

**Thetford Planning Commission  
September 6, 2016 – APPROVED Minutes**

Present: Kevin O’Hara, Jason Crance, Jamie Thaxton, Patricia Norton, Liz Ryan Cole,  
Dean Whitlock (Recording Clerk)

Absent: Michael Schunk

Guests: Jessica Eaton, Wayne Parks

(Numbers below refer to agenda items.)

1. Kevin called the meeting to order at 7:20 p.m.
2. Public Comment: None
3. Review of the minutes for the 8/2 meeting and the 8/16 meeting.  
The minutes were accepted as amended.

4. Selectboard Report

Jessica said that, after the first evening of the warned hearing on August 16, she had encouraged the Selectboard members to present their comments about the Town Plan to the Planning Commission right away instead of leaving them until after the Planning Commission’s final draft has been approved and forwarded to them. She also reported that several of the people who attended the first evening of the hearing told her they didn’t get through half of their comments yet.

5. Town Plan

Update and discussion – Kevin said there were two topic areas he hoped to address this evening: to begin the review of the comments collected at the hearing and to consider the meaning and use of “should” and “shall” in the Town Plan.

a. Begin review of comments collected at the first hearing session on August 16. Jason projected the comments document and recorded the Initial Planning Commission Action so that everyone could easily follow along. The first comment from the hearing was number 118 in the document. The first two comments related to the use of “should” and “shall”. Comment 120, from Mike Pomeroy, concerned the level of detail in the Introduction and implied that the Policies and Recommendations did not provide enough detail for how to achieve the Goals. There was a long discussion on how much detail the Planning Commission is supposed to provide; that is, what is the purpose of the Recommendations: to provide a specific and laid out solution or to identify a step that needs to be taken, with the specifics to be provided during further consideration by the town body or people who will implement the step? Jamie noted that, regarding business development, the Fairlee Planning Commission had inserted a Recommendation to form a committee of business owners, like a Chamber of Commerce, to provide detailed advice and to implement Recommendations regarding economic development. Jason read a recent Vermont Supreme Court decision (In re Champlain Oil Company Conditional Use Application, 2014) that

describes a Town Plan as being “aspirational” and “...designed to guide applicants and decisionmakers on a project's general characteristics but does not establish regulatory standards...” The court decision specifically refers to “should” (aspirational) versus “must” (regulatory, equivalent to “shall”). This will help us define the terms and decide where to use them. In the context of Mike Pomeroy’s comment about needing more details, it indicates that a Town Plan puts forth “general characteristics,” but that specifics are detailed in Zoning Bylaws, Subdivision Regulations, and similar town ordinances, and also by decisions of the Development Review Board and other bodies charged with enforcing town regulations or implementing sections of the Town Plan.

Wayne Parks added to the comment he had made (#121) regarding the proposed land use change to the small triangle at the northeast corner of Post Mills, bordered by West Fairlee Road, the West Fairlee town boundary and Lake Fairlee. He said that changing this triangle from Village Residential (VR) back to Rural Residential (RR) would also create a number of non-conforming uses in the new zoning district. Dean asked about the number of lots in the triangle, wondering how many of them would be large enough to subdivide in either case. Wayne said he believed only a few would, and only into two or three lots. Patricia noted that a number of people who had attended the forums about the proposed Post Mills district changes said that wildlife did use the triangle as an access from West Fairlee’s conservation district to the lake; whereas several people at the hearing said they did not, due to the amount of development, presence of Rt 244 and its guardrails, and the high fences at Camp Billings. There was a discussion of how the Planning Commission could weigh these opposing statements. Patricia also asked, if it were true that wildlife used the triangle as an access to the lake, which land use classification would be most disruptive, VR or RR. Some of the uses allowed in RR include Rural Industrial (e.g., a sawmill), travel trailer park, and kennel. Dean added that the proposed new classification of Neighborhood Residential (NR), proposed for the area of Post Mills beyond the church and airport, would be the most likely re-classification for the triangle if not changed to RR.

Several other comments were related to this one, and there was a long discussion of the level and types of commercial development that would be permitted, conditional, or not allowed in NR compared to VR. A similar discussion was raised in regard to the land around I-91 Exit 14. The east side of the exit is Rural Residential. The west side is currently Village Residential but the new Town Plan proposed that the area from Garey and Godfrey roads down to the interstate be changed to RR.

The review of the Comments document was closed for the evening at Line #130, comment 127.

b. Review of uses of “should” and “shall” – Jason displayed the draft Town Plan and searched for the word “shall.” There were only four of them in the document, only one was in a Recommendation, and it referred to language in the Zoning Bylaw so was left as is.

Jason searched for the word “should” and the commissioners began a quick review of each one, noting which should be reviewed in depth to see if it should be a “shall” or should be modified in some other way. There was a discussion about adding a statement in the Introduction to clearly define how “shall” and “should” are used in the Town Plan. Patricia will write a draft to be discussed at the next regular meeting.

c. Planning for next session of hearing – Dean will email a notice to the attendees of the first session to remind them of the upcoming continuation on September 20<sup>th</sup> at 7:00 at the Town Hall. Patricia will phone the people who did not provide email addresses.

There was a discussion of how best to make the Comment document available to the public. Dean will periodically create a PDF version, post it on the Planning page of the Town website, and make the link available on the town listserv. He will wait until after the continued hearing and following meeting, when more of the comments will have gone through an initial review.

There was a brief discussion of the meeting format. It was agreed to keep it the same, although to move more slowly to make sure all comments were recorded completely and correctly. If need be, the hearing will be recessed and continued again. Patricia said that she has a new work conflict on Tuesday evenings and will not be able to continue as a member of the commission. She offered to facilitate the next hearing, but Kevin said he would facilitate so she wouldn't have to worry about the conflict. There was a brief discussion of changing the day of the regular meetings but it didn't appear to be possible at this time. Jessica noted that we would need to find another person to take Patricia's seat on the commission.

6. Other Business – none.

The meeting was adjourned at 9:40 p.m.

Respectfully submitted,  
Dean Whitlock, Recording Clerk, Thetford Planning Commission