

**MINUTES**  
**SWANTON PLANNING COMMISSION**  
**FEBURARY 12, 2014**  
**5:00 P.M.**  
**SWANTON TOWN OFFICE**  
**ONE ACADEMY STREET**  
**SWANTON, VT 05488**

The Swanton Planning Commission (PC) held a Public Meeting on **Wednesday, February 12, 2014** at 5:00 p.m. at the Swanton Town Office, following appropriate warning of such agenda on February 4, 2014, for the following purpose: 1) To meet with representatives of the Northwest Regional Planning Commission and others to discuss proposed revisions to Swanton's Zoning Bylaws & Subdivision Regulations. The focus of discussion for this meeting will be on: Flood hazard regulations and the stream setback/buffer options. We will also examine various low impact development standards; 2) Any other necessary business.

In the absence of the Swanton Planning Commission Chairman Jim Hubbard, Vice Chairman Ron Case called the meeting to order at 5:10 p.m.

**Present:**

**Planning Commissioners:**

**Ron Case, Vice Chairman**  
**Ross Lavoie**  
**Andrew LaRocque**

**Northwest Regional Planning Commissioner: Greta Brunswick**

**Others:**

**Ron Kilburn, Zoning Administrator**  
**Leigh Smith, substitute for Yaasha Wheeler, PC Secretary**  
**David Jescavage, Town Administrator**

In the absence of Planning Commission's Chairman Jim Hubbard, Vice Chairman Ron Case called the meeting to order at 5:10 p.m., for the above-cited purpose.

Northwest Regional Planning Commissioner (NRPC's) Greta Brunswick was present to follow upon her February 5, 2014 e-mail to Swanton's Planning Commissioners *et al.* regarding agenda matters that should be taken up at this meeting. A copy of this e-mail is incorporated in these minutes, by way of attachment.

In her e-mail, Ms. Brunswick cited **four examples**, with additions attached, for the Swanton Planning Commission to discuss regarding their focus on flood hazard regulations and stream setback/buffer options, as follows:

- 1) **Flood Example, Allow New Construction**, Updated for NFIP Conformance. This example from Enosburgh is the minimum NFIP Standard (as is also currently implemented in Swanton), but creates a separate article for flood hazard review.
- 2) **Flood Example, No New Construction, Specific to Shorelands**. This example from North Hero prohibits new construction in the floodplain and there are tweaks to the template to reference shorelands specifically.
- 3) **Flood River Corridor Example**. This example from draft Montgomery bylaws includes a River Corridor (or fluvial erosion hazard zone) in addition to the flood hazard area. New construction is prohibited in both areas.
- 4) **Stream Buffer Example**. This example from Enosburgh imposes a buffer on all streams in town prohibiting all non-essential new structures and other inappropriate activities.

Her same e-mail summarized three options which had been presented to the Planning Commission, about which no final decision had been made. The **three options** she posed are as follows:

**1) Starting Point Option**: Strengthen Floodplain Management standards, which could include prohibiting new construction in the floodplain, administering coastal construction standards along Lake Champlain, and/or raising the BFE. Recommend flood hazard section be a separate article in the regulations.

**2) Intermediate Option**: Strengthen Floodplain Management standards as noted above, in addition to adding a setback/buffer on all streams/riders (default 50 ft. but based on assessment data for Missisquoi and Hungerford).

**3) Advanced Option**: Strengthen Floodplain Management standards as noted above, in addition to adoption of River Corridor zones for Missisquoi River and Hungerford Brook with similar standards as for the floodplain. Could also include setback/buffer on all other streams/riders.

Mr. Case asked about reasons for floodplain strengthening along riverbanks: Was this due to environmental or insurance factors? Ms. Brunswick said the purpose was to prevent flood damage to property, but noted that an environmental focus on river corridor boundaries is an additional factor. Mr. Case asserted his impression that federal law may soon prohibit building within floodplain areas, an opinion shared by Zoning Administrator (ZA) Ron Kilburn.

Ms. Brunswick stressed that the **#3 Advanced Option** does not recommend fluvial corridor management for all streams, only for the Missisquoi River and Hungerford Brook. She did recommend a 50-foot wide buffer setback on all streams, regardless if Swanton creates a River Corridor District. It was noted that Hungerford Brook does not currently have a floodplain

overlay on Swanton's zoning maps. An option, she said, would be for the Town to draw on data already available for local streams, and to seek equilibrium in stream management.

