

**SWANTON PLANNING COMMISSION**  
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**04/16/14 PUBLIC MEETING**  
**SWANTON PLANNING COMMISSION**

**The Swanton Planning Commission held a public meeting at 5:00 PM on Wednesday, April 16, 2014 at the Swanton Town Offices, 1 Academy Street.**

**Present:**

**Jim Hubbard**  
**Ed Daniel**  
**Andy Larocque**  
**Ross Lavoie**  
**Ronald Kilburn, Zoning Administrator**  
**Yaasha Wheeler, Secretary**

**Present:**

**Greta Brunswick, NRPC**  
**Taylor Newton, NRPC**

Mr. Hubbard opened the meeting at 5:10 p.m.

**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 reviewing the draft of the proposed bylaw revisions.**

Mrs. Brunswick led the Planning Commission through a number of questions raised by the Northwest Regional Planning Commission staff regarding the Swanton bylaws. Mr. Kilburn agreed that the comments were profound and well worth consideration.

**Repeal of regulations and maps**

This was just a legal issues. Was it actually necessary?

**Prohibitive Uses/Processes**

Mr. Newton read that the list "shall not be deemed to be an exhaustive list, but is included for purposes of clarity and emphasis" and used as examples of things deemed undesirable. His question: Was the section

necessary? Another section already stated “any use listed as neither Conditional Use or permitted is prohibited.” The Planning Commission agreed to strike the section.

### **Restrictions on wireless facilities in RC and Agricultural Residential**

Mrs. Brunswick stated that Section 4.20 had been updated to conform with some recent changes to statute, which says you cannot deny telecommunications facility unless it has more than a diminimus impact. The Planning Commission agreed to strike the section.

IND District and CLI District (prohibition of above-ground storage gasoline, etc.)

Mrs. Brunswick said that she felt the standards were very restrictive, perhaps too restrictive for typical industrial use. Did current industries comply with these standards? The standard stated that an industry “could not produce the following products from raw materials: asphalt, cement, briquettes...” Discussion turned to slaughterhouses as well, and Mr. Hubbard felt that there was a great need to identify appropriate areas for allowing slaughterhouses. Mrs. Brunswick said that she could certainly come up with language that was less restrictive in terms of industrial uses that could happen in the industrial districts, and she could look at siting standards to permit the use with appropriate conditions. Mr. Hubbard suggested creating a district in the quarry area that would allow those uses, since that was pretty sheltered and separate from residential areas. The Planning Commission agreed that would be a good idea to consider for the future.

### **TSA district - customary accessory uses**

Mrs. Brunswick stated that single family homes were not listed in the use, and were not otherwise allowed in the district.

### **Flood Hazard**

The Planning Commission and NRPC representatives discussed the recent changes made to the Southern Growth District. Mr. Hubbard asked if the height of structures should be limited to only 35 feet. Newton read from the bylaws that buildings were allowed to be 35 feet or 2 ½ stories. The height of a story was not indicated in the definition of a story. Therefore, 2 ½ stories might exceed 35 feet. Mr. Hubbard suggested that, at some time, the Southern Growth C enter might be considered as the location for a parking garage, IBM, hotel, or other larger structure. Ross Lavoie suggested looking at height language from St. Albans, so that Swanton would have a guide for what worked in its neighboring town.

### **Flood Hazard Overlay**

Mr. Newton stated that they had included a table that made review and development clearer, explaining what types of development were allowed within the flood hazard overlay. Swanton did have a floodway, so any building in the floodway would require DRB approval. When building in the floodplain, an applicant would need to comply with Section 5.5 and would need to obtain a permit. Mr. Lavoie noted that, as he understood the regulations, a person could only elevate an existing structure in the floodway. What about fill for a new structure? Mr. Newton replied that it was not allowed. Such a project would likely fall under flood hazard review in the floodplain, but was prohibited from the floodway; this was consistent with the minimum NFIP standards.

### **NASO District – Variances subject to review**

Mrs. Brunswick stated that the standards were identified elsewhere in the bylaws and were restated for the NASO district. Therefore, she recommended deleting the repetitive material. The Planning Commission agreed.

