

Thetford Planning Commission
June 15, 2010 – APPROVED Minutes

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

Absent: None

Guests: Dan Grossman (7:17-9:40), Sean Mullen (7:17-9:40), Bob Walker (7:28-8:26)

(Numbers below refer to agenda items)

1. Meeting called to order by Wayne Parks at 7:17 PM

2. Public Comment: None

3. Review of Minutes of June 1 (7:18): Accepted as amended.

4. Review of Tracking Document (7:20):

Liora Alschuler recommended that the Time Line and current red text in the draft be used to track progress. They now included all the issues are are discussed every meeting. She would continue to update the Tracking Document as a historical record of the process, but it would not need to be reviewed every meeting. After a brief discussion, the commission agreed to adopt that practice.

5. Review of Zoning Draft (7:22): Nothing to review.

Stuart Blood referred to his email of 5/28, which contained a document with the draft language adopted at the previous meeting. Wayne Parks read down the list of items. Stuart Blood moved to accept the draft; 2nd by Wayne Parks; approved unanimously.

6. Professional Review (7:23)

Stuart Blood reported that, having received a go-ahead from the select board on the budgeted amount, he contacted Two Rivers. They were able to start earlier than anticipated and would review sections 1 & 4 as early as July 1, followed by 3 & 5. He recommended that they be given just the first section to start with; then the commission could review their work in terms of time spent and quality of their comments to see how it meets the commission’s needs. He had requested an accounting of hours spent every 2 weeks. After some discussion, it was decided that Stuart would be more specific with them about the budgeted amount, breaking down the total available to let the know the amount they could allocate to each section.

7. PUD Discussion (7:28):

a. Affordable Housing Bonuses - (See Stuart Blood emails of 6/11 and 6/12) Stuart Blood went over the red text in the draft related to the affordable housing density bonus and its related

table. After a brief discussion of how cumulative bonuses would work with the table, Kevin O'Hara moved to accept the language and table as is. Stuart Blood seconded. Liora Alshuler proposed an amendment that the motion also include the red text and comments in paragraphs 1-3 and 5-9. Dean Whitlock suggested that the sentences in 4 related to additive bonuses and rounding of bonuses be included. These sections were read. Stuart Blood restated the motion to include those sections

Liora Alshuler began a discussion of the wording in Paragraph 2, regarding allowed non-residential uses designed to service the residents of the PUD. She pointed out that in some cases it would benefit the PUD and the town in general if those uses, such as day cares and recreational facilities, could also be used by other residents of the town. She wondered if the current language would restrict these services to only the residents of the PUD. After some discussion, it was agreed that a PUD's charter could restrict use of such services to its residents, but that the zoning regulations should not be worded to impose such a restriction. Side issues: The wording does not imply that these services would automatically be permitted: all PUDs remain conditional use. The size of the non-residential structures would be determined by the size of the lot remaining after the residential structures were laid out. There are setbacks and limits to how much of a lot can be covered. Stuart Blood proposed an amendment that the wording of paragraph 2 be changed to remove the phrase "... , designed primarily to service the residents of the PUD,". Seconded by Kevin O'Hara. Passed unanimously. The motion to accept the listed red text and comments was then passed unanimously.

b. Energy Efficiency Bonuses - Stuart Blood explained how calculating energy efficiency bonuses was different from affordable housing bonuses. An energy efficiency bonus will be based on the improvement a developer achieves over the required Home Energy Rating System (HERS) index specified in the Vermont Residential Building Energy Standards (RBES). However, the current Vermont RBES are currently being upgraded in timed stages. This means that the baseline for determining an energy efficiency bonus will change several times in the next few years. A table of bonuses will not work because the baseline is not fixed. Instead, Stuart Blood developed a formula that the DRB, ZA, and developers could use to calculate what the bonus should be. All units in the PUD must achieve an HERS at least as efficient as the projected HERS on which the density bonus was based. If not, the town has the option to enforce compliance with permit conditions.

Kevin O'Hara pointed out that the developer could self-certify in order to allow occupancy but not to get the bonus or title. In order to get title to the building, the developer must achieve the projected HERS. Without a clear title, a buyer would not be able to get a mortgage. Dean Whitlock suggested one change to the way the formula was written. Liora Alshuler moved that the language be accepted with that change. Kevin O'Hara seconded. Passed unanimously.

Bob Walker left the meeting.

c. Natural Resource Protection Bonuses - Stuart Blood reviewed the discussion in the previous meeting about the difficulty in determining a standard for natural resource protection that wasn't subjective. In the new language, a density bonus for each of the three natural resource values (significant wildlife habitat, forest resources, and agricultural land) can be earned "if and

only if the adverse impact on [that value] would be less than if the development were done according to the standards in [refers to related section in general standards].” The language then goes on to the three methods by which the impact can be lessened: following the standards, setting aside open space, and establishing and protecting buffers along water bodies. There was additional language that described standards for open space.

