

**TOWN OF WESTFORD
PLANNING COMMISSION MINUTES
MINUTES FOR DECEMBER 7, 2020 MEETING
Approved on December 21, 2020**

Commission/Board Members Present: Koi Boynton, Gordon Gebauer, Seth Jensen, George Lamphere, Mark Letorney.

Commission/Board Members Absent: None

Also, Present: Melissa Manka, Westford Planning Coordinator; Taylor Newton – CCRPC Senior Planner; Paul Birnholz-Westford resident; Barb Cady-Westford resident.

The meeting began at: 6:30 p.m.

Amendments to Agenda

Taylor Newton has not joined the meeting yet. We will review CCRPC comments to the Town Plan when he joins. Mark Letorney asked for 5 minutes towards the end of the meeting to discuss the timing of wastewater bond issues.

Citizens to be Heard, Announcements, Correspondence & Other Business

None.

Minutes of the November 2, 2020 Meeting

Seth Jensen MOVED to approve the minutes as presented.

George Lamphere SECONDED the motion.

The motion PASSED: 4 – 0. (Koi Boynton abstained)

Minutes of the November 16, 2020 Meeting

Mark Letorney MOVED to approve the minutes as presented.

Seth Jensen SECONDED the motion.

The motion PASSED: 4 – 0. (Koi Boynton abstained)

Town Plan—CCRPC Staff Review and Comment and Planning Grant

Taylor Newton joined the meeting at 6:34.

The planning grant came through today with conditions.

1. The Town must adopt the new Town Plan before grant funds can be used.
2. SB must pass a resolution to accept the grant and appoint CCRPC as agent to help administer the grant funds.

There is a form for these resolutions included with the grant approval. The resolutions must be presented to the SB. George Lamphere asked if we could get them to Nanette asap so the SB would have them in advance of the meeting scheduled for December 10th to discuss the PER. Deadline for using the grant funds is May 2022.

George Lamphere reported the Town Treasurer is proceeding with efforts to obtain a line of credit. That issue is on the SB agenda for December 10, 2020.

Taylor emphasized that the biggest issue to disbursement of the grant funds is getting the Town Plan approved. The new Town plan needs to be approved and adopted before we schedule another meeting with our development partners.

Town Plan—CCRPC comments:

Transportation: We should identify how far BTV and the train station are from Westford.

Education: We should include the educational goals set out in state statute and identify educational opportunities outside of Town, like local colleges and universities.

Natural/Historic Features: If there are no architectural, historic or scenic features, then we should state that in the plan.

Seth Jensen: We could and should identify the views of Mt. Mansfield as scenic.

Energy: Great section of the plan but we need to be more affirmative in our position of no siting of renewable energy facilities on lands with known constraints.

Section 5a on page 67—location of solar generation should include reference to wind.

Also consider a statement that facilities should be located on “preferred sites”. 5a needs to be more definitive.

Section 5b—should be 500kw not 1mw. What does ‘underutilized’ mean? What does it mean to be “out of major viewsheds”? This language was drafted by the Energy Committee. Taylor suggests we eliminate the language as it is not specific and does not add anything to our ability to control where renewable facilities will be located.

Goal #10--Extraction of earth resources: Extraction of earth materials is currently prohibited in Town. Taylor Newton suggests that if it is prohibited, then we should say so in the plan and outline why.

Goal #13—Childcare: We should be direct and say that Westford is a small town and does not have the ability to create childcare on its own. State or federal financial assistance will be required. We should also say that Westford relies on neighboring municipalities for childcare services. He also mentioned that the lack of childcare might be able to be used as support for grant funding from Northern Borders.

Paul Birnholtz asked whether it is wise to have a blanket prohibition on extraction of earth resources if we do not know what is available.

Seth Jensen pointed out that the prohibition has been in place since at least 2008. It is not new. We can consider amending it if/when any significant earth resources are located that may make it financially feasible to consider extraction.

Mark Letorney pointed out that the big reasons for the prohibition is the detrimental impact on our dirt roads and the detrimental impact to neighboring property owners.