**Table 2.16 conflict - Front setback 50 ft. vs. 75 ft. (SR district)**

Mr. Kilburn stated that the Shoreland Recreation district front setback was identified as 75 feet in the district requirements, but as 50 feet for the district in a table. The Planning Commission had agreed to go with the 50 foot setback.

**Access Requirements**

Mr. Newton explained that the previous access requirements in Section 3.2 were confusing, so the staff had attempted to simplify it by creating subsections based off of terms like access, driveway, and roadway (all of which had been mixed together previously). Mrs. Brunswick added that the intent was not to change the earlier update on permitting, but to organize the information better for the reader. Mr. Newton stated that he had taken the road and driveway standards from Section 7.8 (subdivision regulations) and, when appropriate, had melded that into Section 3.2. A separate section about private roads pointed to the standards in Section 7.8.

Mr. Hubbard explained that Swanton had, so far, required road frontage for an original lot that was used to create the subdivision, and that road frontage was allowed off of the new subdivision right-of-way for each lot in the subdivision. In effect, each lot needed minimum frontage off of a private right-of-way. The town required the subdivision to include infrastructure able to support emergency vehicles.

**DRB waiver for roads**

Mr. Newton drew the board's attention to a provision which stated "in case of unusual topographic situations...which would make strict adherence to the bylaws a hardship, the DRB may modify the standards, provided the applicant can demonstrate that the proposed driveway is accessible by emergency vehicles." Essentially, if the driveway did not conform to the standards, the Development Review Board could grant a waiver. Mr. Hubbard noted a case where a waiver had been granted to a road that would be a "mess" to plow or access by emergency vehicles. The Planning Commission and NRPC representatives agreed that, in order to grant a waiver, the DRB should require a letter from the Fire Department, stating that the road was acceptable for emergency vehicles.

**Conversion of single family to two family houses**

Mrs. Brunswick felt that requiring Conditional Use review to convert from a single-family dwelling to a two-family dwelling might be too restrictive. Mr. Newton added that a triplex required a site plan, but, according to state statute, a duplex did not need a site plan, though it did require a zoning permit. Mr. Daniel voiced his support of maintaining the Conditional Use review for the conversion to duplex, because some of the houses in the village shared driveways. If a single-family dwelling were to be converted to a duplex, the parking and snow removal might need to be reviewed more closely. The rest of the Planning Commission agreed.

**Conversion from 650 feet to 850 feet**

Mrs. Brunswick noted that the minimum square footage allowed to convert a seasonal camp to a year-round dwelling was 650 square feet, but converting from a single-family to a two-family dwelling required a minimum of 850 square feet. Mr. Hubbard said that there had not been any issues with that requirement so far, especially since most people were building larger camps along the lake.

### **Increase of Degree of Nonconformance**

Mrs. Brunswick stated that there were several ways to calculate the increase of the degree of nonconformance. If the front setback was 15 feet, but a pre-existing non-conforming house was only set back at 10 feet, how should additions or similar development be dealt with? The more lenient view would allow an addition to the house to extend in line with the house's furthest point (10 feet from the front boundary). The more restrictive view would not allow the addition, because it increased the nonconformance of the structure. After discussion, the Planning Commission felt more comfortable with the restrictive view.

### **Open Storage of Junk/Free Items**

Mr. Daniel asked if the limitation on open storage of junk and junk vehicles would have an effect on free items on the side of the road. Mrs. Brunswick felt that that would cause a potential conflict and Mr. Newton said that, if he were acting as zoning administrator, he would not deal with the free stuff, because it was in the right-of-way. However, did the litter ordinance then apply? Mr. Kilburn said that the matter could be fixed by way of a separate ordinance, about putting items in the street right-of-way, and Mr. Newton added that the activity would otherwise count as "temporary sales."

### **Minimum Parking Space Size**

Mrs. Brunswick explained that the bylaws currently included a complex system to calculate the appropriate square footage requirement for maneuvering and aisle width in a parking lot. Mr. Hubbard expressed his desire to create realistic requirements that would not require excess parking. Mr. Newton suggested simply requiring a certain aisle width (24 feet for 2-way traffic, 12 or 15 feet for one-way traffic) and allowing for 9' x 18' parking spaces. The Planning Commission agreed.

