

WEST WINDSOR PLANNING COMMISSION

Draft Minutes

April 1, 2009

Present: Hal Pyke, Glenn Seward, Barbara Truex, Joe D'Anna, Bruce Boedtke (Ex-Officio), Tom Kenyon (Ex-officio), Martha Harrison, Brian Curtis

1. Call to Order – Co-Chair Hal Pyke called the meeting to order at 6:30 PM.
2. Changes or Additions – Hal noted that, at the March 18th Planning Commission (PC) meeting, Bruce Boedtke seconded a motion. Hal explained that, because Bruce is now a Selectboard member and an ex-officio member of the Planning Commission, he can't vote. However, Hal said, the PC Rules of Procedure don't require a second, so the motion is still valid.
3. Subdivision Regulations – There was discussion about whether a boundary line adjustment is a subdivision or not. The PC agreed that boundary line adjustments are not subdivisions and, therefore, the existing wording in the first paragraph of Article 2 is fine. Bruce asked what would happen if someone wanted to subdivide land and had no intention of doing any construction. Hal said the person would still need a permit to subdivide. The PC agreed. Brian Curtis asked if a landowner could still cut his woodlot. Hal said yes. Bruce asked if a landowner could build on a pre-existing small lot. Glenn said the applicant would just need a building permit. Regarding Section 2.1(C), Barbara asked if the PC would change the zoning regulations to get rid of the term "traditional subdivision." Glenn said when the subdivision regulations are finalized, the PC will have to go through the zoning regulations and make sure the two documents are compatible. Barbara said if the subdivision regulations referred parenthetically to "traditional subdivisions" and "PUDs," then the two documents would be consistent. Martha said the zoning regulations conflict with the subdivision regulations in that they allow her to approve "traditional subdivisions," so that would have to be changed. Regarding 2.1(B), Martha asked if there is an existing subdivision with lots less than 2 acres and someone buys two adjacent lots, would they merge or not. There was discussion about Paul Dunkel's subdivision and West Windsor's regulation regarding the automatic merger of adjacent lots, less than two acres in size, that come under common ownership. Martha said she is referring to PUDs in which small lots are allowed. Hal said he thinks the lots would merge if someone bought two adjacent lots. Bruce said if the lots were already large enough, they wouldn't automatically merge. Glenn said someone who buys two lots in a subdivision could build on one and still sell or develop the other. Ultimately, the PC agreed that adjacent small lots in approved subdivisions would not automatically merge if they came under common ownership. Martha noted that the zoning regulations have a very strict definition of "affiliated." The PC talked about the need to develop a subdivision application and a checklist. Martha said she could get some sample applications from other towns. The PC made minor changes to Section 2.3-1(C). There was discussion about softening the language of Section 2.3-1(C) to convey the preliminary nature of the sketch plan hearing. The PC agreed to share drafts of alternate language via email. The PC agreed that there should be a written determination following the sketch plan hearing, but the minutes of the hearing should not serve as the written determination. Bruce said there would have to be a motion to move the project to the next phase, either preliminary or final. Martha said the Development Review Board (DRB) might want to have the option of making that decision in a deliberative session and then giving the applicant a written determination on the sketch plan. Bruce agreed. Hal questioned the need to go into a deliberative session at the sketch plan stage. Bruce said he thinks deliberative session would be the exception rather than the rule, but it should be an option. Hal and Glenn agreed. There was discussion about whether or not it is necessary to have an application requirements checklist for each phase – sketch plan, preliminary and final. Martha said the application requirements for each phase are different, so the checklists would have to be different. The PC made minor changes to

