

**Thetford Planning Commission
February 16, 2010 – APPROVED Minutes**

Present: Wayne Parks (chair), Stuart Blood, Liora Alschuler, Kevin O’Hara, Rick Howard, Dean Whitlock (Clerk)

Absent: Lori Howard

Guests: Li Shen (7:18-9:57); Dan Grossman (7:18-10:15); Bill Bridge (7:18-9:35); Sean Mullen (7:18-8:25); Libby Chapin (7:18-9:57); Leila Percy (7:18-9:57)

(Numbers below refer to agenda items)

1. Meeting called to order at 7:18 PM by Wayne Parks

2. Public Comment: None

3. Review of Minutes (7:20)

Feb. 2, 2010 - Corrections offered by Kevin O’Hara and Stuart Blood. Clerk noted corrections presented by phone from Betty Campbell. Approved as amended.

4. Review of Tracking Document (7:25) – Deferred till next meeting.

5. Review of Zoning Draft (7:27) – No change.

6. PUD Discussion (7:29)

Refer for background to documents emailed by Stuart Blood on 2/12/10.

Stuart Blood noted three points: 1- Agricultural land and significant habitat protection is a concrete proposal, not specific language. 2- It is standard practice in zoning procedures that Conditional Use conditions automatically become permitted when they are included in a PUD. 3- Character of Neighborhood must be clearly defined in district definitions.

The question still under consideration is, do we want to incorporate PUDs into the zoning regulations? Is it a valid mechanism?

There was a discussion of the four values we would hope to encourage through PUDs or waivers. Stuart Blood restated that it was harder to set concrete standards for some of these values than others: e.g., protection of agricultural land and significant habitat could be clearly defined in general standards, while traditional patterns of settlement was more abstract. The goal is to minimize adverse impact on these four values. How can a PUD improve protection while still allowing incentives to developers?

The discussion shifted to the definition of zoning districts. Sean Mullen said that our current definitions for Village Residential and Rural Residential were antiquated; they encourage future growth in villages but there is not a lot of room left without reducing minimum lot size. Approximately 90-95% of the town is Rural Residential. To anticipate growth over the next few

decades, Rural Residential will have to change. For example, is the area along I-91 as rural as that along Rte 113, and are they as rural as the back roads? The DRB will be looking for guidance in the town plan and the ordinances, but the PUD workshop indicated that they can be more clear, definite, and sophisticated definitions of Rural Residential that take into consideration transition areas, proximity to existing development, etc.

Sean Mullen and Bill Bridge, speaking for the DRB, said they would like to work with the commission to redefine Rural Residential in Thetford so that the district definitions would be valid for the next generation or two. What do we want in our town? For example, the Gary Road development: this is Rural Residential but in very close proximity to Thetford Hill and I-91. PUDs, to work, will need a new definition of Rural Residential. They would be glad to help change the definitions. The town plan is a great guide, but the DRB works most directly with the standards and regulations in the ordinances.

Liora Alschuler asked if the language in the town plan provided a good starting point to redefine the districts - it is more current than the ordinances. Sean Mullen replied that, in order to support the goals of the plan (for example, riparian and wetland buffers), some change from traditional patterns of development must be allowed. The DRB must weigh issues and make judgements and need clear language that will allow them to do that.

There was further discussion of traditional patterns of development and general agreement that it would be folly to try to regulate development in the future based on traditional patterns. We must reinterpret them in terms of present need, defining Village Residential and Rural Residential as it should be in the future, along with standards that will move development toward the goals in the town plan. For example, "minimize sprawl" - we must have a definition of sprawl worked into the district definitions.

The commission asked Dan Grossman for his opinion. He said that the Rural Residential district, about 95% of the town, was not really zoned, in that there were no discrete definitions for various areas in it. Everything apart from farm and residence is a Conditional Use, so anything is possible. Perhaps we need more zones with definitions to provide guidance to the DRB; for example, this zone good for multi-unit development, this other zone for conservation or large lot development, etc. He thought four zones might be needed.

Stuart Blood said that four zones might be excessive, but that two might work, a type of zone for development patterns could be more dense and one where they could be less dense. Liora Alschuler agreed that some areas would be more appropriate for PUDs than others but worried that creating new areas would create controversy. She wondered if the values language in the plan could be incorporate into the district definitions to help the DRB decide where PUDs were more appropriate. Stuart Blood said that a PUD can enhance the value of a property by allowing more dense development in some parts while other parts remained unchanged. This allowed more options to the developer. Liora asked why any part of town would have to be limited: a PUD would work anywhere as long as the developer met the standards.

Sean Mullen said he thought two Rural Residential zones would offer enough options and Bill Bridge agreed. Wayne Parks asked how the commission would differentiate? Stuart Blood suggested that first the commission should develop criteria, then look at the town and ask where the criteria apply, to see if two RR zones are necessary. Liora Alschuler commented that she was uncomfortable with saying that the town is one thing in the East and another thing in the

West, but Sean Mullen pointed out it was more specific; for example, it's one thing along I-91 and near infrastructure, another thing along a back road. He saw a lot of potential to use PUDs with the RR1/RR2 concept. Stuart Blood said we are dealing with two things: standards for protecting values, and what development fits in a neighborhood. Standards are specific criteria; what fits is determined by the character of each district. A PUD can be judged appropriate if it enhances the protection of the values and fits in the district in terms of affect on infrastructure and character. Standards don't allow discretion to the DRB, but definitions do.