Ms. Brunswick proceeded to comment in more detail on each of the **four examples**, as follows:

**1) Flood Example, Allow New Construction**, Updated for NFIP Conformance. This example from **Enosburgh** is the minimum NFIP Standard (as is also currently implemented in Swanton), but creates a separate article for flood hazard review. This example would allow new construction under condition of a Conditional Use permit. PC noted in particular this example's Section 9.5 (B) [no page numbers], as follows:

***B) Residential Development -***

*1) New construction and existing buildings to be substantially improved that are located in Zones A1-30, AE, and AH shall have the **lowest floor, including basement, elevated** to or above the base flood elevation (PC Secretary's emphasis). The PC could select this example to modify what Swanton currently allows, but to bring to new conformance standards.*

ZA Kilburn questioned wording under 9.1, as follows:

*The location of the Special Flood Hazard Area boundary shall be determined by the Zoning Administrator.*

Ms. Brunswick assured that this would be a determination "in accordance with the overlay" provided to the Town. Mr. Kilburn remarked that a number of Swanton residents were receiving denials of renewed coverage by their property insurers due to floodplain issues.

**2) Flood Example, No New Construction, Specific to Shorelands**. This example from **North Hero** prohibits new construction in the floodplain and there are tweaks to the template to reference shorelands specifically. Ms. Brunswick shared this example had been tailored by North Hero to address their Lake Champlain shoreland properties. "*Lake access structures*", addressed under Section 10.4 (G) (no page numbers), apply to structures such as stairs or decks, and not to any new residential construction. Ms. Brunswick cited that if a 102-foot elevation (see Section 10.1, front page) was too low for the Swanton PC's comfort, they could simply raise it; in fact, Grand Isle has established a measurement of 104-feet. It was noted that FEMA is basing conformance on at least a 102-foot elevation contour.

Mr. Kilburn cited his experience where permit applicants have contested what they consider floodplain on their property against evidence he presents on the Town's zoning map. Mr. Case described efforts to build a seawall to protect his in-laws' property on Lake Champlain.

Although the State Legislature has not ruled on it yet, Mr. Kilburn projected that seawall construction would soon be prohibited.

**3) Flood River Corridor Example.** This example from **draft Montgomery** bylaws includes a River Corridor (or fluvial erosion hazard zone) in addition to the flood hazard area. New construction is prohibited in both areas. Ms. Brunswick emphasized the draft status of this example. For this, a Fluvial Erosion Hazard Area (FEHA) will not be incorporated into their zoning overlay maps, but will appear on a separate map erected in the Town's zoning office. Under this scenario, applicants for permitted or conditional use construction would receive the same review whether the site fell within a FEHA or a Special Flood Hazard Area.

Ms. Brunswick said that Vermont's Agency of Natural Resources (ANR) recommends a "higher level of review" for FEHAs than this scenario offers. Montgomery is currently contending with floodplain issues from the Trout River and allegedly from a river "off West Hill."

**4) Stream Buffer Example.** This example from **Enosburgh** imposes a buffer on all streams in town prohibiting all non-essential new structures and other inappropriate activities. Enosburgh, Brunswick explained, has decided to implement a setback buffer rather than a Flood Hazard overlay zone. There would be different buffers for different kinds of streams. **Table 4.1** was reviewed in the document (no page numbers) – "Width of Buffer Strips (feet along the ground surface). In two columns, **Types of Waterway** were designated with corresponding **Required Buffers**. If a permit application fell within the buffer, Ms. Brunswick said, it would require the Town's DRB approval. The impetus for Enosburgh to create this example allegedly came following ANR's review of their most recent bylaws. The Town didn't want to create a Fluvial Erosion Zone, feeling that establishing required buffers by waterway types would be "more digestible."

Planning Commissioners then reviewed a **1/29/14 letter with enclosures by VT Secretary of Administration Jeb Spaulding, regarding a change in the State's promised assistance after a major flood or natural disaster.** A copy of this letter is incorporated with the minutes of this meeting. Commissioners were directed particularly to two of four steps towns are being encouraged to take "before the next disaster," as follows: "1. Have proactive flood hazard regulations;" and "4. Develop and adopt a Local Hazard Mitigation Plan." Spaulding assures that communities who have completed the four steps in the above-cited letter will receive "**an additional 12.5%** state contribution" to cover...damage, along with the current state aid's contribution rate of **7.5%**.

Ross Lavoie questioned why State and federal government were allegedly pushing more initiatives when large flooding events [such as Tropical Storm Irene in 2010] were relatively rare. Ms. Brunswick replied that regardless of such events' infrequency, there has been substantial data collected from area river corridors over the last ten years to address stream equilibrium and beneficial boundaries. Climate change has become a greater issue during that

time, she concedes, allowing greater variations in storms; those storms that used to be “500-“ or “100-“year floods are taking place with greater frequency. She pointed to Secretary Spaulding’s challenge to municipalities to be “proactive.”

