

November 19, 2002

MEMBERS PRESENT: Mrs. Averill, Mr. Bender, Mr. Charles

ALTERNATES PRESENT: Mr. Rimsky, Mrs. Roberts, Mr. Sabin

STAFF PRESENT: Mr. Chalder, Mrs. Hill, Mr. Wood

ALSO PRESENT: Mrs. Friedman, Mr. Boling, Mr. Field, Atty. Cornell, Mrs. Payne, Press

Mr. Bender called the Special Meeting to order at 4:11 p.m. and seated Members Averill, Bender, and Charles and Alternates Roberts and Sabin for Mr. Buck and Mr. Byerly.

Birch Hill Run Subdivision/Declaration of Expiration

Mr. Bender referred to the 11/19/02 letter from Atty. Cornell, which requested a resolution by the Commission to confirm the validity of the Birch Hill Run subdivision lots served by the Phase I road and to declare that the remaining lots have expired. He said the state statutes require notification on the Land Records of the expiration of a subdivision, noting that although the lots fronting on Phases 2, 3, and 4 of the road had expired some time ago, the Commission had not formally acted to place a notice on the Land Records. Atty. Cornell stated approximately 100 acres would revert to raw land. Mr. Sabin asked if the subdivision conservation easements should be referred to in the motion. It was generally thought such an easement had been placed on some of the Phase I land. The Commissioners took time to review both Atty. Cornell's letter and the draft motion attached. The old subdivision map dated 12/91 was briefly reviewed.

MOTION: Resolved with respect to the Birch Hill Run Subdivision:

1. That work required for completion of Phase I of the subdivision, as set forth in the Road Construction Agreement, to the satisfaction of the Town within the statutory time period, the following lots served by the Phase I work are hereby declared to be approved building lots: 1, 2, 3, 4, 5, 6, 7, 19, and 20.
2. The work required for the completion of Phases II, III, and IV not having been completed within the statutory time period, no bond having been posted for such work and no lots having been sold which are served by any of the improvements required for such phases, subdivision approval granted by the Commission for such lots has expired, and no such lots or portion of such lots, may be sold until a new plan of subdivision is approved by the Commission. Specifically, such lots are 8 - 18, 21, 22, and 23.
3. The chairman of the Commission is authorized to execute and file in the Washington Town Clerk's Office a Notice of Expiration as set forth in paragraph 2 of this Resolution. The Chairman of this Commission is further authorized to state the expiration of the subdivision approval on the subdivision plan filed in the Office of the Town Clerk as Map nos. 1173, 1173A, 1173B, and 1173C.

By Mr. Bender, seconded by Mr. Sabin, and passed 5-0.

Mr. Bender noted he would sign the appropriate form of notice after Atty. Cornell and Atty. Miles prepared it.

Plan of Development

The discussion on development issues continued. Mr. Chalder introduced Mr. Wood, who will be

working with him on the update of the Plan.

Mr. Bender asked if it would be feasible to amend the Subdivision Regulations so the Planning Commission would have the right to require a developer to sell or provide acreage to the Town for affordable housing. Mr. Chalder referred to the state statutes and noted that although no other town in Connecticut does this, Washington could establish open space/affordable housing set asides and/or fee in lieu of requirements. Mr. Wood recommended the Commission get legal advice on this matter. Mr. Bender asked if it was true that state statutes limit the fee in lieu of open space to 10% of the pre development appraisal of the value of the land. It was. He asked if that limited the Commission's right to require 15% open space and if the Commission could require both 15% open space and a set aside for affordable housing, a fee in lieu of, or a combination of both. It was noted the state's 10% limit on the fee in lieu of had no relationship to the amount of open space the Commission could require. Mr. Wood noted Woodbury had adopted a 20% open space requirement and thought that was as high as it could be without a legal challenge. He noted the open space "exaction clause" must be tailored to meet the needs of the community and should be keyed into the Plan of Development to establish a stronger position should the Town have to defend it in court. Mr. Chalder said Simsbury had prevailed in court for a 20% set aside, but noted Mr. Bender's question about whether the Commission could require a combination of open space and fees was an interesting one. Mrs. Roberts thought the Plan should recommend the Subdivision Regulations increase the percentage of open space required to 20%. Mr. Bender noted, however, that based on the soil types comprising the open space, the amount actually required can easily exceed 15%. Mr. Chalder clarified the Commission might be able to require that some of the open space set aside be used for affordable housing, but it could not require an additional 20% for affordable housing. He thought perhaps the Commission could provide an incentive to a developer for donating land for affordable housing by granting a density bonus. Mr. Bender did not think this would be possible under soil based zoning. Later in the meeting it was noted Washington residents have faith in soil based zoning and the Commission decided to delete any references to density bonuses. Mr. Rimsky thought that since the state mandates the Towns provide 10% affordable housing, the Commission should be able to require the same percentage from developers. Mr. Chalder thought the Commission could make this a requirement, but warned the regulation would have to be clear so a developer would know up front what was required. Mr. Bender suggested the Plan recommend the Zoning Commission revise its Regulations to permit PUD's (planned unit developments.) Mr. Rimsky noted people now donate open space because it increases the value of their adjoining property, but because they don't want houses next to them, it might be difficult to get donations for affordable housing. He thought some kind of incentives would have to be considered. He also noted the Town must formulate a mechanism to manage open space donations. Mr. Chalder asked if the Commission favored scattered sites, clusters, or concentration of affordable housing in the village centers. While it was felt in general there was a negative reaction to clusters of affordable housing, the Commissioners thought all three development patterns could be appropriate. Mr. Bender noted the Commission must have the option of refusing affordable housing on a parcel if it is not appropriate. Mr. Rimsky thought in these cases a fee in lieu of should be paid. Mr. Chalder noted the Commission could only suggest, it could not impose a fee in lieu of. Mrs. Roberts questioned how development could be concentrated in the village centers under soil based zoning. Mr. Chalder said this would be discussed again under Infrastructure, noting that it was a problem that would have to be addressed. Mr. Bender noted the Commission had received a letter from Mr. Boling regarding transfer of development rights, but said he was not convinced this would work in the residential districts. Mr. Chalder suggested one possible solution would be a new village residential zone. Mr. Charles asked how the proper density would be determined for a village center. Mr. Chalder responded that these centers are existing and the Commission could find ways to use the existing areas more efficiently or to extend them into the surrounding areas. Mr. Charles pointed out this might involve an increase in coverage from 25% to 50% in the commercial districts. Mr. Chalder asked the Commissioners to consider the appropriateness of larger house sizes on the smaller village lots. It was noted soil type and proximity to the rivers must be considered. Mr. Charles asked if community septic systems should be

