

PLANNING COMMISSION

MINUTES

May 21 2024

4:30 PM
Hybrid Meeting

Join Zoom Meeting

[Planning Commission Special Meeting Agenda May 21, 2024 – Zoom Link](#)

Meeting ID: 999 9677 6407

Passcode: 428636

MEMBERS PRESENT:

Terry Carter, Chair
Ryan Silvestri

Jean Strong

Ted Stryhas

MEMBERS ABSENT:

Judy Pullinen

OTHERS PRESENT:

Eric Alden

Jason Rasmussen

I. CALL TO ORDER

1. Terry Carter called the meeting to order at 4:32 p.m.

II. ROLL CALL BY SECRETARY

1. All members are present, with the exception of Judy Pullinen.

III. CONSIDERATION OF ANY CHANGES, ADDITIONS OR REMOVALS TO THE AGENDA

1. Terry Carter said that since their last meeting, she has spoken with 2 of the Trustees and they do not want us to work on the Noise Chapter. She suggested that in its place on the agenda, the board start discussions on NDAs (Neighborhood Designated Areas.)
2. **MOTION by Terry Carter and seconded by Ryan Silvestri to replace Agenda Item #8 – Noise Chapter with NDAs. Motion passed unanimously.**
3. **MOTION by Terry Carter and seconded by Jean Strong to accept the new agenda. Motion passed unanimously.**

IV. FLOOD HAZARD REGULATIONS: JASON RASMUSSEN FROM MARC WILL BE AT OUR MEETING TO GUIDE US

1. Jason Rasmussen said he made a table comparing the Local Flood Hazard Regulations to the River Corridor Regulations. He is working with the DEC model. At one point they had removed the River Corridor to the zoning regulations and added the Ludlow Flood Hazard Regulations and then he spoke to Rose Goings and added them back. The primary difference is the River Corridor is more expansive and will impact more properties. He said that some of the tributaries are in the River Corridor, but not in the Ludlow Flood Hazard Regulations – such as the ones off Commonwealth and the Access Road.
2. Ryan Silvestri said the current Ludlow zoning regulations do not include the River Corridor.
3. Jason Rasmussen said except for when ACT 250 gets involved.
4. Terry Carter said that Rose Goings wants the River Corridor included in the zoning regulations.
5. Jason Rasmussen noted that Rose Goings has said that there has been lots of flooding and this may help to mitigate future damage. He added that the State Senate has passed Bill 213 which would regulate River Corridor throughout the State. If passed, it would probably take 2 to 3 years to become effective.
6. Ryan Silvestri asked what the biggest difference is.
7. Jason Rasmussen said that with the River Corridor, no development may be within 15 feet of the top of the river bank. There are non-conforming exceptions for existing structures.
8. Ryan Silvestri said that no new development could get confusing. – he referred to page 12 and the exception for existing houses upstream within the shadow area. He said the existing structures may add on, but not closer to the River Corridor. It's not about raising the structure.
9. Jason Rasmussen said they cannot build within 15 feet from the top of the bank – that is in the Ludlow Flood Hazard Regulations.
10. Jason Rasmussen that on the main stream, both the River Corridor and the Ludlow Flood Hazard Regulations would apply. For substantial improvement, they can raise the structure, but not build any closer than 15 feet from the River Corridor. It is 2 layers and prevents new development in "harm's way."
11. Ryan Silvestri asked if there would be any exemptions for elevated structures in the River Corridor
12. Jason Rasmussen said in the mobile home park.
13. Terry Carter asked about Brookhaven and said that it wouldn't be approved now.
14. Ryan Silvestri said it is in the flood plain and was approved by default. He asked if there are any examples in other towns in the state. If you build "X" it works. Is there anything where you can't repair or replace?
15. Jason Rasmussen said in Windsor, the town raised a house in the floodway and it works, but it is not cheap to raise and renovate.
16. Ryan Silvestri said we have vacant land in Ludlow in the floodway. He said that Shaw's could raise the building 12 feet and put parking underneath – would the state approve that or similar projects on the Vail property (on Rte. 103 S) or by the storage place.
17. Jason Rasmussen said there is a "No Rise Standard" in the model regulations – page 6 refers to "no net loss."
18. Terry Carter said that Alan Couch may have his basement filled in.
19. Ryan Silvestri asked about footprint piers.
20. Jason Rasmussen said there would be less digging.
21. Terry Carter said that she and Rose Goings and Jason Rasmussen met and looked at the charts and combined the 2, making sure not to lose anything. They looked at the River Corridor, Ludlow Flood Hazard Regulations and junkyard ordinance.
22. Jason Rasmussen said they tried to make it clearer with substantial and non-substantial improvements.