Sean Mullen asked if the amount of bonus would vary by district. Stuart Blood replied that it could, but not in this draft. Sean Mullen said that this language seemed feasible for the DRB to use in calculating bonuses. There was a discussion of how these bonuses, when added to affordability and energy efficiency bonuses could result in a very high density. Sean Mullen pointed out that the development would also have to meet all CU requirements, septic requirements, and character of neighborhood. Stuart Blood said that there could be a cap on the total bonus allowed in any one PUD. Liora Alschuler said she thought the other conditions would provide a natural cap, and Lori Howard agreed. Stuart Blood asked the members to send him their comments on amount of bonus and whether this category of bonus should be additive or should have a cap. He would prepare a new draft based on those comments and some formatting suggestions from the clerk.

d. Undevelopable Land - Liora Alschuler reviewed the discussion from the last meeting, based on her reading of the minutes. She said she agreed and supported sticking with the current zoning (not considering undevelopable land in determining density). There was a brief discussion of wetlands as being obviously undevelopable, but the consensus remained that there should be no change.

8. District Definitions (8:56)

Liora Alschuler reviewed her document (email of 6/14), which stated the objectives of changing the definitions, followed by new language for each of the affected sections of the zoning ordinance. The objectives are 1) to provide guidance for permitted, conditional uses including PUDs; 2) to place the definitions in a single point in the bylaws (removing redundancies); 3) to change the order in which they are listed; 4) to combine the overlay district with the other districts; 5) to move the definition of “Setback” to the definitions section; and 6) to follow the Town Plan (a. no major change; b. no new special districts/overlays).

Wayne Parks asked if the definition of Setbacks is general enough to include with the other definitions; Liora Alschuler said she would check.

Regarding the final objective (no new special districts/overlays), Liora Alschuler pointed out that there was no mention of them in the town plan and that it was too late in the process to begin a discussion on adding any.

Sean Mullen raised a question about the expression “low-density” used in the definition of Rural Residential (RR). He thought this contradicted the language of PUDs, which allow local areas of high density in RR. There was discussion of using the terms “overall low-density” or “average low-density”, which had originally been suggested by Bill Bridge. Dan Grossman suggested that the commission create longer, more nuanced definitions to clarify such points. He didn’t think that a monolithic definition was the best way to approach RR. Liora Alschuler said

there wasn't good guidance about how to write nuances that wouldn't create de facto new districts. She said she didn't believe the commission had that mandate at this time. Perhaps the next revision of the Town Plan would be the proper time to do it. Dan Grossman replied that he had never suggested new districts and would like to try writing a new, nuanced definition to see if it was possible. Stuart Blood referred to 24 VSA section 4411(B)1 & 3, which seem to support nuances. Dan Grossman said he would have a trial definition ready to present by the next meeting. (He will have to miss that meeting but the commission will discuss it and then make a final decision at the following meeting, which he can attend.) There was a discussion of adjusting the time line so that this decision did not have to be rushed.

Stuart Blood said he did not like it that the proposed definition of RR referred to the general standards. He thought that created the implication that the standards are not as important in the other districts and also elevated the specific standards above the others. He proposed new wording to guide in writing the next revision.

Kevin O'Hara politely volunteered to join the working group assigned to these definitions. Sean Mullen and Dan Grossman left the meeting.

9. Principal Use of Lot (9:40)

Kevin O'Hara referred to his email of June 10, which contained an outline of the issues involved and considerations the commission needed to discuss. The current zoning law states, "Except as otherwise provided in this Bylaw, only one principal use shall be permitted on a lot." There is an expressed desire in the Town Plan to allow some mixed use development: should it be allowed? If so, in which districts, and should it be permitted or CU? A second issue involves allowing more than one residence on a single lot, which would allow condominiums and co-housing developments.

There was discussion of creating a definition of "Principal Use" or of deleting the expression and section from the bylaw. Mixed use is already allowed in certain cases (e.g., home occupation). The commission generally supports allowing it. It would support affordable housing development, where a recreation center, day care, or other service use could be beneficial to the development and the town. If mixed use is under CU review, controls would be in place. In the case of a house with a restaurant, the two uses could be reviewed separately under the standards that apply to each (i.e., no site plan review for the house; only for the restaurant).

There was discussion of how mixed use and ownership collided. In the restaurant/house situation, the homeowner could own the restaurant building but lease it to the owner/operator of the restaurant business. It was logical to say that any use that was permitted in a district would be allowed in a multi-use situation in that district. If a use fell under CU review, then the mixed use situation would also fall under CU review. With all these considerations, the sense of the meeting was that "principal use" could be abandoned.

The question of multiple dwellings on a single property seemed to be allowed implicitly in the concept of PUD, which could include separate residences as well as multi-unit buildings. This would not necessarily be a mixed use if all the structures were for residences. However, Vermont tax law is based on a single owner/single homestead. How is this dealt with in a co-housing situation or condominium? This area needs more research.

10. Miscellaneous Red Text (10:10)

Stuart Blood referred to his email of June 13. Section 3.10, lighting, should be moved to Site Plan Review; it will be approved at the next meeting. Section 5.04, auto repair shop, was approved as is.

11. Richard Blacklow's Memos (10:15)

Wayne Parks determined that requiring plans to be filed as GIS data was not appropriate: the town clerk required mylar and the listers cannot use the GIS data.

Regarding travel trailers and travel trailer camps, Lori Howard will review the old section and make recommendations to clarify its intent.

Most of the remaining topics require no action; postponed till next meeting.

12. Time Line Review (10:20)

Adjustments were made to accommodate the Two Rivers review plan and to ensure that the discussion of district definitions did not have to be rushed.

13. Reports (10:27): None

14. Old Business (10:27): None

15. New Business (10:27): None.

The meeting was adjourned at 10:28 PM.

Respectfully submitted,
Dean Whitlock, Clerk, Thetford Planning Commission