considered for village centers. Mr. Chalder said all kinds of sewage treatment devices would be discussed later in the update process. Mrs. Roberts feared the residents would resist any radical changes to the village centers because the Town does not like change. Mr. Bender noted the Plan is a guiding document that would make recommendations and that it would be up to the inhabitants to implement changes. Mr. Charles asked whether convalescent homes, congregate care facilities, assisted living facilities, and other uses appropriate for village centers would be discussed. Mr. Chalder said the Plan could make the statement that if these uses are to be provided, they should be located in the village centers, a maximum units per acre should be established, and they should be compatible with the neighborhood in which they are located. It was also noted the architectural scale should fit in with the character of the village. It was noted the Zoning Commission approved the senior housing units because they were affordable units as required per Section 13.15 of the Zoning Regulations. On pages 18 and 19 of the discussion booklet, Mr. Bender pointed out that the illustrations were not appropriate because they showed the open space used to protect wetlands, which would not be the case in Washington as the Inland Wetlands Commission already aggressively protects the wetlands. Mr. Sabin noted that in some cases inclusion of wetlands in open space might be warranted, for example, greenways along waterway corridors. He recommended the Commission keep its options open. Mr. Rimsky noted the Commission would support a more creative approach to development and especially a non sprawl development pattern. Mr. Bender noted, too, on page 19 all the houses were shown at the same setback distance from the road, but the Commission favors staggered structures. Setback requirements and their impact on the village streetscape were discussed. Zoning for water quality protection was discussed. Mr. Chalder suggested the Lake Waramaug Residential district could be extended up to the ridgelines to include the entire watershed area. Mrs. Payne advised Mr. Chalder to consult with the Lake Waramaug Task Force because it had already begun work on a long range strategy to protect a 14 square mile area around the lake. She also noted the towns of Kent, Warren, and Washington would have to work together on this project. Mr. Chalder stated regulations could be revised and/or toughened to protect the water quality of the lake once the district was extended. Mr. Charles questioned why the Commission was not considering watershed protection throughout the Town. Mr. Chalder answered that in the Lake Waramaug watershed added protection was warranted because lakes were more susceptible to long term water quality impacts. Mr. Chalder stated the concept of using zoning to enhance the village areas would tie in with later discussions on possible expansions to or changes in the New Preston and Green districts. Mr. Bender thought special provisions might be made for any development or redevelopment in the village areas where soil based zoning might not be flexible enough. The Green was cited as an example. Mrs. Hill noted the Zoning Commission is currently working on this. Mr. Chalder discussed the possibility of relating setback requirements to the size of the lot, size of the structure, and slope of the land. This would provide Zoning with more control over the relative proportions of a streetscape by keeping overly larger houses further from the road. It was the consensus the Planning Commission would support such regulations.

The next Special Meeting to work on the Plan of Conservation and Development will be held on Tuesday, December 17 from 4:00 to 6:00 p.m. in the Land Use Meeting Room. Village and business development will be considered.

MOTION: To adjourn the meeting. By Mrs. Averill.

Mr. Bender adjourned the meeting at 5:58 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Janet M. Hill, Land Use Coordinator