

WEST WINDSOR PLANNING COMMISSION

Draft Minutes

May 4, 2011

Present: Elvin Kaplan, Mark Isenberg, Al Keiller, Martha Harrison

1. Call to Order – Elvin nominated Mark Isenberg to act as Chair. Mark agreed and called the meeting to order at 7:07 PM.
2. Changes or Additions – Town bridge issue: Martha said West Windsor’s regulations indicate that a local zoning permit and DRB approval are required to put in a bridge. According to Martha, the Selectboard feels that the town should not have to get a zoning permit to replace an existing bridge. Martha said she inquired about the practice of other towns on the Zoning Administrators list serve and discovered that at least one other town considers bridge replacement an “essential service” and does not require a permit. Martha said that makes sense but our regulations don’t provide for it. Martha suggested adding explicit language to that effect in Section 3.14. The PC agreed that it makes sense and asked Martha to come up with draft language.
3. Public Comment – None
4. Review Article II of West Windsor Zoning Regulations – Al asked if there have been any problems in the application of the zoning district regulations. Martha said a few people have been shocked by our 40-acre district, but she is not aware of any specific problems. Mark said anyone who feels aggrieved could litigate. Mark noted that the Town Plan provides for a ½ acre district at the east end of town. Martha said the question is whether or not the PC wants that provision reflected in the zoning regulations. Martha said, with all the turmoil at the Resort, the town has been looking more closely at the sewer line specifications and discovered that it’s a force main. Even though the Act 250 permit for the sewer line allows a certain number of connections every year, actually connecting is pretty difficult. Martha said one person who connected had disastrous consequences so if the PC is going to create a ½ acre district, they should be aware of the sewer line’s limitations. Elvin noted that the sewer line is currently being evaluated and the ultimate ownership of the sewer line is uncertain. Pending further study, Elvin said, establishing a ½ acre district should be put on hold. Mark agreed that there are too many unknowns at this time, and noted that the ½ acre district was proposed in the town plan to address affordable housing. Al agreed. Regarding the Resort/Conservation district, Martha noted the vagueness of the last sentence, which refers to “development that is not part of the Ascutney Mountain Resort.” Elvin added that the term “affiliated with” in the first sentence is also vague. Martha explained that the intention of the previous PC was that any development in that area would contribute to the ongoing financial well-being of the Ski Area. Al asked if Mile Long Field is clearly defined by survey. Martha pointed out the description in the definitions section. Martha said the Resort gets a substantial density bonus and the idea was that the town should benefit from that in some way. Elvin said the Resort no longer has a single owner and asked what we’re talking about when we talk about “the Ascutney Mountain Resort.” Mark agreed that it’s a misnomer at this point. Al agreed that the reference is obsolete. The PC agreed that the Resort/Residential and Resort/Conservation districts both need clarification. Al suggested removing the reference to Ascutney Mountain Resort in the Resort/Residential district. Mark said he would like to maintain ¼ acre zoning in the Resort/Residential district to keep the mountain viable. Mark

said, in theory, additional development at the Resort provides a market for the Ski Area. Al asked if the addition of 250 housing units at the Resort would create an eyesore or would it just fill out the existing tableau. Mark said it could potentially tax the facilities of the town with regard to the school and emergency services, but that can be addressed. Martha showed the PC the Conceptual Master Plan map. Elvin said part of the Resort/Residential district is owned by Orange Lake and part is owned by Snowdance. Al said he doesn't think the density should be based on the number of owners, but on the town's objectives. Al said he thinks we could use a little development. Al said condo purchasers are probably not year-round residents with kids in the school. Al added that development within an existing development is preferable to sprawl. Mark said condos are generally less pricey than single-family homes and more affordable to young couples. Mark said he likes Al's suggestion about removing the reference to the Ascutney Mountain Resort. Al noted the reference to "an approved comprehensive master plan" in Section 2.3-4. With multiple owners in the district, Martha asked, whose master plan is it? Martha said the current master plan is good until 2013, but it's just a collection of documents with some internal inconsistencies. Al asked what the master plan contained that the town objected to. Elvin said the plan included an equestrian center and houses lining Mile Long Field. Elvin said the town preferred to have development concentrated in the base area. Al asked about the town's jurisdiction. Martha said master plans have to be approved by the town and directed the PC's attention to Section 5.4-1 of the Zoning Regulations. Mark said there has to be a flush economy to justify the time and expense involved in producing all the studies, projections, engineering, and amendments. Martha said once the master plan is in place, then the applicant just has to get permits that are in accordance with it. Mark said in theory someone could come in and apply for permits but, given the internal conflicts that Martha mentioned, it might not be that easy. The PC agreed to remove all references to the Resort from Section 2.3-4. With regard to the Resort/Conservation district, Elvin said that, in order to be consistent with the Town Plan, the purpose statement should state that resort development shall make a demonstrable contribution to the viability of the Ski Area and shall not adversely impact the village or the town. Martha asked what would happen if the Resort owner sold the land off in 50-acre chunks; could someone buy it and develop ¼ acre lots with no intention of opening the Ski Area. Al said there would have to be a new master plan. Mark said it would have to meet all the existing requirements, which are significant. Al said he wouldn't want a Levittown at the Resort but he thinks there are protections against that in the zoning regulations. Al asked Martha if she is suggesting that the PC retain language that development has to be associated with enhancing the Ski Area. Martha said she is just urging caution about cutting the ties between development and the Ski Area. Al said if the Ski Area doesn't reopen and there's a demand for low-cost housing, is that bad or good? Al added that such development might result in a heavy demand on the school. Mark said it could be a retirement community. Elvin said he thinks the purpose statement for the Resort/Residential district, as modified this evening, is fine because it requires growth to be compatible with adjacent uses. Martha asked if 200 units of affordable housing would be compatible with adjacent uses. Elvin said that would be up to the DRB to determine. Mark agreed that the DRB could approve or deny based on compatibility. Elvin said the language gives the DRB flexibility. Martha said too much flexibility can land the town in court with the argument that the DRB is exercising standard-less discretion and discriminating against people of lesser means. Al said right now the reference is to a nonentity. **Al moved to approve the language as proposed for the**