Sean Mullen said the definitions would have to be very clear, not just a couple of lines and not limited to traditional patterns. It is hard to know what the future will be, but we can be sure it will be different because we are no longer an agricultural society. We must acknowledge that decisions can't be based solely on the past.

For the next meeting, Stuart Blood will work on new standards. Sean Mullen and Bill Bridge will work on new definitions, at least providing bullet points that can be expanded. Dan Grossman will help to distinguish the different flavors of Rural Residential and will try to make suggestions regarding PUDs in the different categories of RR.

Wayne Parks noted that, in the end, the market will determine what developers will be willing to do. If the market goes against what the PUDs are encouraging, developers will fall back on traditional patterns of settlement.

Wayne Parks also noted that the next meeting will be held in the Thetford Center Community Center due to elections being held in the Town Hall. Stuart Blood will make arrangements with Lois Paige.

Sean Mullen left the meeting.

7. Riparian Buffer Language Discussion (8:25)

Refer to documents emailed by Stuart Blood on 2/14 and 2/15/10

Li Shen presented new language for Riparian setbacks, providing justification for the setback widths as directed at the last meeting. The document gave the source of the recommendations for each of the widths. Regarding erosion on the low order streams, she repeated that Thetford's streams have not been surveyed and that such a survey would be expensive. The studies that have been done indicate that many of our streambeds have been altered in the past for agricultural purposes and the streams are now trying to move back to their old pathways. For these reasons, she used the state averages for erosion patterns. The Connecticut River is in a class of its own due to the dams, controlled water levels, and bank stabilization programs in the past. She also used local names for the lakes and ponds so that it would be easier to understand which she was talking about. (However, some of the names are not clear even locally; for example, Lake Abenaki and Forsythe Pond have both been called Mud Pond in the past and still are referred to by that name.)

Regarding the issue of a public versus private lake, the state regulations allow the town to regulate even private bodies of water. To be "private", the entire watershed of the lake must have a single owner. 128 ponds would not be covered by the town regulations because they are not named and are less than 1/2 acre in surface area. The document includes one large unnamed pond on Cream Street. Rick Howard said that it was being called Payson Pond these days.

The question arose if the setbacks also applied to septic systems. Stuart Blood said the town has nothing to do with septic design (under state jurisdiction) but that we can establish setbacks, he believed. The document uses a recommendation of 50 feet (from the VT Dept of Environmental Conservation). Liora Alschuler pointed out that we could exceed the state recommendation if we wished.

Regarding existing structures, any structure that extends into the water (docks, piers, walls, etc.) falls under public waters encroachment permitting rules set by the state. Our language must be advisory, not a requirement. The same applies on the CT River, but a different agency controls permitting.

Kevin O'Hara said that he believes we need to address this now. Li Shen has done lots of legwork, we have setbacks to work with, at this point he supports them. If it is an issue for many people, it will come out in the public discussion forums.

Stuart Blood went over several points: The setbacks vary by stream order, the CT River has its own setbacks not related to its stream order, named ponds and lakes have a setback.

Regarding the setback for small order streams, which is six channel widths total (three from the bank of the stream on each side), Bill Bridge pointed out that this would be less than 75 feet for many streams.

Wayne Parks said that he support the concept of setbacks rather than buffers but that he didn't currently support the widths being proposed. He pointed out that they were wider than those in the first draft. Li Shen explained that that was because the first draft was for buffers, which provide much more protection to habitat, bank stability, and water quality due to restrictions on changing the vegetation. Setbacks only apply to structures, to protect them from flooding or fluvial erosion damage. Therefore, the recommendations are for wider setbacks.

Libby Chapin, a resident living by Lake Fairlee, read a prepared statement (attached to these minutes) in which she voiced questions, considerations, and concerns supporting setbacks as a good beginning, but can we do more to support watershed protection. Li Shen responded that she wished the town would use buffers instead of setbacks. Bill Bridge agreed and said he thought it would be a big favor to the people who lived on Lake Fairlee.

Liora Alschuler commented that, living beside a pond, she appreciated the natural buffer it had. She also understood that there was a lot of resistance to buffers, so if a compromise was needed, setbacks were a step forward. She believes the planning commission must take the best information available and act on it to protect the assets of the town and take a stand. She stated that she supported the document and the direction it goes in.

Rick Howard said he didn't think the town had any business governing the 128 unnamed ponds and felt the same way about the CT River, which is already governed. The other setbacks he could live with, but the CT River cannot be controlled by setbacks.

There was some discussion of setbacks as a protection for water quality and as protection for structures. It was pointed out that they would not apply to a new dwelling on an already permitted lot. They would apply to a new subdivision.

