

# **December 2, 2008**

## **Regular Meeting**

7:30 p.m. Land Use Meeting Room

**MEMBERS PRESENT:** Mr. Frank, Ms. Gager, Mrs. Jahnke, Mr. Rimsky, Mrs. Roberts

**ALTERNATES PRESENT:** Mrs. Braverman, Mr. Carey, Mr. Fowlkes

**STAFF PRESENT:** Mrs. Hill

**ALSO PRESENT:** Mr. Clark, Mr. Carusillo, Mr. Neff, Residents

## **REGULAR MEETING:**

Mrs. Roberts called the Meeting to order at 7:30 p.m. and seated Members Frank, Gager, Jahnke, Rimsky, and Roberts.

## **Consideration of the Minutes**

The 11/5/08 Regular Meeting minutes were accepted as corrected.

Page 1: Under Also Present: Change "open" to "Oakwood."

Page 2: Under Reger: Line #1: Change: "open" to "Oakwood." Change: "Polly" to "Holly."

Page 3 and throughout: 2nd motion: Change: "USVS" to "USGS."

Page 8: 3rd full paragraph: Last line: Change: "10000" to "1000."

Page 9: 2nd full paragraph: 3rd line: Change: "selectmen" to "First Selectman."

Page 12: last paragraph: end of 3rd line: Should be: "...but the last Plan of Conservation and Development didn't mention it...."

**MOTION:** To accept the 11/5/08 Regular Meeting minutes as corrected. By Ms. Gager, seconded by Mr. Rimsky, and passed 5-0.

**MOTION:** To accept the 10/28/08 Reger site inspection minutes as presented. By Ms. Gager, seconded by Mrs. Jahnke, and passed 5-0.

**MOTION:** To accept the 11/20/08 BEC Holdings, LLC. site inspection minutes as written. By Mrs. Roberts, seconded by Mr. Rimsky, passed 5-0.

**MOTION:** To add subsequent business not already posted on the agenda: Other Business: F. Draft Regional Plan of Conservation and Development. By Ms. Gager, seconded Mr. Frank, and passed 5-0.

## **Pending Applications**

Reger/65 Gunn Hill Road/2 Lot Resubdivision:

Mr. Clark, engineer, advised the Commission that the property owner had changed her plans and would provide open space instead of a fee in lieu of as originally proposed. The map, "Site Development Plan," by Oakwood Environmental Assoc., revised to 11/4/08 was reviewed. Mr. Carey noted that the Conservation Commission had indicated it would like to preserve the portion of the property at the top of the hill. Mr. Clark asked the Commission's opinion about the appropriateness of various possible locations for the required open space, including 1) at the NE corner and along the scenic road, 2) a 60,000 sq. ft. area in the center of the proposed lot to ensure the preservation of the trees on the steepest slopes, and 3) land along boundary lines to provide buffers from neighboring properties. He said the

applicant did not want to include the hilltop as open space because that is the best building site. Several problems with the suggested open space areas were noted, including that wetlands did not necessarily need to be located in open space because it is already protected and access to the interior open space for monitoring purposes could be an issue. Mrs. Hill recommended that the applicant discuss both the open space location and configuration and the proposed conservation easement language with the Conservation Commission at its next meeting. Mr. Clark noted that once open space has been set aside here, the property will no longer be resubdividable. Mrs. Roberts noted that runoff had been discussed at the last meeting. She said that a lot of water was observed on the site inspection and suggested there might be a better location for the proposed dwelling. Mr. Clark noted that the proposed catch basin did not empty toward the road. Mr. Smith's 10/31/08 memo from the Highway Dept. regarding the feasibility of the driveway cut was read. A Public Hearing was scheduled for Tuesday, January 6, 2009 at 7:30 p.m. in the Land Use Meeting Room. It was noted that Mrs. Hill had notified both adjoining councils of government about the application.

**BEC Holdings, LLC./204 Wykeham Road/2 Lot Subdivision:**

The map, "Site Development Plan," by Mr. Neff, revised to 11/21/08 was reviewed. It was noted that the Conservation Commission had recommended a change in the open space configuration, but Mr. Carusillo said he wanted to keep his original proposal. Ms. Gager asked for the percentage of wetlands in the proposed open space. Mr. Neff responded that it was 10%. Mr. Carusillo noted that without including the wetlands, the area of open space was greater than the 4 acres required. Mrs. Roberts read the 11/26/08 letter from the First Selectman concerning improvements and maintenance of Clark Road. Mr. Carey expressed his concern about the use of Clark Road as a driveway by future additional owners of interior lots. Mrs. Hill said she had discussed this matter with Mr. Lyon. She explained that the Zoning Regulations are clear; only two interior lots may be served by a driveway and so if a third was proposed, the road would have to be improved by the Town. Ms. Gager thought the Town should specify that it would not be responsible for plowing the driveway. Ms. Gager recommended that a Public Hearing to consider the application be scheduled and Mrs. Roberts agreed. Mr. Carusillo objected, saying he wanted approval this year so that the adjoining property owner could purchase the lot before the end of the year. Ms. Gager noted the Commission has consistently held public hearings to consider subdivision applications, adding that in this particular case because the Commission had not dealt with this kind of road improvement/ maintenance issue in the past she thought a hearing was warranted. She thought that making an exception for this application would not be in the best interests of the Town and pointed out that delays with the review of the application due to its incompleteness had been caused by the applicant, not the Commission. Town policy regarding abandoned and discontinued roads was briefly discussed. A Special Meeting to conduct a Public Hearing was scheduled for Thursday, December 18, 2008 at 7:30 p.m. Mrs. Hill recommended that Mr. Carusillo attend the next Conservation Commission meeting to get approval of the proposed conservation easement language so that his application would be complete on 12/18. Mr. Frank noted the Commission still had to consider the waiver requests submitted.