Taylor Newton and Melissa Manka will work together this week to create language to be added/changed to the Town Plan per Taylor’s suggestions.

Melissa Manka: The Planning Commission Town Plan public hearing is scheduled for January 18, 2021. Melissa is worried that there may not be enough time to make the changes and meet the deadline for publishing notice of the new plan. Taylor thinks it is doable. The CCRPC PAC is meeting January 13, 2021 to review and hopefully approve the Town Plan. So, changes need to be made before that date.

Westford Land Use Development Regulation amendments

Garage Sales: George Lamphere proposes increasing the total cumulative number of days for garage sales from 6 to 12. He looked at neighboring municipalities and found that they had cumulative days ranging from 6 to 14. The PC approved 12.

Firing Range—pre-existing non-conforming uses: George Lamphere is working to create language to help provide regulation for the firing range, which is reported to be a pre-existing non-conforming use. He believes the language needs to be broad enough to cover circumstances beyond the firing range. He questioned whether a wavier is possible. Melissa pointed out that a wavier is for dimensional standards, not for uses. So, this is not an option.

George Lamphere suggests that we develop language that requires pre-existing non-conforming uses to seek conditional use approval from the DRB. Seth Jensen suggested that expansion cannot be more than 25%. Taylor Newton pointed out that State statute allows for variances connected to a structure, but not a use. George Lamphere will work with others to try to craft language to address this unusual situation. Seth Jensen suggested that any change in the use of the property should trigger conditional use review and 25% is the cap on expansion/increase of use. Taylor Newton also suggested to consider cap on number of people.

Seth Jensen pointed out the difficult history of the firing range throughout the years. He believes that now that Act-250 jurisdiction is triggered, it may result in more compliance. He also believes there is value in trying to have conditional review because it gives the DRB more opportunity to regulate. Mark Letorney pointed out that the firing range is not a pre-existing non-conforming use, it is an illegal use. The firing range never obtained a permit or approval before it opened and has never agreed to comply with any municipal regulations. The DRB/PC tried to work with the owners, but they have refused to cooperate or comply with any conditions. Mark does not think anything will work and advises the PC not be naive to think that the firing range will comply with any conditions whether imposed by the Town or the State through Act-250. Seth believes that Act-250 will have some teeth for compliance. George Lamphere, Seth Jensen and Taylor Newton will work together to craft some language for review of this type of use.

Melissa Manka spoke with the Town Attorney and Zoning Administrator who believe that after all the time that has passed since the firing range was established, that the Town will not be able to prove it is still an illegal use. It is her opinion that we are better off assessing what the current situation is and then working to make it as good as can be. Seth Jensen believes it is better to get legal approval in place with enforceable conditions than to leave the situation uncertain.

(Taylor Newton and Koi Boynton left the meeting at 7:47PM.)

Seth Jensen related that Jericho has a process for the zoning administrator to issue waivers for non-conforming structures. Westford may want to consider that approach as well. George Lamphere believes we should have a broad look at this and find a town-wide solution, not directed at just one property.

Mark Letorney thinks there should be a difference between residential waiver and commercial waivers. A residential waiver can probably be handled by the zoning administrator. A commercial waiver should go before the DRB. The PC agreed to consider this issue in the next round of amendments. Melissa mentioned that the DRB gets about one waiver request per year. She suggests looking at the entire regulations to see what matters can be reviewed by the ZA. George Lamphere will look at the language and make a proposal.

WRO District

The issue is Class II wetlands and the Town's buffer of 100'. Mark Letorney suggests reducing the buffer to the State buffer of 50' within the Village and Common Districts. Seth Jensen pointed out that many areas that were not considered Class II wetlands previously and now considered such. Much of the change is driven by an analysis of soil types, even though the land itself does not look like it would be a wetland.

Primitive Campgrounds

Mark Letorney look at this issue and decided to use the language Seth Jensen created. That language addresses primitive campgrounds that include tents and lean-tos.

