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APPROVED

HUNTINGTON PLANNING COMMISSION

Minutes of November 29, 2010

PRESENT: Tom Bailey, Gordon Miller, Heidi Weston, Heather Pembrook, Charlotte Barrowman, Brett Lindemuth, Everett Marshall

ABSENT:

OTHERS PRESENT:

MINUTES: Heidi Racht

AGENDA:

- 7 pm Minutes of November 22, 2010
Mail
- 7:15 Finalize 2011-2012 Budget for Submission to Selectboard
- 7:25 Public Comment
- 7:30 Flood Regulations
- 8:45 Member Business
- 9 pm Adjourn

The meeting was called to order at 7:04 pm; chaired by Tom Bailey.

Minutes of November 22, 2010	Brett Lindemuth moved to approve the minutes of November 15, 2010; seconded by Everett Marshall.	The minutes of November 15, 2010 were approved unanimously with many changes; Everett Marshall abstained.
Mail	None.	No action taken.
2011-2012 Budget (July 1, 2011 to June 30, 2012) Budget Discussion	Heather Pembrook presented the work she did on the budget draft. It was suggested that some money be budgeted to purchase a digital recorder. After some discussion, it was pointed out that the current year's budget had money with which to purchase a recorder and the purchase would be made before the next meeting. Heather Pembrook moved to present the budget discussed at the meeting to the Selectboard; seconded by Heidi Weston.	The Commission voted unanimously to present the 2011-2012 (FY 2012) budget prepared by Heather Pembrook to the Selectboard.
Public Comment	No public present.	No action taken.
Flood Regs	Tom Bailey started the discussion about the latest draft by handing out a version with tracked changes and a "clean" copy. He commented that the document could be	No action was taken.

moved forward for a vote on Town Meeting Day, if the Commission approved a draft at this meeting and a hearing could be held on December 20. Bailey noted that he had incorporated most of the recommendations made by Zoning Administrative Officer Cathleen Gent, and described which ones he had omitted to include and why.

Everett Marshall indicated a desire to go through the draft page by page to consider edits. The Commission began with Section 110 and discussed terminology; the decision was made to refer to the area covered by the FEMA maps for the purposes of flood insurance as Special Flood Hazard Area (SFHA) and changes would be made throughout the document.

Included in the discussion:

Charlotte Barrowman said that the purpose of the regulation (Section 110, paragraph 112) should have, as its first priority, flood insurance rather than what had been listed. After some discussion about the order, a straw poll was taken: three members were for the change and the rest had no objections, so the change was made.

The Commission then moved on to the definitions in Section 120:

Floodway – definition was the one provided by FEMA.

Development – wording provided by FEMA.

Fill – Heidi Weston wanted the last phrase taken out of the definition. The proposal was discussed at length and the Commission decided to leave it in.

Then, at the request of the Selectboard, Gordon Miller left the meeting at 8:20 to give a brief explanation on Form-Based Planning to the Selectboard, which was meeting downstairs. The Selectboard was considering the approval of the Municipal Planning Grant application. The Commission discussed whether to wait for Miller's return, but then pressed on.

Permitted Use (Paragraph 162) engendered a long discussion on whether all uses should be permitted, and the statutory requirement to notify the Vermont

Department of Environmental Conservation (DEC) for comment on applications for new construction and substantial improvement in the Special Flood Hazard Area (SFHA). Barrowman suggested allowing the DEC, which has extensive expertise, to set permit conditions so that an applicant would not have to go through Conditional Use through the ZBA (Zoning Board of Adjustment).

Heidi Weston said that it was an issue of the timeline. For projects requiring Conditional Use, applicants would first apply to the Zoning Officer who would deny the permit, which could take up to 30 days by statute; the applicant would then submit the proposal to the State for review and recommendations, which could also take up to 30 days; then the Zoning Board needs to hear the Conditional Use application. Barrowman said she thought all uses should be permitted and then have the DEC decided conditions.

Marshall explained that only the ZBA can set conditions, not the Zoning Officer or the State.

Bailey reiterated, "The State cannot issue conditions for a local permit."