23. Eric Alden asked if they adopted the River Corridor, how that would affect existing structures like the Mill and Main and Mountain. He said that the foundation of Main and Mountain is in the river. How that would be affected if the back of the building washed away – could it be put back? How would the River Corridor affect that?
24. Jason Rasmussen said, generally, existing structures are grandfathered, but additions may not be any closer to the river. You may rebuild within the same footprint – within a certain time frame. If it is in the River Corridor, they don't care about internal renovations. But, in the Ludlow Flood Hazard Regulations, they do care about internal renovations.
25. Ryan Silvestri asked, if I have 25 feet from the river, can I put in an addition up to 15 feet away.
26. Jason Rasmussen said he doesn't think so.
27. Ryan Silvestri said you can't encroach into the River Corridor.
28. Jason Rasmussen said that if the buildings on either side of you are closer to the river than you, you probably can build up to 15 feet.
29. Ryan Silvestri said that is about the shadow.
30. Jason Rasmussen said there is some flexibility to the extent of the area.
31. Ryan Silvestri asked about the Jewel Brook – old mill. Are there any regulations on a property like that – it is vacant in the River Corridor? Could that be developed or is it undevelopable.
32. Terry Carter asked if they added the River Corridor.
33. Ryan Silvestri said about new development, is there a specific structure that would be allowed.
34. Jason Rasmussen said that is more about the Ludlow Flood Hazard Regulations and Act 250. There would be some allowances, if it hugs the back lot line, there may be some wiggle room. It would have to be explored on a case by case basis.
35. Eric Alden asked why they would include the River Corridor, what's the goal?
36. Terry Carter said that Rose Goings wanted it included.
37. Eric Alden said that the Ludlow Flood Hazard Regulations can cover Act 250.
38. Jason Rasmussen said that FEMA is concerned about houses that would be damaged again. They can be raised. He said the River Corridor is more concerned about erosion – they want no new structures in harm's way. He said that generally, there is more erosion in Ludlow, but in the Village, there is more inundation. He said that Irene was bad and July was bad – what about the next flood. He said that if 213 is passed, it will take care of this.
39. Terry Carter said they can take that column (River Corridor on the chart.)
40. Jason Rasmussen asked if the board wants it in or out.
41. Ryan Silvestri asked what the differences are here and in 213. Which is more restrictive?
42. Jason Rasmussen said if 213 is not vetoed, the DEC will create new rules and inform the towns. He does not know, but it may be similar to the River Corridor.
43. Terry Carter asked if the board wants to wait until they know about 213?
44. Ryan Silvestri said the River Corridor has more conditional uses, while the Ludlow Flood Hazard Regulations has more prohibited.
45. Jason Rasmussen said but it is a larger part of the town.
46. Ryan Silvestri asked if it is as far up Andover.
47. Jason Rasmussen said all the way – he said that a lot of the River Corridor is in the town. He said it is 50 feet from the top of the bank and affects most of the tributaries.
48. Ryan Silvestri said we need to understand the full scope.
49. Jason Rasmussen said he was thinking of this just for the Village.
50. Eric Alden said the tributary across Mill Street is only 4 feet wide. He said there is also Commonwealth and Bixby.
51. Ryan Silvestri added the lakes.