Wayne Parks asked what about an existing home that needed a new septic system. Rick Howard pointed out that you cannot make an existing home uninhabitable. Stuart Blood agreed that there would be an exemption in this case.

Liora Alschuler moved to accept the language, subject to editorial changes, for incorporation into the draft ordinance. Seconded by Kevin O'Hara.

In discussion, Liora Alschuler asked if the language could strongly suggest that existing lots comply with the setbacks if at all possible, but not make it a requirement so that a small lot wouldn't be made unbuildable. The consensus was that this could be handled through handouts or guidance from the DRB.

Wayne Parks said he believed some of the widths are excessive, particularly since we are starting with nothing in this area. It will create a problem with getting town acceptance. We need something we can sell to the town.

Rick Howard offered an amendment: In regard to the CT River, the setback would be equal to the width of the flood plain at each point as shown on the town of Thetford Flood Insurance Rate Map. Seconded by Wayne Parks.

Bill Bridge said that the problem on the CT River was not so much flooding as erosion; that he thought sections of the CT were more susceptible to it than any other place in town.

Libby Chapin asked if there was a width compromise somewhere between the recommended width and zero. Liora Alschuler pointed out that we were trying to deal with other concerns than flooding, including erosion and runoff, and setbacks needed to be consistent with the rest of the general standards. 150 feet is the recommended setback but she felt some smaller setback might be appropriate.

The amendment was voted on and failed: 2 in favor (WP, RH); 3 opposed (KO, SB, LA). Bill Bridge left the meeting.

There was further discussion of the original motion centering on the need to gain town approval and the possible public perception that setbacks took away land or, conversely, that they added to the value of the property by protecting water quality, habitat, and structures.

The motion was voted on and failed: 3 in favor (KO, LA, SB); 2 opposed (RH, WP). (The motion required 4 in favor to pass.)

There was further discussion of Rick Howard's amendment, but Wayne Parks said he would prefer to see changes to the other widths as well.

Liora Alschuler made a motion to accept the language with the provision to remove the section about the CT River and state that the setbacks on the CT River are not affected by this regulation. Seconded by Kevin O'Hara.

Wayne Parks made an amendment: To revert the setback widths to match those stated on the original draft regulation regarding buffers. These widths are 35 feet for 1st Order streams, 50 feet for 2nd Order streams, 100 feet for 3rd Order streams, and 50 feet for named lakes greater than 1/2 acre in area. Seconded by Rick Howard.

Li Shen pointed out that the ground around a new house is disturbed for approximately 25 feet from the wall in all directions, so there would be only 25 feet of undisturbed ground between a house on a lake. Libby Chapin added that studies of Lake Fairlee and Lake Morey had shown that siltification is the biggest problem, not septic leaching. This lake setback is the same as the state setback for septic when it should be greater.

Rick Howard asked if there could be a single setback for all streams to simplify the matter. Stuart Blood replied that the setbacks needed to be rational based on the size of the stream in order to prevent erosion and protect water quality. The commission should not pull

numbers out of thin air. The recommendations in the document are made by experts and should not be thrown away. Liora Alschuler said she agreed with Stuart Blood regarding the amendment, that the regulations needed to achieve the purposes as stated in the town plan.

The amendment was voted on and failed: 2 in favor (WP, RH); 3 opposed (KO, LA, SB)

The motion was voted on and passed: 4 in favor; 1 opposed (WP)

Li Shen, Libby Chapin, and Leila Percy left the meeting.

8. Affordable Housing First Draft: Deferred till next meeting.

9. Traditional Patterns of Settlement: Tabled till new definitions are completed.

10. Site Plan Review Procedures: Deferred till next meeting.

11. Conditional Use Procedure First Draft (9:57)

Refer to document emailed by Kevin O'Hara on 2/12/10.

Stuart Blood proposed changing 6.06.02 to match the state statute verbatim (regarding Character of Area). Accepted. There was a brief discussion of the landscaping language but it was decided to leave it as is. The draft language was accepted with the proposed change.

12. Review of Time Line (10:05)

Refer to timeline emailed by Kevin O'Hara on 2/12/10.

There is a lot to get through with the public discussion forum drawing close in April. Liora Alschuler suggested the topics to discuss would include a general overview, why the regulations were being revised, the general reorganization, and areas of substantive change. Wayne Parks thought it would be necessary to have maps prepared, but Rich Howard did not think maps would be an issue. An ad hoc committee was formed to come up with a list of topics and other needs: Wayne Parks, Rick Howard, and Stuart Blood. They would present their suggestions not at the next meeting but the one following.

13. Reports: Deferred till next meeting.

10. Old Business: None.

11. New Business

Stuart Blood announced that he had one more year left to serve in his term and after that he would step down. The commission accepted this news with regret.

Stuart Blood moved to adjourn; 2nd by Kevin O'Hara. Meeting Adjourned at 10:15 PM.

Respectfully submitted,

Dean Whitlock, Clerk, Thetford Planning Commission