Principal Uses/Structures

The concern is how to address lots developed with residential and commercial uses. Seth Jensen mentioned that in more rural parts of Town, the owner may want to create rental housing on a commercial property as a security measure. The PC determined that multi-family is residential, not commercial. Mark Letorney commented that an issue of concern is that one building with multiple commercial tenants should not have an adverse impact on people living on the same parcel or next door. New language to be included allowing one principal residential structure and one principal non-residential structure, and their associated accessory structures.

Mark Letorney: In a PUD it does not make sense to allow commercial structures within a PUD.

Perhaps give the DRB ability to approve one non-residential structure within a PUD.

The PC will come back to this issue and work on it again. The PC should give thought to how this language can be developed. Melissa believes the Town will see more development proposals for multi-family structures with commercial uses on the same parcel.

Barb Peck's suggested amendments

Gordon Gebauer reviewed Barb Peck's suggested changes and prepared a memo to the PC explaining each of Barb Peck's proposals and an analysis of each one. Mark Letorney and George Lamphere agreed with Gordon's analysis and suggest amending the WLUDR accordingly. Seth Jensen also agrees and suggested that under the landscaping section that an additional one point be given if the proposal includes plantings that are beneficial to pollinators. PC agreed.

Bond Vote Timing and Message

Melissa Manka reported that the State engineer we had been working with for almost 10 years is no longer working on the wastewater project. The new person is not in favor of moving as quickly as the Town had envisioned and does not think we can get STEP 2 ESA approval this fiscal year.

The PC is not pleased with this turn of events and proposes that the new State engineer, Jeff Fairs, meet with our consultants and then meet with the PC. Seth Jensen suggests that we should still move forward with trying to get the current SB to approve STEP 2 application because the current make up of the SB is familiar with the project. The PC will work on two tracks.... set up meeting with consultants and Jeff Fehrs, and continue to work on SB approval for STEP 2. Melissa will get a meeting scheduled with the consultants and Jeff Fehrs and will let the PC know when it is scheduled. The timing of a bond vote is uncertain at this time. Too many uncertainties.

Mark Letorney spent time reviewing Green Mountain Engineering's proposals. He sees some issues with how the report was developed and thinks that GME did not spend enough time evaluating the alternatives and questions some of the figures provided. He suggests that we

consider moving forward with option #3 instead of #4. Thinks that if pre-treatment is needed, it can be added later. Seth pointed out that the cost to do the pre-treatment now may be able to be absorbed into one of the grants. If we do not do pre-treatment now, it may be financially harder to do it later. On the other hand, if we do not find enough funding, option #3 gives a fall back. Mark thinks GME work was rushed and that we should be alert for unanticipated issues.

Work Plan

Seth, Taylor, Melissa and Regina will meet this week to discuss if Westford has any projects that will need funding this year from CCRPC. Mark asked if CCRPC could provide help with the public outreach efforts for wastewater and community development. The PC will slow down the efforts on wastewater because now is not the right time to go to the voters asking for a bond vote.

Wrap Up.

SB meeting on December 10th to review and discuss the PER. Melissa will send out update PER and environmental report in advance of December 10th.

Action Items:

- Taylor Newton and Melissa Manka will work together this week to create language to be added/changed to the Town Plan per Taylor's suggestions.
- George Lamphere, Seth Jensen and Taylor Newton will work together to craft some language for pre-existing non-conforming uses, with particular awareness of the firing range.
- Add Seth's proposed primitive campground language to WLUDR.
- Amend WLUDR to reduce wetlands buffer in Village and Common Districts to 50'.
- Amend WLUDR to include Gordon's suggested amendments per Barb Peck's requests.
- The PC needs to develop language addressing principal residential and principal commercial structures on the same parcel. Needs to be done for this round of amendments.
- Seth, Taylor, Melissa and Regina will meet this week to discuss if Westford has any projects that will need funding this year from CCRPC.
- Melissa will schedule meeting between consultants and Jeff Fehrs.
- December 10th SB meeting to review and discuss PER with consultants.

The meeting adjourned at approximately 9:15 p.m.

Submitted by,
Gordon Gebauer, Westford Planning Commissioner