had a lot of purposes and general concepts. The uses were chosen in that way and changed from draft to draft. There was less definition to what was put into the prohibited list. If the text wording is not correct it can be changed to make sure that it is clear. Commissioner Dexter asked when it was written. Ms. Lipe noted the I-291 zone was written in 1995 and the Buckland Gateway zone in 2000.

Commissioner Parrott stated she was on the PZC when the regulations were written twenty years ago. At that time casinos were being built on tribal property and no one ever dreamed of them elsewhere.

Commissioner Bonzani stated he did not think the regulations permit the use.

Commissioner Greer voiced approval for the land to be developed as a destination and is presently neutral on the casino use.

Commissioner Foley stated he does not want to make a mistake and does not think the regulation was written with the intent to be against a casino. He noted #5 and stated he would be fine if the attorneys could take away the cloudiness of how it is written.

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Vice Chairman Pacekonis stated he did look at the language of the text and of #5 specifically and the issue of having a casino in South Windsor and wants to be sure to get it right. He would be willing to review changing the regulations to allow the use by going through proper procedure with public hearings and is in favor of moving forward to explore the possibilities.

Commissioner Flagg noted the text of #2, 'amusement centers with coin operated games', and #5, 'any use similar in purpose', interprets into casino use. He agreed there is room to change the regulation.

Town Manager Galligan suggested the Director of Planning work with the new town attorney to suggest the zoning text changes in order to go through a public hearing and process.

Commissioner Parrott stated the way the regulation reads now it would have to be changed to include the word casino and would only be in favor of changing it after a public hearing is held to see what the people of the town want. Ms. Lipe verified the only way to have a text amendment would be through a public hearing after CRCOG review.

Chairman Bazzano summarized no one on the commission is totally against working toward changing the regulations. Commissioner Dexter stated she is totally against it. Commissioner Foley added the statement 'with the input of the community'.

Chairman Bazzano stated there has been talk about a referendum. The subject of a casino is a very large and controversial subject. He voiced interest in speaking with people and selectmen or mayors in towns which have casinos and how it has impacts their community so to be prepared to discuss it at a public hearing. If after that the commission is still not comfortable to make a decision, a referendum could be in order. Mr. Galligan indicated the current and former town attorneys have said it would not be possible to have a referendum. He indicated that if the regulations are interpreted to allow a casino, it could be forced in because it meets zoning and could create a legal issue.

Commissioner Kuehnel stated a public hearing is the only way the public can take part in the discussion and it will be very important to be very clear about what this is for so that they know why a change to the regulations is being made. Mr. Galligan stated a public hearing is the best way to get the public involved.

Chairman Bazzano stated we will wait to hear from the town attorney for their opinion and then have to craft something to go to a public hearing.

Vice Chairman Pacekonis asked if it would be a Town sponsored amendment if this was hypothetically to move forward. Ms. Lipe stated it would be PZC sponsored. She explained because this area is a part of a Municipal Plan approved by the Redevelopment Agency, in order to change the plan, the Redevelopment Agency has to go through their own public process and then ultimately go to Town Council for an endorsement. Chairman Bazzano summarized changing the regulation would be done through the PZC and a site plan would come after the redevelopment agency approved the building of the project.

Chairman Bazzano asked the order to proceed. Director Lipe stated we'll meet with the town attorney to craft something for commission review before it is sent to CRCOG for review and then to public hearing. Commissioner Dexter stated she wanted to clarify what we are asking the attorney to do. Is it to first have an opinion that the regulations prohibit a casino and secondly to craft language on amending them or will it

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all together. Ms. Lipe stated it will be for language to amend the regulation. The first opinion from Attorney Olson is that there is concern that the commission would be open to litigation so something will be written to clarify. Chairman Bazzano stated the town attorney is going to give the commission his opinion and then Michele will work with Attorney Olson to work on amending the regulation to allow. The way the regulation is presently written is very vague and this will allow the public to weigh in with their opinion. The process was discussed.

Commissioner Foley suggested to have written in the amendment that the I-291 zone will be the only location in the town of South Windsor to ever be considered for a casino for all time.

Chairman Bazzano stated the commission will meet before a text amendment comes forward to discuss that text amendment draft before it goes to CRCOG and public hearing.

Commissioner Foley asked why the commission can not meet in executive session. Vice Chairman Pacekonis stated the commission is a public body with no legal reason to go into an executive session. Mr. Galligan stated the Town Council can go into executive session for monetary or personal issues or settlements of cases. The Vice Chairman recalled the commission going into executive session on pending legal matters before the PZC.

Commissioner Dexter asked how involved can a PZC member be in the process while in preparation of this public hearing. She asked, for instance, if a petition could be circulated. Director Lipe clarified no public outreach can be done and it cannot be pre-judged otherwise a commissioner would have to recuse themselves from the process. It should not be discussed once there is something pending. Chairman Bazzano referenced the commissioner training given earlier in the year with Attorney Olson. Once an application is received it cannot be discussed and prior to that, even if a commissioner knows of something, they should refrain from discussing it and refer anyone to the town website or Town Manager.

ADJOURNMENT:

Motion to adjourn the Special Meeting at 9:00 p.m. was made by Commissioner Foley
Seconded by Alternate Commissioner Parrott
The motion carried and the vote was unanimous.

Respectfully Submitted,
Lauren L. Zarambo
Recording Secretary