

WEST WINDSOR PLANNING COMMISSION

Draft Minutes
March 18, 2009

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

1. Call to Order – Co-Chair Hal Pyke called the meeting to order at 6:33 PM.
2. Changes or Additions – Tom Kenyon noted that he is present, in part, as a member of the press.
3. Election of Officers – **Glenn nominated Hal Pyke as Chair. Barbara seconded the nomination, which passed unanimously. Hal nominated Barbara Truex as Vice Chair. Glenn seconded the nomination, which passed unanimously.**
4. Regular meeting day and time – **Hal made a motion to continue meeting on the third Wednesday of the month at 6:30 PM. Bruce seconded the motion, which passed unanimously.**
5. Public Hearing – Hal opened the public hearing to consider, and send to the Selectboard for their adoption, an amendment to Section 4.12 of the West Windsor Zoning Regulations, which has to do with Light Industrial/Commercial development. Tom noted that there are no members of the public present, other than himself. Hal said the hearing was properly noticed. Hal read section 4.12 as it is currently written and then read the version that the Planning Commission is proposing to the Selectboard for their adoption. **Barbara made a motion that the Planning Commission approve the revised version of Section 4.12. Bruce seconded the motion.** Tom asked if the word “approved” should precede the phrase “fencing, evergreen vegetation, or other compatible screening.” Tom asked who judges the adequacy of the screening. Hal said the DRB would judge that. Hal said, in the case of the talc plant, the DRB conducted a site visit and determined that the plant is adequately screened. Tom said he was not asking about a specific property, just wondering in general who would determine if the screening is adequate. The Planning Commission agreed that the DRB would make that determination. Hal said most towns are concerned about the use of the property, not the number of employees. **The motion passed unanimously.** Tom asked if the PC is recommending that the amendment be forwarded to the Selectboard for their consideration. Hal said yes. Tom asked if there would be a motion to that effect. Hal said sending amendments to the Selectboard for their adoption is required so he doesn't think it needs to be included in the motion.
6. Subdivision Regulations – Glenn suggested that the PC focus on content and not worry about “wordsmithing” at this point. Glenn also suggested that the PC focus on articles 3, 4 and 5 tonight. The PC agreed to discuss the version of article 3 that Bruce reorganized. Glenn commented that article 2 is not user-friendly. The PC discussed Section 2.1 (E)(1) after Glenn pointed out that site plan and conditional use review are not required for minor subdivisions. Glenn suggested eliminating that particular section. Martha said it may be a flaw in the zoning regulations that subdivisions are not listed as “permitted” or “conditional.” Martha noted that almost all conditional uses require site plan review. Hal said there's nothing in the statutes that requires towns to categorize subdivisions as “major” or “minor.” Glenn pointed out that there is a distinction in the zoning regulations, so it might make sense to be consistent. Hal said the words “major” and “minor” are not used in the zoning regulations. Glenn said the zoning regulations use the words “traditional” and “PUD.” Martha said a 4-lot subdivision is a PUD. Glenn suggested using “traditional” and “PUD” in the subdivision regulations, rather than “minor” and “major.” Martha said a 3-lot subdivision might not be traditional if it doesn't have frontage. Bruce asked if the subdivision regulations would conform to the zoning regulations if the major/minor distinction were eliminated. Hal said he thinks they would. Barbara asked if the subdivision language used in the zoning regulations could be used in the subdivision regulations. Martha said