### **DRB Conditional Use review for signs less than 50 sq. ft.**

Currently, the standard for the village required a maximum of 25 square feet for freestanding signs, with the possibility of Conditional Use review by the DRB to allow a 50 square foot sign. However, this did not create a higher standard for the larger sign; it simply sent anyone who wanted a larger sign to the DRB for Conditional Use approval, without giving any direction to the DRB on how to make their decision to allow it or not allow it. Why make hoops if the DRB had no reason to deny the request? Mrs. Brunswick said that the courts would call this sort of situation "standardless discretion of the Development Review Board." Mr. Kilburn said that the only real issue was height, not square footage. Most applicants spoke with him about the sign requirements, then kept their signs within the 25 square foot limit. The Planning Commission agreed to dispense with the Conditional Use review by the DRB for signs greater than 25 square feet.

### **Cultural or Artistic Signs**

Mrs. Brunswick recommended eliminating the section about cultural or artistic signs, because the language provided no standard or definition for the Development Review Board to enforce.

### **Development around Waterways**

Mr. Newton said that he had addressed the concerns about the need to build bridges and transportation infrastructure around waterways. This would require going through the Army Corps of Engineers and require that new structures or alterations to existing structures for transportation facilities, etc., if constructed within the buffer, shall meet all applicable standards and practices. Mr. Hubbard summed up that the language basically said, “If it has to be done, it should be done the right way.” The Planning Commission was comfortable with this language.

### **Section 3.15 – Wastewater Systems**

Mrs. Brunswick stated that, because the state had taken jurisdiction of the wastewater systems, it was redundant for Swanton bylaws to add its own requirements. She therefore recommended omitting this language. The Planning Commission agreed.

### **Camping without a permit**

Mrs. Brunswick noted that there was no definition of temporary shelter, and Mr. Newton added that the bylaws currently stated “no camping or other use of temporary structures shall be allowed without a zoning permit from the zoning administrative officer.” They felt that that was too restrictive. Mrs. Brunswick suggested deleting the language under section A, which the Planning Commission agreed was advisable. Mr. Newton explained that temporary shelters would be allowed without a permit, if used fewer than 120 days in a one-year permit. Mr. Lavoie asked how this would impact things like a camper or fishing shanty. Mrs. Brunswick felt there was a difference between occupied shelters and stored shelters. Currently, the language only allowed for “a camper” or other single temporary structure. Was this too restrictive? The Planning Commission felt more comfortable with a maximum of 2 campers or temporary shelters per lot.

### **Wireless telecommunications**

Mrs. Brunswick said that she had updated the language regarding wireless telecommunications, based on a model ordinance that the Vermont League of Cities and Towns had permitted. The main change related to the statute was in the use of the term “diminimus impact.” The DRB would need to interpret that, as it was statutory language. Some facilities would have to go through Act 250, but would still require local zoning permits. A number of other standards, provisions, and potential exemptions could also apply. Mr. Daniel said that he would like to remove the sentence that stated “no tower shall be located on an exposed ridgeline or hilltop,” since those were the very locations most suitable for such towers.

### **Wood burning furnace vs. waterstove**

All agreed to use the term “wood burning furnace” instead of “waterstove.”

### **SGD site plan review standards**

Mr. Daniel stated that he would like to remove the wording that stated “generic or franchise architecture should be avoided.” Mrs. Brunswick pointed out that “should” was already non-mandatory, therefore, there were no grounds to deny an application including such architecture. However, developers could be encouraged to do an innovative design.

Conversation turned to the matter of parking: Should it be required in only the rear and/or side? Or could front parking be allowed? Mr. Hubbard felt that front parking should be allowed, adding that he envisioned large warehouse-style stores. Mrs. Brunswick felt that such a vision was in conflict with the purpose statement for the district, which was more pedestrian-oriented. Mr. Hubbard replied that he envisioned a combination of pedestrian and vehicle traffic, especially since people tended to drive, rather than walk, from store to store. Mrs. Brunswick noted that this was because of the scale of the stores, which was why some towns restricted the size of stores.