Town Administrator (TA) David Jescavage asked about Emergency Relief and Assistance Fund (ERAF) compliance requirements in a scenario where Highgate’s Dam might rupture and impact area communities. Mr. Jescavage said that the Army Corps of Engineers also does not consider ice dams or silt build-up to qualify as floodplain. The TA urges that an emergency with the Highgate Dam be incorporated into area Hazard Mitigation Plans.

Ms. Brunswick recommended that Swanton feature a flood hazard area as a “mini-ordinance” within the Town’s regulations. Planning commissioners reviewed the Town’s current bylaws, referring to “2.13” and “Standards 5.5” (pp. 85-88) which needs to be minimally updated to conform. Swanton’s current flood hazard regulations really just need a few “tweaks,” Brunswick said.

Messrs. Case and Kilburn expressed their strong desire to have PC Chairman Jim Hubbard review the examples and options, and for the PC to meet again regarding the matters at hand, before the Town registers a decision with NRPC.

Mr. Case said he would be away after 3/10/14, but that he would review the paperwork presented during the meeting, and let his fellow commissioners know his opinion.

The PC discussed meeting within the next two weeks.

Ms. Brunswick summarized the tasks before the PC: 1) Does the PC like the current regulation wording, or would they like the flood hazard regulations laid out in a separate article? And 2) to refer to the options and examples in the scenarios she presented, for template use. The NRPC commissioner said that Mr. Spaulding’s use of the word “proactive” in his 1/29/14 letter discussed this evening, would need greater clarification.

The PC then directed their attention to Ms. Brunswick’s recommendation on incorporating **Low Impact Development** strategies into Swanton’s regulations, as outlined in her 2/6/14 e-mail. Discussion ensued concerning parking issues under landscaping standards affecting the Southern Growth District. No decisions resulted.

Mr. Kilburn challenged the PC to also address **Junk** control in any proposed rewrite of Swanton’s Zoning bylaws. He noted that in the current regulations, “Open Storage of Junk and Vehicles” really only applies to vehicles and does not define the former. The ZA said that the City of Burlington may have a “better approach on the issue,” as noted in recent media coverage. Kilburn handed out copies of a 1/30/14 cover story in the *Burlington Free Press*, “Burlington hoarding case goes to court.” He also handed out a page allegedly from Burlington’s minimum standard zoning code (Ord. of 8-4-86, 18-111, Accumulation of garbage, trash, abandoned vehicles, appliances and furniture on any property within the city prohibited), downloaded from a Burlington website on 2/11/14, for further reference as the PC confers on this issue. Mr. Jescavage suggested the Town’s possible adoption of a “junk tax” to remedy the problems.

Ms. Brunswick asked about any changes for **signs** in Swanton's regulations. The PC discussed how to regulate digitalized signs. Mr. Hubbard had allegedly requested that such signs be allowed in the TSA District, in the vicinity of the current Mobil gas station and McDonald's on First Street. Ms. Brunswick said she would look into the matter.

The PC reviewed an excerpt from the Swanton DRB's 9/26/13 meeting minutes concerning the Conditional Use Approval Request (CU#493-2013) of Jami Lapan DBA Jami's Automotive, LLC. Following deliberation on the applicant's request to "engage in the business of automobile Sales & Tractors, ATV's, boats, motorcycles & personal water craft" at his 155 North River Street business, the DRB has recommended "**allowing personal watercraft and boat sales in the NC [Neighborhood Commercial] district.** They feel this activity is consistent with the intent of the district, but current definitions exclude sales of such items." Mr. Hubbard has allegedly recommended that such sales be allowed in the NC District. Further PC discussion of the matter was tabled until a special meeting could be scheduled within the next two weeks.

Mr. Lavoie moved that the **PC approve their 1/15/14 meeting minutes** as recorded. Mr. LaRocque seconded the motion, which was carried unanimously. The PC members signed the above-cited minutes.

Mr. Lavoie moved that the PC **adjourn** their public hearing meeting. Mr. LaRocque seconded the motion, which was carried unanimously. There being no further business at hand, Mr. Case adjourned the meeting at 6:32 p.m. The next PC special meeting is set tentatively for Wednesday, February 26; and the next regular meeting for Wednesday, March 12, with said dates and times to be confirmed by ZA Kilburn.

Minutes by Leigh Smith  
Typed on February 13, 2014  
Received and filed by:

\_\_\_\_\_  
Cathy Fournier, Town Clerk

\_\_\_\_\_  
Date

Reviewed and approved on: \_\_\_\_\_, by the following Planning  
(Date)

Commissioners:

\_\_\_\_\_  
Ron Case

\_\_\_\_\_  
Ross Lavoie

\_\_\_\_\_  
Andrew LaRocque

Attachments:

2/6/14 Email of Greta Brunswick, subject: "Next PC Meeting"

1/29/14 Letter with Enclosures of Jeb Spaulding, re: Emergency Relief and Assistance Fund (ERAF)