

## • June 1, 2004

MEMBERS PRESENT: Mr. Bender, Mr. Charles, Mr. Rimsky, Mrs. Roberts

MEMBERS ABSENT: Mr. Buck, Mr. Byerly

ALTERNATE PRESENT: Mr. Frank

ALTERNATES ABSENT: Mr. Buck, Mr. Fairbairn

STAFF PRESENT: Mrs. Hill, Mr. Sears

ALSO PRESENT: Mr. Beck, Mr. and Mrs. Conto, Atty. Kelly, Mr. Gitterman, Mr. and Mrs. Smith, Mr. Markert, Mr. Alex, Ms. Canning, Press

### PUBLIC HEARING

#### **Beck/129 Calhoun Street/2 Lot Resubdivision**

Mr. Bender called the public hearing to order at 7:35 p.m. and seated Members Bender, Charles, Rimsky, and Roberts, and Alternate Frank. He read the legal notice published in **Voices** on May 19 and May 26, 2004. He then read the list of documents in the file. Mrs. Hill noted the 6/1/04 review by the Land Use Coordinator should be added to that list. Mr. Bender read her 6/1/04 review for the record.

There were no questions or comments from the Commissioners.

Atty. Kelly represented the Smiths and Mr. Greenfield, adjoining property owners. The map, "Site Development Plan," by Mr. Neff, dated 4/5/04 was reviewed. Atty. Kelly stated Mr. Beck had said at a previous public hearing for a subdivision of the same property, that he would not resubdivide and noted a deed restriction had been filed on the Land Records that no structures could be erected on the part of the property at 129 Calhoun Street labeled "hay field" on a previous map. He submitted the 11/5/97 public hearing minutes, a copy of the Smith's deed with the restriction, and a copy of Map #1375 filed on the Land Records showing the location of the hay field. He noted the hay field covers almost all of proposed Lot #3 and said the current site development plan was insufficient because it did not show the location of the field. He noted Section 11.3 of the Zoning Regulations requires a minimum lot size of three acres for interior lots, and said per the definition of "lot," proposed Lot #3 did not meet the minimum lot size requirement because due to the deed restriction, it did not have three acres which were "capable" of being occupied by structures. He also referred to Section 11.2 and said he thought possibly a deed restriction was the same as a conservation easement and so the deed restricted area should not be included in the calculations to determine the allowable residential density. He stated there was a utility easement for the Smiths on the driveway right of way and so argued this area should also be excluded from the density calculations. Finally, he pointed out there were potentially four lots that could use the driveway right of way for access when only two interior lots and a third if it has frontage are permitted. Mr. Charles pointed out that two of the lots front on Calhoun Street and are accessed from that road.

Mr. Bender asked Atty. Kelly to put his position in writing and to give copies to the Commission and to Mr. Beck so that Mr. Beck would have an opportunity to respond and the Commission could get a legal opinion. Atty. Kelly agreed to do so.

Mr. Beck stated he had no intention of building in the hay field. He said he would have Mr. Neff amend the map to show specifically which lots would be entitled to use the driveway right of way for access. He noted the two frontage lots have hundreds of feet of frontage and so do not need to use the driveway right of way. He said he had reviewed the setback requirements and had enough room to construct a house outside the hay field. He said he had offered the proposed lot to the adjoining property owners, and had the right to develop it if they were not interested in buying it.

Mr. Charles noted at a previous meeting Mrs. Beck had stated there would be no conservation easement placed on the hay field as that would restrict any future owners. Mr. Beck stated the Smiths have a deed restriction, but Mr. Greenfield does not.

Mr. Smith stated the deed restriction had been placed on the hay field as an inducement for him to purchase his lot, which he thought in effect, meant he had already paid to protect it.

Ms. Canning, 119 Calhoun Street, spoke of the historic character of the district and of the importance in preserving the continuity of the Calhoun Street homestead area. Mr. Bender noted plans for any structures on Lot #3 would be under the jurisdiction of the Historic District Commission. Mr. Beck stated that Commission had jurisdiction only if the structure would be visible from a public way. Mr. Bender responded that would be up to the Historic District Commission to determine.

