

PLANNING COMMISSION MEETING

WEDNESDAY, FEBRUARY 22, 2012

TOWN HALL 7:00 P.M.

Present: Chairman Michael Orefice, Paul Roche, Sabrina Janco, John Souchuns, John Sullivan, Alternate Members Matthew O'Connell, Elizabeth Brayboy, Christina Emery and Land Use Coordinator Polly Redmond.

Also present: Michael D. Rybak, Town Counsel

PUBLIC HEARING

1. OPEN HEARING – ESTABLISH QUORUM.

Chairman Orefice called the hearing to order at 7:05 p.m. All regular members present are seated.

The hearing is being audio recorded and copies of the proposed amendments are available for the public.

2. PRESENT AMENDMENTS TO SUBDIVISION REGULATIONS, SECTIONS 1.2, 2.3.13, 2.7 AND 2.10 IN RESPONSE TO PA 11-79.

Chairman Orefice reads the call to hearing as published in the Republican-American on 2/11/12 and 2/19/12 and summarizes how Public Act 11-79 changes bonding issues within the Subdivision Regulations and also requirements of a developer. Atty. Michael Rybak adds that the public act now allows for the acceptance of surety bonds and that no commission shall require a bond or surety to securitize the maintenance of roads or other improvements associated with a subdivision for maintenance occurring after improvements have been accepted by the municipality. For any subdivision that is approved for development in phases, the surety provisions shall apply as if each phase was approved as a separate subdivision. PA 11-79 states that no lot shall be transferred to a buyer before any required bond or surety is posted. Also, if the person posting a bond or surety requests a release of all or a portion of such bond or surety, the commission shall release any such bond or surety not later than sixty-five days after receiving the request provided the commission is reasonably satisfied that the modifications for which such bond or surety or portion thereof was posted have been completed or provide the person posting such bond or surety with a written explanation as to the additional modifications that must be completed before such bond or surety or portion thereof may be released. Atty. Rybak notes that taken together with Public Act 11-05, which now extends subdivision approvals and site plan approvals for up to fourteen (14) years, a developer can now delay posting any bond for a significant period of time.

Atty. Rybak refers to new wording for Section 2.7 and believes the heading should read as follows:

“2.7 Conditional Approval, Procedure in Lieu of Completion of Public Improvements and Utilities: The Planning Commission shall require the applicant to file a conditional approval subdivision plan...”

Also Section 2.7.4 last sentence should read as follows: “Acceptance by the Town” can only be attained by an action of the Board of Selectmen and Town Meeting formally accepting the improvements for public use and maintenance.”

Chairman Orefice opens the floor to public comment at this time.

Janet Burritt, 31 Whetstone Road, states this Public Act and the way the state feels they need to tell municipalities how to run their towns infuriates her. She refers to the storms the State of CT recently had and the destruction brought by them and states that if construction of roads are not up to par, the town will be responsible for repairs. She believes the town is at great risk and hopes that people call their legislators and ask that this act be repealed.

Brief discussion took place on the process of accepting new roads including 8-24 Referrals from the Planning Commission to the Board of Selectmen on acceptance.

With no further comment, P. Roche **motioned** to close the hearing at 7:35 p.m., seconded by J. Souchuns. Motion passed unanimously.

REGULAR MEETING

1. OPEN MEETING – ESTABLISH QUORUM.

Chairman Orefice called the meeting to order at 7:36 p.m. All regular members present are seated.

2. APPROVE MINUTES OF PREVIOUS MEETING: 2/8/12.

P. Roche **motioned** to approve the minutes of the previous meeting, seconded by J. Souchuns. Motion passed unanimously.

3. DISCUSSION/POSSIBLE DECISION TO AMEND SUBDIVISION REGULATIONS, SECTIONS 1.2, 2.3.13, 2.7 AND 2.10 IN RESPONSE TO PA 11-79.

Chairman Orefice states that if changes to Public Act 11-79 were made by State Legislature, the commission can make those changes if the proposed amendments are not adopted by motion tonight.

C. Emery adds that towns in CT need to contact their legislatures. E. Brayboy asks if it is appropriate for the Planning Commission to send a letter to legislatures stating they are opposed to PA 11-79 and perhaps encourage the Board of Selectmen to do the same? C. Emery notes that all towns need to write a letter and perhaps the towns within the jurisdiction of the Litchfield Hills Council of Elected Officials can do so if they have not already. LUC Redmond will contact LHCEO to find out what, if any, action has been taken. LUC Redmond will also contact NWCT Regional Planning Collaborative for any helpful information.

P. Roche **motioned** to continue Discussion/Possible Decision to the next meeting on March 14, 2012.

J. Sullivan seconded the motion and it passed unanimously.

4. OLD BUSINESS.

None.

5. ANY OTHER BUSINESS.

LUC Redmond informs the commission that Fred Zavatkay, Whetstone Properties, LLC, came to the Land Use office on 2/15/12 to inquire about the designated open space within Whetstone Estates West Subdivision and that it is his belief the town should have ownership of this land by now. Atty. Rybak notes that Atty. Peter Ebersol, legal counsel for Whetstone Properties, LLC, discussed this matter with him back in the fall of 2011 believing that the acceptance of the land could go to town meeting along with the item on the Ambulance Facility but it could not. Atty. Rybak notes that an inspection of the property needs to be done to be certain the town is not acquiring any “junk material” that may be on the designated open space land. Atty. Rybak doesn’t see any problem with accepting the open space at this time noting that if Phase II of the subdivision never gets done, there is still frontage to the open space land via Whetstone Road. Janet Burritt expresses her hope that the open space land is not made into a walking trail that would be right in people’s backyards. She has concern with allowing access to anyone who chooses to go onto open space land that affords that person the opportunity to see what is in someone’s backyard including children playing, personal property, etc. Legal counsel for Whetstone Properties, LLC needs to approach the Board of Selectmen to place the item on a town meeting agenda. Atty. Rybak believes the timeframe to place it on the next town meeting proposed for March is too short of notice since the Planning Commission needs to conduct an 8-24 Referral. He notes that there should be another town meeting by October 2012 that perhaps could have the item placed on that agenda. The commission wishes to have this item placed on the next meeting agenda for further discussion and review of the Whetstone Estates West Subdivision map.

Chairman Orefice updates the commission on the newly formed Agriculture Council who met with the Board of Selectmen the previous night. E. Brayboy informs the commission that she received notice from Elizabeth Moore, Director of Projects, CT Farm Land Trust, who explained that she is not the right person to talk to the commission about grants but would provide the name of someone who could.

6. **CORRESPONDENCE.**

Current IWWC Regulations effective March 1, 2012 are distributed.

7. **INVOICES.**

None.

8. **ADJOURN.**

P. Roche **motioned** to adjourn the meeting at 8:08 p.m., seconded by S. Janco. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

RECEIVED FOR RECORD AT HARWINTON, CT
ON 2-28-12 AT 2:22 PM
ATTEST: PATRICIA K. WILLIAMSEN, TOWN CLERK