

May 7, 2002

Planning and Zoning Commissions
MINUTES
Special Joint Meeting
7:30 p.m. Land Use Meeting Room

Planning Members Present: Mrs. Averill, Mr. Bender, Mr. Buck, Mr. Byerly, Mr. Charles

Planning Alternates Present: Mr. Rimsky, Mrs. Roberts, Mr. Sabin

Zoning Members Present: Mrs. Friedman, Mr. Martin, Mr. Owen

Zoning Alternates Present: Mr. Abella, Mr. Fitzherbert

Zoning Members Absent: Ms. Page, Mr. Potter

Zoning Alternate Absent: Mr. Shapiro

Staff Present: Mrs. Hill

Also Present: Mr. and Mrs. Graham, Atty. Andrews, Mr. Ullram, Mr. Boyer, Mr. Talbot

The meeting was called to order at 7:32 p.m. Mr. Bender seated Planning Commission Members Averill, Bender, Buck, Byerly, and Charles and Mr. Martin seated Zoning Commission Members Friedman, Martin, and Owen and Alternates Abella and Fitzherbert.

Mr. Martin noted the Planning Commission had begun its work to update the Plan of Conservation and Development, which could impact Zoning and the Zoning Commission had been looking at the possibility of revisions to the Zoning Regulations, which, in turn, could impact Planning. Therefore, the two commission chairman had decided it would be in the best interests of both commissions to hold a joint meeting to discuss matters of mutual interest.

A major concern of the Zoning Commission, Mr. Martin explained, was the number and nature of non residential uses permitted in the Residential-Farming District. Major improvements had been approved for Rumsey Hall School, The Gunnery, and Washington Montessori School over the past decade. Although the 1993 Plan of Development stated the Town should retain its spirit of cooperation with the schools, the Zoning Commission is concerned that the intensity of institutional uses has grown to such an extent that continuation of this trend could threaten the character of the R-1 District. He said the Zoning Commission was presently conducting a review of all uses currently permitted in the R-1 District and might consider some deletions if the uses were found to be inconsistent with the Plan of Conservation and Development and the intent of the Zoning Regulations. He stressed the possible revisions would be to uses in the R-1 District only and not

The Green District, which is a separate district and existing village center.

In his introductory comments, Mr. Bender noted that at the time the petition to permit tennis facilities in the R-1 District was referred to the Planning Commission it had unanimously responded to Zoning that the list of non residential uses permitted in this zone should be restricted rather than expanded.

The following points were made by the Planning Commissioners:

- Village centers are favored. Mrs. Roberts noted Zoning had recently rezoned part of Woodville to residential and suggested this area might serve as a village center in the future. Mr. Martin responded that village centers did not necessarily mean commercial districts. He also noted the small area of Woodville. He thought Zoning might be open to reconsider some non commercial uses should this be recommended in the updated Plan.
- Schools and other institutional uses permitted by Special Permit in the R-1 District do not require a referral to the Planning Commission, and so no matter how large the infrastructure requirements, Planning is "left out of the loop." Mr. Charles said Planning would like the opportunity for input on the development of these infrastructures.
- Mr. Charles also thought the nature of schools had dramatically changed in the last 100 years. They have become larger and require much more construction activity. He said problems such as coverage, density, and septic systems should be studied.
- Mr. Rimsky thought the Town should continue to support the existing schools. He stressed that schools and private institutions make a significant contribution to the character and economy of Washington, so while they may be large, we must seriously consider the impact on the Town should they be deleted as uses permitted in the R-1 District. The example of the John Dorr Nature Center or the possibility of converting a large Rossiter home to a museum were cited as examples of uses that we may want to continue to permit in the R-1 District.
- Mr. Byerly suggested the Zoning Commission might want to consider the option of dividing the R-1 District into smaller zones with specific uses permitted in each zone.
- Affordability should be kept in mind. Mr. Rimsky said that uses that tend to make housing more affordable such as shop and storage use for contractors by Special Permit should be retained in the R-1 District.
- Mr. Sabin noted that while some of the newer schools are large and remote, the older schools generally contribute to the character of Town by providing a spectacular streetscape with their landscaping and unique architectural styles. Instead of eliminating schools in the R-1 District, he thought perhaps they could be more strictly controlled and regulated with higher performance standards.

Discussion turned to the economic contributions the schools make to the area and the beneficial relationship between the schools and the Town. Mr. Rimsky recommended the schools keep the land use commissions up to date about future plans. He noted, for example, the soccer field issue had been controversial and suggested if The Gunnery had talked with the Town beforehand it might not have been so

contentious. Mr. Fitzherbert noted schools in surrounding areas envy the unique Town/school relationship that exists in Washington and said he hoped it would continue. He asked for suggestions on how the schools could be better community citizens. Mr. Martin stated the Zoning Commission was pleased with the improvements made in the Town's schools to date, but asked if there was any limit or a saturation point at which residential neighbors would be impacted too much by a school's growth. He thought institutional growth in the residential district needed to be better balanced with neighborhood impact considerations. While the schools do contribute to the Town's character, Mrs. Friedman noted another important aspect to the ambiance of Town was the residents' expectation of a peaceful and protected residential area in which to live.

Mr. Charles suggested transfer of development rights might be used to help address this problem: that more intensive use of some campuses might be permitted in exchange for a school purchasing other land to be protected in perpetuity as open space. Mr. Martin noted that this might make sense from a townwide perspective, but would not help the neighborhoods threatened by non residential expansion. Mr. Fitzherbert suggested community water and septic systems could come into play if schools or other institutions are permitted to grow. Mr. Martin noted the Town and existing Plan of Development had always been firmly against community septic systems. Mrs. Roberts encouraged the commissions to project future needs. She noted the Planning Commission supported the concept of village centers and so thought community systems could be utilized in these areas only. Mr. Martin stated if this kind of technology were to be implemented, it would have to be done with the understanding that the Town's soil based zoning could not be threatened.