Mr. Bender said a continuation of the hearing was warranted so the Commission could obtain legal opinions regarding the questions raised by Atty. Kelly.

MOTION: To continue the public hearing to consider the application submitted by Mr. and Mrs. Beck for a 2 lot resubdivision at 129 Calhoun Street to 7:30 p.m. on July 6, 2004 in the Land Use Meeting Room, Bryan Memorial Town Hall. By Mr. Charles, seconded by Mr. Rimsky, and passed 5-0.

At 8:11 p.m. Mr. Bender continued the hearing to July 6th.

This public hearing was recorded on tape, which is on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot.

## REGULAR MEETING

Mr. Bender called the meeting to order at 8:12 p.m. and seated Members Bender, Charles, Rimsky, and Roberts and Alternate Frank.

### Consideration of the Minutes

MOTION: To accept the 5/4/04 Regular Meeting minutes as presented. By Mr. Charles, seconded by Mr. Rimsky, and passed 5-0.

MOTION: To accept the 5/20/04 Special Meeting minutes as presented. By Mr. Frank, seconded by Mr. Charles, and passed 5-0.

MOTION: To include subsequent business not already posted on the agenda. By Mrs. Roberts, seconded by Mr. Charles, and passed 5-0.

### Pending Applications

#### **Taylor/38 New Preston Hill Road/2 Lot Resubdivision**

Mr. Bender read the 6/1/04 memo from the Land Use Coordinator and noted the 6/1/04 request from the applicant for an extension of the time in which the Commission must act on the application. Discussion was tabled to the July meeting.

#### **Beck/129 Calhoun Street/2 Lot Resubdivision**

It was noted the public hearing had been continued and the Commission's attorney would review Atty.

Kelly's letter when it is received. Mr. Bender noted an interpretation of the Zoning Regulations would have to be made.

## New Application

### **Designation of Shinar Mountain Road as a Scenic Road**

Mrs. Roberts recused herself because she lives on Shinar Mountain Road.

Mr. Bender asked Mr. Gitterman to clarify in his letter of application that scenic road designation was being applied for the entire length of the road.

A site inspection was scheduled for Saturday, June 5, 2004 at 11:00 a.m. Members were asked to meet at the intersection of Shinar Mountain and Fenn Hill Roads.

The public hearing was scheduled for Tuesday, August 3, 2004 at 7:30 p.m.

## Other Business

### **Referral from the Board of Selectmen/4 Green Hill Road/ Acquisition of Property with Sidewalk**

Mr. Bender read the 6/1/04 memo from the Land Use Coordinator, which pointed out variances for lot size and lot coverage, approval by the Health Department, approval by the DOT, and possibly a zoning permit for a lot line revision would be required before any transfer of property could take place.

Mr. Sears, First Selectman, stated the property owners would like the Town to acquire the section of the property with the sidewalk, which needs repair. He thought it would make sense for the Town to own this area as it is directly across from the parks and the crosswalk and is a frequently used public convenience. He thought it would be good planning for the Town to retain this public access and said there was also an opportunity for a long term lease.

The Commissioners asked whether the Town was concerned about liability and if it should accept "damaged goods." Mr. Sears said the Town would install and maintain a new sidewalk.

Mr. Bender reviewed Section 8-24 of the state statutes and explained the Commission was being asked whether it has any objections to the transfer. He read the 5/11/04 letter from the First Selectman.

Mr. Charles said he trusted the Board of Selectmen would deal with the necessary procedural issues. It was the consensus of the Commissioners that the Planning Commission has no objection to the transfer of this property to the Town. A letter will be sent to the First Selectman.

**Revision of the Subdivision Regulations:** This matter will be discussed when Mr. Fairbairn is present.

**Depot Business District Study:** Mr. Bender noted the Commission had conducted two special meetings with consultants to discuss ideas on how to organize the study. He asked the Commissioners for their ideas on how to proceed.