Marshall then went on to say that many Vermont towns allow no new construction in flood areas, adding "it is appropriate to do this."

There then followed an extended discussion about whether the Zoning Administrative Officer can issue a zoning permit for new construction of substantial improvement without Conditional Use Approval if the DEC takes more than 29 days to comment. Lindemuth then presented a theory he had for limiting Conditional Use criteria.

Pembroke said that it seemed that one argument is everything is permitted; the other is certain things should go through Conditional Use.

Bailey noted that Zoning Officer's role is to notify the State and also the applicant can request more information from the State.

Marshall added, "If we're going to allow new structures as permitted and there was no Conditional Use process, [a property owner] could be required to get a Variance." It was noted that variances are granted in hardship cases and not as easy for a property owner to obtain than Conditional Use. The ZBA can help to solved problems and "make changes to help the landowner."

Barrowman said that the applicant will have to hire experts to develop in the SFHA.

Gordon Miller returned to the meeting at 8:55 pm and was brought up to date on the discussion.

Lindemuth raised the issue of zoning level and Barrowman asked if there was a way to circumvent the ZBA. Pembroke replied that when a property owner builds a structure, there is "so much to get right that we want to work with the applicant for Conditional Use, so there's give and take." Marshall added that the regs were to "avoid impacts and costs." Weston responded, "They're going to have certified engineer so what are the costs?"

Weston said that she wanted to add substantial improvement and new construction to permitted uses. Pembroke disagreed with this saying that the purpose was to "protect people and their property. This puts people at greater risk."

Lindemuth then asked Pembroke, "Are you principally opposed to new structures in the Special Flood Hazard Area?"

Pembroke responded, "I want it to go to Conditional Use. Most protective of safety, etc., from a variety of reasons."

Barrowman stated, "The DEC will not accept the role."

Lindemuth then asked everyone the question again [about whether they were opposed to new structures in SFHA] and Bailey and others objected to the question. Marshall responded, "We wouldn't be talking about conditional use and permits if we were principally opposed."

Weston said that Conditional Use shouldn't be required if FEMA doesn't require it. Marshall responded that the requirement was in the State Statutes.

Lindemuth suggested "a separate set of criteria for treatment of some areas."

Bailey cut in, "We won't have a reg if we keep going at this rate." Lindemuth said "You know for a fact that Gordon was downstairs when I discussed this." Bailey said, "Ask him."

Lindemuth then said to Miller that if it's necessary to have Conditional Use, it shouldn't trigger "all this." He said there should be separate criteria to get a Zoning Permit and to avoid all the paperwork.

After a while, Weston paraphrased that if 174.1 is a timing criteria, then we can go through Conditional Use where the applicant only has to meet the standards of development in the the regs. She suggested looking at the standards and requirements.

In response, the Zoning Administrative Officer has to approve. It can't outline when "they will get material back from DEC."

Bailey then pushed for a decision on the draft regulation so that it would be on track to allow voters the option of approving it at Town Meeting on March 1, 2011.

Weston said that she hadn't decided and might go with a Conditional Use option, if convinced, noting, "we're on the crux." The Commission took no action to resolve the issue.

Instead, at Bailey's urging, there followed a few minutes where the Commission again examined the draft page by page to make edits. However, before completing the review of the draft, Weston announced that she needed to leave and moved to adjourn because it's 10:01; seconded by Charlotte Barrowman.

In the discussion on the motion, Bailey again urged completing the review of the draft so that a public

	<p>hearing could be held on December 20. Lindemuth commented that he would not vote in favor of the draft tonight.</p> <p>Bailey asked for a vote on the motion to adjourn. Weston, Lindemuth, Pembroke and Barrowman voted to adjourn; Miller and Bailey voted no. Marshall voted to abstain. The meeting was adjourned at 10:04 pm.</p>	
Other Business	None	

Adjournment: See above discussion.

UNAPPROVED MINUTES TO THE HPC: December 6, 2010.

MINUTES APPROVED: December 13, 2010

APPROVED MINUTES TO THE TOWN CLERK: December 14, 2010