## **Other Business**

**Conservation Easement Language Template:**

There is no final language approved by the Conservation Commission yet, but in the meantime, Mrs. Hill said she had been advising applicants to use the draft language.

**Revision of the Regulations:**

This is still in progress. It was noted that Mrs. Corrigan would submit language about archeological sites that she hoped would be included. Mrs. Hill noted the large number of waivers that had recently been granted and suggested that the Commission determine whether this was an indication that further revisions should be considered.

#### Incomplete Applications:

Due to the large number of incomplete applications received over the past few years, the Commission discussed this problem at length. The following policies will be implemented. The Regulations will be revised to a) more strongly encourage preliminary discussions and b) to require that applications be submitted 15 days prior to the next regularly scheduled meeting. This will give staff enough time to review the application for completeness and to notify the applicant what must be done to complete the application before it is received by the Commission. Applicants will be strongly urged not to submit incomplete applications. If an applicant insists, however, he will be advised that the Commission will deny the application at the next meeting and the application fee will be forfeited. Once an application has been submitted, if during the review process revisions to the plan are made less than 5 days prior to the upcoming meeting, the applicant shall be advised that those changes will not be discussed until following month's meeting. By implementing these measures, the Commission hopes that applicants and the professionals who represent them will begin to take seriously their responsibility to submit complete applications.

#### Reger/65 Gunn Hill Road and BEC Holdings, LLC./204 Wykeham Road:

Mr. Carey noted two issues with these pending applications. 1) Reger: He noted the Conservation Commission recommended the top of the hill be preserved as open space, but that the applicant did not want to locate it here because that was the best house site. The plan submitted, however, shows the house site at the bottom of the hill. 2) BEC Holdings: When he was asked if the lots had the potential to be resubdivided, Mr. Carusillo had said, probably not. However, according to the information on the Site Analysis Plan, both lots could be resubdivided.

#### FOI Report:

Mrs. Roberts read her report on the Town's October FOI meeting. Of particular concern to the Planning Commission, subcommittee meetings of only two commissioners must be noticed and minutes submitted. It was noted how difficult this would have been to accomplish during the Depot Study process. Also, the Commission must cite specific items when it adds subsequent business to the agenda.

#### Approval of 2009 Calendar:

MOTION: To approve the 2009 Calendar as presented. By Ms. Gager, seconded by Mr. Rimsky, and passed 5-0.

#### Talbot/44 Bell Hill Road/Request to Revise Condition of Approval:

This matter had been discussed several times at previous meetings. Several years ago the Commission had meant to place a specific condition on only the new subdivision lot, but had incorrectly made the condition apply to both the existing and new lot. This had been brought to the Commission's attention last summer and Mrs. Hill had confirmed it was so. Mrs. Hill had then consulted with Atty. Miles who advised the Commission that it did not have to conduct a Public Hearing to correct the condition of approval; the correction could be made at a Regular Meeting, but that the Commission chairman should sign the letter informing Mr. Talbot of the corrective motion passed, and that the letter should then be filed on the Town Land Records. A motion using language provided by Atty. Miles to make the correction was unanimously approved. (Note: Upon discussion with Atty. Miles the day after the meeting, however, it was brought to the Commission's attention that the amendment made, although correct, did not completely address the request made by Mr. Talbot. Therefore, the motion made was not filed with the Town Clerk within 48 hours as required by state statute and is invalid. The matter will be discussed again at the next meeting, when, hopefully, Mr. Talbot will be present to fully discuss his request with the Commission.)

#### Northwestern Ct. Council of Governments Draft Plan of Conservation and Development:

Copies of the draft had been circulated at the last meeting. Mrs. Roberts noted that she and Ms. Gager

would attend the Public Hearing to consider the document on 12/4/08. She said she thought some aspects of this Plan such as the sections on railroads, community septic systems, and floodplains, may not be in the best interests of Washington. Mr. Rimsky said he would like to see provisions added to encourage the use of open space for agricultural businesses. He noted the importance of farmland preservation and said he would not want to lose this opportunity to preserve it. Mrs. Roberts agreed this was an important issue, particularly for small towns. Mr. Rimsky thought that community gardens in open space lands should also be considered and that agricultural business opportunities might help keep young people in the area.

MOTION: To adjourn the Meeting. By Mr. Rimsky. Mrs. Roberts adjourned the meeting at 9:23 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Coordinator