- Mrs. Roberts favored the two step approach outlined by Mr. Westa. She thought after a preliminary study was completed the Commission would know exactly what issues should be included in the RFP. She had been impressed with what Uconn had accomplished for Morris for a small charge and thought the preliminary study could be used for community outreach. She favored seeking public input early in the process.

- Mr. Frank wanted input regarding what the community thinks are the problems/issues that should be addressed in the Depot prior to drafting the RFP.
- Mr. Charles supported a process where three or four meetings would be conducted with the public to give the Commission a clearer understanding of the community vision for the Depot. The meetings could also be used as an educational tool. He thought this would help the Commission to provide a list specifically describing a broad range of issues and to get more precise proposals and prices from bidders. He favored Mr. Plattus' suggestion that Planimetrics be asked to help draft the RFP using the Depot pages in the POCD and additional public input.
- Mr. Rimsky feared public input at the beginning of the process would reflect special interests and would detract the Commission from what it already knew to be the core issues. He thought it was critical to get the process started, thought the public debate should be controlled, and said the Commission would have to study all the overarching issues such as economic pressure, demographics, water, septic, sidewalks, parking, traffic, and the best use of the Town Garage property even if the public doesn't agree with this list.
- Mr. Bender thought there had already been public input for the POCD and so further input was not necessary in order to draft the RFP. He agreed Planimetrics should be asked to write the first draft. He also thought the RFP should include only vital issues to keep down the cost of the study.

The RFP was discussed. Mr. Charles worried the list of issues included in the POCD was not comprehensive. He recommended the Commission meet with both Planimetrics and with the public to supplement the Plan's list. Mr. Sears urged the Commission to ask for a description of the study process and desired goals and for a specific implementation plan to accomplish the recommendations resulting from the study. Mr. Charles noted Mr. Plattus had recommended either an architectural firm or a firm with strong engineering ties for drafting specific implementation strategies. It was the consensus of the Commission that it should hire Planimetrics to write a simple RFP as a supplement to its work on the Plan. Mr. Charles again urged several meetings with the public be held so the issues listed in the RFP would be more complete. He asked who would advise the Commission on how to refine the draft RFP as he thought the Commission did not have the experience to do so.

Mr. Rimsky noted the firm hired must be able to visualize the concepts to be presented to the public. This would be necessary, he thought, to help educate the community as well as to gain its support for the funding required to do an adequate study.

#### Privilege of the Floor

Mr. Sears advised the Commission that significant conversations about the Town values raised in the POCD had begun and would continue in the upcoming months. The issues to be discussed by the community included open space, housing diversity, village centers, municipal land, recreation, and capital expenditures for the schools. He noted a subcommittee of the Conservation Commission was studying open space, a Housing Diversity Committee had been established to discuss that issue, and there would be future discussions concerning the Depot. He hoped the Commission would have the first phase of the Depot study ready to be discussed at a public forum in the fall.

Atty. Kelly said he was looking for advice from the Commission regarding the Conto property at 17 River Road. He noted Dr. Conto has had his office in his dwelling for forty years, but that because it is located in the R-1 District, it is a pre existing non conforming use. The Contos are considering selling their property and realize it would have greater value if business uses were permitted there. As the POCD recommended the Depot Business District be expanded to include this property, Atty. Kelly asked 1) Did

the Commission have a sense for how long it would take to implement this recommendation? and 2) Was there an inherent unwillingness to consider a petition to change the boundary of the Depot Business District before the Depot study is completed and the recommendation implemented? Mr. Bender noted the Planning Commission had made its recommendation for expansion of the District and had forwarded that recommendation to the Zoning Commission. Atty. Kelly said he understood the procedure and knew that if the Contos petitioned the Zoning Commission for a zone change, the matter would be referred to the Planning Commission. He said he wanted to make sure Planning would have no problem with it. Mr. Bender thought the Planning Commission would be sympathetic to such a petition. Mrs. Hill noted the Zoning Commission had decided not to consider the Plan's recommendations concerning the Depot Business District until the study had been completed.

MOTION: To adjourn the meeting. By Mr. Charles.

Mr. Bender adjourned the meeting at 9:30 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,  
Janet M. Hill  
Land Use Coordinator