Resort/Residential district. Elvin seconded the motion, which passed unanimously.

Elvin said if you look at the language in the Town Plan, it says (at the top of page 15) “Resort development shall make a demonstrable contribution to the viability of the Ski Area and shall not adversely impact the village or the town.” Elvin said he would like this language reflected in the purpose statement for the Resort/Conservation district with reference to “a Ski Area” rather than “the Ski Area.” Martha said what if the Ski Area never reopens; then you have a district that has to contribute to the viability of a Ski Area that doesn’t exist. Mark said he thinks responsible development should be allowed in keeping with the intent of the district, protecting the scenic aspect of it. Martha said if you take away the requirement that the development be affiliated with the Ski Area, then anyone can run a sewer line out there and develop one-acre lots. Mark said he doesn’t want that. Martha said the point of allowing one-acre lots was to support the Ski Area. Mark suggested considering a larger lot requirement. Al said we would have to require the affiliation for one-acre lots. Martha asked if the PC is proposing to cut the required link for five-acre lots. Al said that would seem to be the way to go. Martha said right now if it’s not affiliated with the Resort, it becomes a 40-acre district. Mark asked what the total acreage of the Resort/Conservation District is. Elvin said he heard that it’s about 200 acres. Martha said she thinks it’s between 120 and 130. Elvin said it’s hard to talk about a Resort that isn’t there. Martha said since almost everything south of Route 44 is in the Conservation district, it would be a little odd to have that area be a 5-acre district. The PC discussed the current zoning which would allow approximately three 40-acre lots with the houses situated to the west of Mile Long Field but with each lot including one-third of the field. Mark asked if the streams and wetlands impact access to the field. Elvin said the access would have to be lower down on the field. Al asked if the access would have to be through the Resort. Martha said that’s what the regulations currently say but if it became a 40-acre district, it would just have to comply with the Conservation District standards. Martha said there are many natural resources in the area, so one-acre lots are not ideal. **Al made a motion to approve the following language, “The purpose of the Resort/Conservation PUD District is to provide for the orderly growth of single-family residences affiliated with the Ascutney Mountain Resort, or a successor ski resort (“the Resort”).”** Al said if someone has a great idea that isn’t a ski resort, they can come and present it. Martha said they would have to petition for a change in the zoning regulations, but they can do that. **Elvin seconded the motion, which passed unanimously.** Martha asked about the Town Plan language that Elvin proposed earlier. Al suggested substituting “that demonstrably contribute to the viability of” for “affiliated with.” Elvin said the PC is charged with making the zoning regulations compatible with the Town Plan. Martha asked if subsequent references to the Ascutney Mountain Resort would simply say, “The Resort.” Al said yes. Martha asked if the last sentence should read, “All development that does not demonstrably contribute to the viability of the Resort shall...” Al asked if any development in the Conservation district, beyond the existing development, has to meet the 40-acre requirement. Martha said yes.

5. Adjourn – **The Planning Commission adjourned by consensus at 8:34 PM.**

Respectfully submitted,

Martha Harrison