52. Jason Rasmussen said Commonwealth would fall under the River Corridor along with the Access Road.
53. Ryan Silvestri asked about already armored properties on Jewell Brook, there are some with metal plating.
54. Jason Rasmussen said if they are maintaining an existing structure, it could probably be left that way. He really doesn't know the answer about a property that is significantly armored. He suggested talking to John Broker-Campbell's replacement.
55. Terry Carter asked if they can invite him to a meeting.
56. Jason Rasmussen said you can try.
57. Eric Alden asked what if the river changes after they adopt the River Corridor, such as what happened with the Wastewater Treatment Plant.
58. Jason Rasmussen said they would have to ask Rose Goings about how to interpret that. If it is a new project – that's why the state wants the River Corridor – rivers move.
59. Terry Carter said that if the river is allowed to move, there would be less flooding.
60. Jason Rasmussen said there is always some discretion with smaller structures.
61. Ryan Silvestri noted that in the Ludlow Flood Hazard Regulations, many things were moved to conditional.
62. Jason Rasmussen said he may have made a mistake there.
63. Ryan Silvestri said thinks this will stop people from doing what they probably should not have been doing. We should have a plan.
64. Jason Rasmussen said that 15 feet is pretty small. We need to make this consistent with the current regulations. He said that 2' above BFE was changed to 1' then back to 2 feet. He said that flood storage capacity is new.
65. Terry Carter said that the last flood was 10 inches above BFE. She asked about relocation of electrical panels that has to be higher.
66. Ryan Silvestri said that in the River Corridor, that the building at the corner of Elm and Main – they can't do significant improvements without raising the building 2 feet.
67. Jason Rasmussen said if it is non-residential and dry proof. He said there is a bike shop in Windsor that they built the first floor 2 feet above the existing floor.
68. Ryan Silvestri asked about properties in disrepair.
69. Jason Rasmussen said there are ways.
70. Ryan Silvestri asked about full, existing basements – should they be left open for water.
71. Jason Rasmussen said if there is substantial improvement – they can fill in the basement and have flood vents.
72. Terry Carter asked the board to look over pages 2 and 3 of the Ludlow Flood Hazard Regulations.
73. Jason Rasmussen said he started with the model, and then changed as per comments at the meeting.
74. Ryan Silvestri asked about language for displacement.
75. Terry Carter said it is on page 6.
76. Jason Rasmussen said it is just one sentence and doesn't apply for new construction.
77. Ryan Silvestri asked if the ratio is 1:1.
78. Jason Rasmussen said yes. He said they can remove the parts about the National Code Insurance Plan – it may be too much for the village. He suggested getting this to the John Broker-Campbell replacement before adopting it.
79. Eric Alden said he had to have a Hydrologic and Hydraulic (H&H) Study done at the mill. It has 0 effect on the River Corridor. He got a letter from the State that the H&H was needed.
80. Jason Rasmussen said the River Corridor is a little looser and an H&H may not be required.
81. Ryan Silvestri asked why the mill is putting in pillars.

82. Eric Alden said to support a deck. He said they are 2' wide and take volume out of the river. There is no leeway.
83. Jason Rasmussen said he had to do it as the building is in the floodway and they had to hire an engineer to do the H&H. He said with the River Corridor regulations; he may not have had to do it.
84. Ryan Silvestri asked what if it contradicts the flood proofing – to maintain or protect – like buttresses, but displacing more water. This would be a conflict.
85. Jason Rasmussen said they need to think about the small stuff and need a path forward.
86. Ryan Silvestri said they need to save the building.
87. Ted Stryhas said they are going to end up needed to hire an engineer.
88. Eric Alden said you have to please the State Flood Plain Manager.
89. Terry Carter said that every town Zoning Administrator will want an engineering study. She asked the board for comments.
90. Ryan Silvestri said he is unsure. He needs to think about Shaw's and the wall they proposed around the building. If approved, it would displace too much water. He asked if we are creating regulations that will contradict peoples' abilities to maintain structures. If it displaces too much water, can it sustain the building? Can the hole be off the property?
91. Jason Rasmussen said maybe there should be exceptions.
92. Ryan Silvestri said that Ludlow is in a narrow valley and all of the utilities are in the flood area. Are we going to create rules where people can't maintain their buildings? He said that the plan for Shaw's was to build a wall that would displace water. Can they build? It can't be in the footprint. Are we creating a "no way out"? He said if Shaw's raised the building 12 feet, and put parking under, would that be allowed?
93. Jason Rasmussen said maybe.
94. Terry Carter said it would keep the water flowing.
95. Jason Rasmussen said except to mitigate the existing structure.
96. Terry Carter said she would like to get the new person to a meeting. She said there are no other substantial changes in the regulations. She referred to page 18 and said that 2 feet is practical.
97. Ted Stryhas said they need to look at what has actually happened.
98. Terry Carter asked the board if they agree with the changes – up to page 6 –water displacement.