Section 2.3-2(B). In the second sentence of Section 2.3-3(A), the PC changed the word “will” to “may.” There was discussion about the need for proof that someone is “duly authorized” to represent an applicant. The PC agreed that either the written authorization of the applicant, or the sworn testimony of the authorized representative, would be acceptable. There was discussion about how waivers, as allowed under subdivision regulations, differ from modifications of the zoning regulations, as allowed with Planned Unit Development approval. Bruce noted that waivers can be granted without setting precedent. Hal agreed. There was discussion about who is authorized to sign the final plat. The PC agreed that the DRB Chair or Vice Chair, and at least one other DRB member, should sign the final plat. There was discussion about whether or not to include in the subdivision regulations the section of the zoning regulations that requires PUD approval for subdivisions of four or more lots. Martha said she thinks PUD approval should only be required when the applicant is requesting a modification to the zoning regulations, regardless of how many lots are being created. Martha added that the PC should compare the PUD requirements with the subdivision requirements to make sure the subdivision regulations contain all the necessary standards. Martha asked the PC what would happen if the subdivision regulations pass, since they contradict the zoning regulations in some respects. For example, Martha said, under the current zoning regulations, she can approve a 2 or 3-lot subdivision that meets all the requirements, but under the proposed subdivision regulations, if they pass, she will not be able to approve any subdivisions. Glenn asked if 24 V.S.A. §4449(d) would take care of that since it specifies that, once the Selectboard warns a public hearing on a proposed bylaw, the bylaw goes into effect. Martha said she thinks §4449(d) would apply, but Bruce pointed out that it wouldn’t resolve the conflict between the two documents. There was discussion about adding language to the subdivision regulations specifying that the subdivision regulations take precedence over the zoning regulations where the two documents are in conflict. Martha said she will check with VLCT or Chris Callahan for suggestions on legal language. Barbara asked why boundary line adjustments are included in the subdivision regulations since, by definition, they don’t create a new lot. The PC agreed to check with Tom Kennedy to see why he thinks boundary line adjustments should be considered subdivisions. There was discussion about whether the subdivision regulations should mirror the zoning regulations and require PUD approval for all subdivisions with four or more lots, or whether the zoning regulations should be changed once the subdivision regulations are in place. Hal noted that all the references to the Zoning Board in the Zoning Regulations have to be changed to reference the DRB. The PC questioned whether it makes sense to have the fourth lot in a serial subdivision trigger PUD review because, at that point, the infrastructure is already in place. Bruce said the idea comes from the old Act 250. Martha suggested specifying that PUD approval is required whenever zoning bylaw modifications are requested rather than when a certain number of lots are proposed. Hal and Glenn agreed. Bruce asked what would happen if the applicant is not requesting a modification to the zoning bylaws. Martha said the applicant would still have to go through subdivision, site plan and conditional use review. Martha said if the PC decides to change the PUD trigger, they should review the PUD regulations to make sure that the subdivision regulations include all necessary information including, for example, open space requirements. Barbara asked if the subdivision regulations would be subsumed in the zoning regulations once they are adopted. Martha said when the PC began developing subdivision regulations, they decided to keep them separate from the zoning regulations. Hal said the two documents could be bound together. Barbara asked if the zoning regulations would ultimately reference the subdivision regulations and vice versa. Hal said yes. Barbara said boundary line adjustments could be in the zoning bylaws only and, for actual subdivisions, the zoning bylaws could say, “Go to the other book.” Hal said because getting the zoning regulations amended and passed was a long and acrimonious process, the PC didn’t want to propose another significant amendment to the zoning regulations. Hal noted that when West Windsor passes subdivision regulations, it will become a “10-acre town” as far as Act 250 is concerned. Bruce said that benefit should be made clear when the PC has its public hearing on the

subdivision regulations. All agreed. The PC talked about the questions that need to be answered before the next draft is produced. Barbara noted that some of the definitions still need work. Martha said she got the definitions of “PUD” and “wetland” from state statute. Hal suggested that Martha send any proposed changes to the PC for comment. Regarding preliminary and final plan/plat application requirements, Bruce said the contour lines should be at five-foot intervals.

4. Other Business – Section 4.12 amendment: Bruce asked if the Planning Commission should come up with a suggestion for the Selectboard to address the apparent conflict created by the proposed amendment to Section 4.12 of the zoning bylaws. Bruce said if “Light Industry” has to be removed from the list of conditional uses allowed in the village, it should be replaced by something that makes sense. The PC talked about including a use that bridges the gap between “home business” and “light industry.” Glenn suggested limiting the square footage of businesses in the village. Martha said the maximum coverage in the village is 50% which, depending on the lot size, could allow a fairly large building. Martha offered to send a query to the ZA list serve to see if other towns already have a business category that would meet West Windsor’s needs. Glenn agreed that it would be good if the Planning Commission had some suggested wording.
5. Adjourn – **Glenn made a motion to adjourn at 8:30 PM. Joe seconded the motion, which passed unanimously.**

Respectfully submitted,

Martha Harrison