the zoning regulations allow her to approve traditional subdivisions whereas the subdivision regulations will require that all subdivisions be approved by the DRB. Martha said the zoning regulations may have to be amended to remove the sections that are not consistent with the subdivision regulations. Glenn agreed that that might be a better way to go. Glenn said he thinks the major/minor distinction is easier for the applicant, but minor subdivisions should not require site plan or conditional use review. Hal suggested referring to major subdivisions as PUDs rather than major subdivisions. Martha questioned whether major subdivisions and PUDs are the same. Bruce said they are triggered by the same number of lots. Martha said she'd like to think about it some more. There was further discussion about terms and the need for consistency between the zoning and subdivision regulations. The Planning Commission then discussed article 3. Bruce suggested varying the size of wetland buffers according to their class. Martha said she was just being consistent with the zoning regulations, which require a 50-foot buffer. Bruce said the only thing that really bothers him is requiring a 50-foot buffer around all wetlands that fall under the jurisdiction of the Army Corps of Engineers because that's all encompassing. Glenn read the section of the zoning regulations that refers to wetland buffers. Bruce said our zoning regulations are more stringent than Act 250. Hal suggested changing the zoning regulations to make them consistent with the subdivision regulations. Tom asked if an applicant can get a variance from wetland setbacks. Bruce said yes, if it's a state-regulated wetland, but the Army Corps doesn't have specific pre-set buffers. The Army Corps determines the values and uses of the wetland and then comes up with an appropriate buffer. Glenn said as soon as we finalize the subdivision regulations, we should amend the zoning regulations to ensure consistency. Tom asked how the 50 feet would be measured. Quoting the regulations, Glenn said "from the high water mark or the delineated wetland boundary." There was further discussion about the wording of the wetland section of article 3 and the deficiencies of existing wetland maps. Bruce said he doesn't think the town should impose more regulation than the state and federal governments already impose. The PC agreed to require a buffer of unspecified size, as required by the state and/or the Army Corps. The PC agreed to require a 50-foot buffer for streams on the USGS map and a lesser setback for other streams. Martha said she spoke with April Harkness about the critical wildlife habitat section of article 3 and April emailed her a wildlife habitat suitability map for West Windsor for the PC to consider. The PC agreed that they would like to reference the map in the subdivision regulations. The PC liked the proposed wording of the sections on floodplains, agriculture, trees, ridgelines, and threatened or endangered species. The PC agreed not to include scenic views and vistas in the subdivision regulations until the Conservation Commission has identified them. The PC altered the section on Runoff and Erosion to include "sensitive locations" in addition to slopes over 20% grade. The PC agreed to reference the zoning regulations in the section on lighting. There was discussion about the water supply section and the PC agreed that water supply should meet the long-term needs of the subdivision. Bruce said he doesn't see too many communal water supply systems but, where they do exist, they are regulated by the state. The PC softened the language in the Energy Conservation section to encourage, rather than require, subdivisions to take advantage of southern exposures. Barbara asked if there is language that would allow the DRB to require that projects be completed within a certain time frame. Bruce said there's no specific language but the DRB can impose that type of condition. At Barbara's suggestion, the PC broadened the language under Section 3.4(3) so that proposed subdivisions will not place an undue burden on the school system. Bruce said Section 3.4 implies that, once the applicant has a letter from the Highway Foreman, for example, he has satisfied the requirement. The PC altered the language of Section 3.4 to remove the impression that no other information is required. In considering Article 4, the DRB agreed that the Administrative Officer will notify abutters and will not rely on the applicant to do so. Tom asked about the definition of abutter. Bruce said abutters include those living on the opposite side of the road. Bruce said if the abutter is a relative of the applicant, does the AO notify the abutter on the other side of the applicant's relative. Martha said she tries to err on the side of inclusion. There were no other significant changes to

Article 4, which is primarily recitation of statute. Barbara said she thought the PC had agreed to warn the initial sketch plan hearing and then just continue the hearings through the final review to avoid having to warn each phase of the review process. Martha said that's not how Article 2 is written now. Hal and Glenn agreed that they had discussed it and they think it's a good idea. There was brief discussion about performance bonds and whether they should be required for every subdivision. Bruce said bonds are usually required when the town is extending infrastructure. The PC agreed that bonds should not be required for every subdivision. Regarding Article 5, Tom asked who has the final say on interpreting definitions. Martha said the introductory paragraph says, "The DRB shall clarify doubt as to the precise meaning of any word used in these regulations." There was discussion about the definition of the word driveway. The PC agreed that driveways may only serve one or two lots; if it serves more than two lots, it's not a driveway. Tom said he thinks the DRB and the Selectboard should consider the potential future development of the parcel when considering access applications. Bruce said he thinks the DRB should just ask the applicant about his or her intentions for future development. Barbara said she thinks it would be onerous to require applicants to meet higher access standards just because their property has the potential for future development. Bruce said he thinks the DRB and the Selectboard can recommend that the access be built to accommodate possible future development, but he doesn't think they can require it. Regarding final plats, the PC agreed that they have to be prepared by a licensed professional engineer or surveyor. The PC agreed that the definition of development in the subdivision regulations should be the same as the definition in the zoning regulations. There was an unresolved discussion about the definition of "contiguous" relative to lots divided by a road or stream. Tom asked how the AO and/or the DRB are going to deal with the problem of disputed lot lines. Bruce said the final plat has to be done by a surveyor so there would be a professional basis for establishing lot lines. Tom asked if the DRB could issue a variance in situations where there is a disputed lot line. Hal said yes. There was discussion about the definition of "municipal land use permit." No one liked the idea of "final official minutes" serving as a permit. The PC discussed and slightly modified the definition of "planned unit development." Bruce said he will provide a better definition of plat. The PC modified the definition of "resubdivision" to indicate that the change has to be approved by the DRB. There was discussion about whether setbacks should be measured along the ground or horizontally. Bruce said the distances on a plat are all horizontal. There was discussion about the word "street" relative to the word "driveway" and the number of residences each can serve. Martha said, for 911 purposes, once a road serves three or more residences, it has to have a name. Regarding the definition of "wetland," Bruce urged the PC to include both the state and federal definitions.

7. Minutes: December 10, 2008 – **Barbara made a motion to approve the minutes of December 10, 2008 as written. Glenn seconded the motion, which passed unanimously.** December 17, 2008 - **Barbara made a motion to approve the minutes of December 17, 2008 as written. Glenn seconded the motion, which passed unanimously.** February 25, 2009 – **Barbara moved to accept the minutes of February 25, 2009, as written. Glenn seconded the motion, which passed unanimously.**
8. Other Business – Next meeting: The PC agreed to meet on April 1, 2009 at 6:30 PM to discuss Article 2 of the subdivision regulations. Need for another PC member: Hal noted the need for another PC member now that Bruce Boedtke is on the Selectboard and is an ex-officio, non-voting member of the PC. Martha suggested advertising the opening. The PC agreed.
9. Adjourn – The Planning Commission adjourned by consensus at 9:10 PM.

Respectfully submitted,

Martha Harrison