### **Landscaping**

Mrs. Brunswick felt that the site plan review landscaping standards should be generally reviewed, as opposed to just the Southern Growth District standards. There was some overlap with landscaping standards as well, that could be cleaned up.

### **DRB waiver of subdivision standards**

Mrs. Brunswick explained that the bylaws currently provided standards under which waivers may be granted, but waiving subdivision standards seemed like too much discretion. Some towns allowed for waivers of application requirements, and the standards usually allowed for specific exceptions if appropriate. Mr. Newton agreed, stating that the PUD process allowed for waivers. If a certain standard should be waivable, the bylaws should specifically say that, which would be a better model than a large blanket waiver. Mrs. Brunswick recommended removing the subdivision standards waiver, but keep application requirement waivers.

### **Protection of natural resources**

Mrs. Brunswick noted that the Planning Commission may want to add specific language for those resources to be protected, since the language was general.

### **Historic & archeological resources**

Mr. Newton suggested that language be crafted to more specifically define such resources.

### **Boundary line adjustments**

Mr. Newton informed the Planning Commission that some communities allowed for the Zoning Administrator, rather than the DRB, to approve a boundary line adjustment. Mrs. Brunswick replied that statute required DRB approval; however some towns had created a streamlined process by which the Zoning Administrator prepared the application, and the DRB just signed it.

### **Natural, cultural and scenic features**

These needed to be defined more specifically.

### **FHO Definitions**

Mrs. Brunswick stated that she had created a separate section for FHO definitions.

### **Legal Review of Bylaws**

Mrs. Brunswick recommended a legal review of the document, so that the regulations would be more likely to stand up in the face of an appeal or challenge. Mr. Kilburn stated that the court's determination could not be predicted even then, so he felt a legal review was unnecessary.

### **Flood Hazard overlay standards**

Mr. Newton said that, in the future, the Planning Commission should look into adopting specific standards for the lake and the river, since the scope of doing that currently was beyond what NRPC could handle. The state had just created a new template, which NRPC had not yet looked at.

### **Public improvement**

Mr. Daniel asked that the Village be included in the language about public improvement ("any improvement owned and maintained by the town").

### **Adaptive reuse of historic barns/buildings**

Mr. Daniel noted that the language defining historic barns and buildings was rather exclusive, since those buildings had to be listed on the Vermont Historic Sites and Structures Survey or the National Register for Historic Places. Mrs. Brunswick stated that there was some specific flexibility and incentives for what one can do with historic structures; if the structure met qualifications, a person take advantage of those incentives. If a building did not meet the definition for historic, the property could be developed as otherwise allowed in the bylaw. She noted that the bylaw definition, however, needed to be updated to include eligibility and make it more inclusive.

### **Historic Architectural Elements**

Mr. Daniel noted that the bylaws stated: "New development and redevelopment in CBD shall incorporate historic architectural elements that reinforce established character of that district." But that architecture, being 50 years old and therefore "historical," was "1960s vinyl." Mrs. Brunswick suggested adding the language "as defined in the historic district survey."

### **Value Added Agricultural Enterprise**

Mr. Kilburn reminded that this should be included as a Conditional Use in the Industrial District.

## **2. Any Other Necessary Business**

Mrs. Brunswick stated that the public meeting (not the public hearing) was set for May 7<sup>th</sup>, in order to occur before the grant was closed out on May 16<sup>th</sup>. A separate hearing would be needed. The Planning Commission agreed to focus on the water quality and flood hazard issues, rather than the various "housekeeping" details. Mrs. Brunswick also suggested giving a basic overview to the public, explaining what zoning does and how it impacts property owners. She would be present to support the Plannign Commission. They would try to advertise the event well, to gather as much public attendance as possible.

Mr. Lavoie made a motion, seconded by Mr. Daniel, to approve the Planning Commission meeting minutes of 4/02/14 as written. Motion carried.

Mr. Lavoie made a motion, seconded by Mr. Larocque, to adjourn at 7:52 p.m. Motion carried.

Respectfully Submitted,

Yaasha Wheeler  
Planning Commission Secretary

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Jim Hubbard

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Ed Daniel

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Andy Larocque

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Ross Lavoie