Mr. Rimsky asked if the Zoning Commission had considered looking at the Town in a more geographic way to establish zones for specific uses in the areas that could best support them. Mr. Martin said Zoning had not initiated changes of this kind. He said this type of concept was very difficult to carry out.

The village center concept was briefly debated. Mr. Owen questioned whether cluster development appealed to Washington residents. Mr. Rimsky and Mr. Charles noted The Green is a prestigious area and thought village centers would offer affordable housing opportunities for senior citizens and young families. Mrs. Friedman pointed out that those who purchase in existing village centers are aware of the activity and density in these areas, but those who purchase in more rural residential areas don't expect institutions will be built next door.

Mrs. Friedman thought if the public knew how flexible the current zoning regulations were, it would be shocked. Mr. Martin agreed and said this made it all the more important that the Zoning Commission be trusted by the public to be fair and not abuse its flexibility. Mr. Charles questioned whether the Zoning Commission actually had the grounds to deny applications for Special Permit uses in the R-1 District. Mr. Martin stressed that case law has found zoning commissions may act on each unique set of circumstances and that one action for or against does not set a precedent. He noted Zoning may consider the impacts to the character of a neighborhood and a denial on these grounds would hold up in court.

Mr. Fitzherbert noted the definition of a school must be clearly understood before any revisions are undertaken. Mr. Rimsky said schools clearly impact residential neighborhoods, but said other uses such as tennis courts, churches, and non profit organizations must also be addressed. He noted non profit agencies expect approval and there is no end to the possible uses they could bring to a residential zone.

Mr. Martin discussed a recent meeting with land use counsel, Atty. Byrne. Atty. Byrne had advised that there were two strategies the Zoning Commission could adopt to regulate more effectively non residential uses in the R-1 District. Both would hold up legally.

- The first would be to delete uses that may not be in harmony with the character of the R-1 District, making those uses already existing there pre-existing non conforming uses, which would be grandfathered in. In addition, the Commission could also make changes to Section 17 of its Regulations concerning non conforming uses to give the Commission more flexibility to regulate growth and change for these pre existing non conforming uses. Currently there is no flexibility to regulate growth for a non conforming use other than an applicant seeking a variance from the ZBA.
- The second option, which Atty. Byrne favored, would be to tighten the Special Permit criteria in Section 13.1.B. He noted the Commission already had criteria listed in its Regulations, but said it could be used more effectively to control or deny uses if it was strengthened based on recent Supreme Court cases.

Mr. Martin stressed that 1) the Zoning Commission wanted to make sure whatever revisions were proposed, they would be consistent with the Plan of Conservation and Development and 2) any proposed revisions to the Zoning Regulations would be referred to the Planning Commission for comment as is required by the state statutes. Mr. Owen agreed the Zoning Commission looked forward to Planning Commission input.

Mr. Sabin noted the Zoning Board of Appeals is also a key factor in the preservation of the integrity of the residential neighborhoods as it can potentially undermine the Zoning Regulations if it regularly grants variances without legal hardships. He thought future joint meetings of Zoning and ZBA might be helpful as this meeting between Planning and Zoning had been. Mr. Martin said he had met in the past with the ZBA chairmen, that the ZBA is currently involved in helping Zoning draft a revision to a section of the Zoning Regulations, and that he would continue to encourage dialogue and cooperation between the two boards in the future.

Mr. Martin advised the Gunnery representatives who were present that it would be helpful if before they applied for Special Permits in the future, they presented the school's facilities plan. In this way the Commission would have an overall perspective and would know how the activity applied for fit into the campus as a whole. Rumsey Hall School was identified favorably for having done this.

Mr. Rimsky suggested the land use commissions would find it helpful to meet on a more regular basis to discuss the day to day problems of the job. Mr. Martin said Mrs. Luckey would soon schedule the First Selectman's quarterly meeting with the land use commission chairmen. Mr. Fitzherbert from Zoning and Mr. Charles and Mr. Rimsky from Planning thought joint meetings between the two commissions would be beneficial for both and should continue on a regular basis.

Mr. Martin briefly advised the Planning Commission that the other major issue the Zoning Commission is currently addressing is storm water management. He noted Planning had made recommendations regarding this matter at the time the revisions to the Marbledale regulations were adopted, but that Zoning had considered this to be so important that it decided to address it separately on a townwide basis, not just for the Marbledale District. Strategies for containing post development runoff and for implementing management methods recommended by NEMO will be considered.

Mr. Rimsky asked if the Zoning Commission had considered bolstering the enforcement process. Mr. Martin said it had not: that the Commission was continually looking for methods to streamline enforcement procedures rather than increase the ZEO's hours. Mr. Rimsky and Mr. Charles worried that more and more people are completing projects without the required permits. Mr. Charles thought the hours for

the land use workers had been reshuffled, but the staffing problems had not adequately been addressed.

Mr. Martin asked if there were directional themes coming out of the Plan of Development discussions to date. Several topics were noted including affordable housing needs, lighting in both commercial and residential zones, maintaining a diverse population in Town, and telecommunications facilities. Mr. Rimsky felt the lack of affordable housing was one of the most urgent issues. The other Planning Commissioners were in general agreement.

Mr. Bender and Mr. Martin thanked the Members for attending and said they appreciated the opportunity this meeting provided for the exchange of ideas between the two commissions. Mr. Bender urged all present to put their thoughts in writing so they could be forwarded to the Planning consultant for inclusion in his work on the update of the Plan.

The commission chairmen adjourned the meeting at 9:20 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill
Land Use Coordinator