V. DISCUSS CHANGES MADE TO THE VILLAGE TRUSTEES TO THE PROPOSED VILLAGE BYLAWS AND HOW THOSE CHANGES ARE CONSISTENT WITH THE TOWN PLAN AND STATE LAW. AMEND THE REPORT TO THE VILLAGE TRUSTEES AND SEND IT BACK TO THE VILLAGE TRUSTEES

1. Terry Carter said the Trustees didn't want a public hearing – they wanted a summary. She said that she sent the summary and the only change they wanted was the 5,000 square feet in the Village Residential Commercial. They did not want less than 1/5th acre. They want 8,712 square feet in the Village RC and Village Residential. Those were the only changes. They approved the Andover R2 and Justin Hyjek said he liked the idea of reserving parts of the town strictly for residential. She would like to send the amendments to them before the June 4th meeting. Those sections are already changed and are consistent with the town plan and state law. They make the final decision. The public hearing is on June 4, 2024 at 5:30 p.m.
2. Jason Rasmussen said the trustees can still make changes and give you the opportunity to review those changes. She said the only other change was about interior renovations.
3. Ryan Silvestri said it is great for the CLA.

4. **MOTION by Ryan Silvestri and seconded by Terry Carter to resubmit the Zoning documents to the Trustees as amended. Motion passed unanimously.**

VI. COMMENTS FROM CITIZENS

1. There were none.

VII. JUNKYARD ORDINANCE

1. Terry Carter said that this board was asked to look at the Junkyard Ordinance. She said she researched the state and the only references were to junk cars and scrapyards regulations. She looked for an ordinance in Manchester, but couldn't find it.
2. Ryan Silvestri said he will get the Manchester ordinance
3. Terry Carter said Montpelier also has an ordinance that is similar to ours. But it is "Clean or Screen." If it is a public health hazard, it must be cleaned.
4. Ryan Silvestri said we already have a Junkyard ordinance and asked why it is not being implemented. He referred to the Dunnett Property and asked why no action has been taken.
5. Terry Carter said if it is a bylaw, the Zoning Administrator will enforce it. If it is an ordinance, it is up to the Trustees to enforce. Do we want to add this to the zoning regulations in the Town and the Village? Do we want to keep it as an ordinance?
6. Ryan Silvestri said we could wordsmith it. Do we want to review it? How deep do we want to go?
7. Ted Stryhas asked if this is an ordinance or bylaw issue.
8. Terry Carter said that Brendan McNamara asked us to start a conversation about this.
9. Terry Carter said we will discuss this at our next meeting and decide if we want to include this in the bylaws.
10. Ryan Silvestri said we can look at the Montpelier and Manchester ordinances.
11. Ryan Silvestri said we can give them options.
12. Terry Carter said we should ask them what they are looking for.

VIII. NDA – (REPLACING NOISE CHAPTER)

1. Terry Carter said that she has spoken with Logan Nicoll and there is a program that has funds for grants for residential homes. We would name streets adjacent to Main Street for them to have access to the grant money. Logan Nicoll said that the process is complicated and lengthy. He said that no other towns have started the process.
2. Jason Rasmussen said that he has money to work with this board to start the process. The board would have to check with the Select Board and Trustees.
3. Terry Carter said that Logan Nicoll thinks we should try for it and the funds are "no strings attached."
4. Ryan Silvestri asked if the homeowners have to apply for the grants?
5. Terry Carter said yes.
6. Ryan Silvestri said it is worth exploring.
7. Terry Carter said she will put it on the agenda for the June meeting.

IX. NEXT MONTH'S AGENDA PLANNING

1. There was no other business
2. Rules of Procedure
3. Flood Hazard Regulations
4. Junkyard Ordinance
5. Noise Chapter – this will be omitted

X. OTHER BUSINESS

1. Board member comments – there were none
2. Citizen Comments – there were none

XI. ADJOURN

1. **MOTION by Jean Strong and seconded by Ryan Silvestri to adjourn this meeting. Motion passed unanimously.**
2. Meeting adjourned at 5:54 p.m.

Respectfully submitted,
Lisha Klaiber

Terry Carter, Chairman

Jean Strong

Judy Pullinen

Ted Stryhas

Ryan Silvestri