

SWANTON PLANNING COMMISSION

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5/22/13 PUBLIC HEARING

SWANTON PLANNING COMMISSION

The Swanton Planning Commission will hold a public meeting at 7:00 PM on Wednesday, May 22, 2013 at the Swanton Town Offices, 1 Academy Street to cover the following matters:

1. To meet with representatives of the Northwest Regional Planning Commission and others to discuss the Municipal Planning Grant which was recently approved to assist the Planning Commission in accomplishing a revision of Swanton's Zoning Bylaws & Subdivision Regulations. Of particular interest at this meeting will be the topic of Low Impact Development & Stormwater Treatment, including a presentation by a representative of the Vermont Agency of Natural Resources (ANR).

Present:

Ron Case

Ed Daniel

Andy LaRocque

Ron Kilburn, Zoning Administrator

Yaasha Wheeler, Secretary

Present:

Allison Stori

Justin Kenney

Thomas Benoit

Mr. Hubbard opened the hearing at 7:06 p.m. Ms. Stori explained that the purpose of the meeting was to discuss stormwater management and low-impact development. Justin Kenney and Tom Benoit introduced themselves. Mr. Kenney explained that he is the Green Infrastructure Coordinator and works in the Ecosystem Restoration Program, which provides funding to municipalities and also to agencies like Stone Environmental and Friends of Northern Lake Champlain.

Mr. Benoit explained that he was from the regulatory branch of ANR that dealt with anything which fell under stormwater jurisdiction. He dealt with three main types of stormwater permit:

- (1) Multisector general permit: This permit addresses stormwater issues relating to industrial areas.

- (2) Construction permit: This permit is triggered when an acre or more of earth is disturbed, and addresses various degrees such as amount of disturbed earth, length that the land would remain open, and other factors.
- (3) Operational permit: This permit is triggered whenever an acre or more of impervious surface is created. Although the average single-family home construction would not require this permit, the acre is cumulative over the various lots of a subdivision or development. For example, if the impervious surface of a 7th lot adds to a total of an acre of impervious surface amongst the lots within the development, that 7th lot would require an operational permit.

The Planning Commission explained that the bylaws did not address such permitting as yet and that, up until now, the engineers had been relied upon to obtain any necessary permits. Mr. Benoit suggested that, anytime construction involved a development or a subdivision, he should be contacted or Mr. Jeff McMann at ANR should be contacted to determine whether a permit was required. The Planning Commission discussed the accumulation of impervious surface within a development, including the home itself, road infrastructure, and other surfaces. Mr. Benoit pointed out that it would take a great deal of accumulation to create an acre of impervious surface.

The Planning Commission cited a case in which everything was done by the book, but the accumulation of runoff from multiple lots resulted in stormwater issues between owners of neighboring developments, and expressed a desire to avoid such issues in the future with more thoughtful planning. Mr. Hubbard asked how the accumulation aspect would trigger the need for a permit, and Mr. Benoit explained that any lots that can be shown to be tied to an original parcel, as far back as records are available, are considered to be part of the original and are therefore counted toward the cumulative total.

The Planning Commission asked whether current development standards were used to help correct past mistakes. Mr. Benoit explained that some waters were designated as impaired, and that plans could be developed to address historic development to bring the water back into compliance. Swanton did not have any designated impaired waters, and probably met the criteria for Class B waters.

Ms. Stori asked for clarification on how to mesh the local regulations with the state requirements. Mr. Benoit suggested that applications with potentially triggering situations should contact a permit specialist, such as himself or Mr. McMann, to determine the need for a permit. Local builders could be given a low-risk handbook to help make them more pro-active in their planning, although many aspects of the stormwater management were already common practice amongst builders. Mr. Kenney pointed out that the majority of building sites in the state of Vermont were subjurisdictional because of their size, and were therefore regulated by the town, not by the state.

Mr. Kilburn asked to know whether the stormwater information from the most recent town handbook (2005) was relevant and current. Mr. Kenney replied that the latest state information was revised in 2002. Mr. Benoit added that the majority of information was fairly relevant,

although some updates could be made, especially in the area of contact information. Mr. Benoit added that most engineers were familiar with the regulations, although some things had to be permitted retroactively. Stori added a lot of the projects would fall under Act 250 and would therefore be caught and reviewed by the state, not by the town. Mr. Benoit suggested that developers should contact the state permit specialists to determine any permit requirements for the project, which would remove the burden from the town of Swanton. Also, anything that triggered an Act 250 process would automatically kick the project to him for permitting. Most of the process would involve the engineer and the permit specialist, without involving the permittee.

Mr. Kilburn pointed out that the bylaws contained no special direction to the Planning Commission, Development Review Board, or Zoning Administrator about what to look for or how to address potential issues. Mr. Benoit recommended simply referring applicants to a permit specialist to check, since the town had no special responsibilities or requirements in that area. Mr. Hubbard suggested language in the bylaws to the effect that “if construction appears to disturb or unearth more than an acre of land, refer to a state permit specialist.” Mr. Kenney added that the Planning Commission should also consider setting an exemption minimum and should determine how they want to regulate land smaller than an acre, since the majority of stormwater impact came from the cumulative effect of small developments. Mr. Case remarked that that would be a lot to keep track of, and Ms. Stori pointed out that a permit classification process which put the burden of homework on the permittee prior to any presentation before the town would simplify the process. Stronger language within the bylaw revision would help to notify developers of the types of homework they should consider doing prior to presentation. Mr. Daniel asked if there would be a difference if the Village had a separate stormwater collection system and Mr. Kenney asked if the stormwater and sewer were separate. Mr. Daniel replied that they were mostly separate.

Mr. Hubbard wanted to know how to catch potential issues and refer people to the appropriate state agencies. Mr. Kilburn suggested including a paper with every permit application apprising people of potential need for certain permits. Mr. Benoit suggested giving people a copy of the “project review sheet,” and Mr. Kenney suggested putting a check-box on the permit application itself, to require the applicant to call a permit specialist before moving forward with the project.

Mr. Case summed up that it would probably fall to the ANR to help the Planning Commission develop a plan for regulation regarding projects involving disturbance and impervious surface under an acre. Mr. Kenney suggested looking over the available documents from the League of Cities and Towns for model language that could be modified to fit Swanton’s needs. He added that it was important that current bylaws did not prohibit or discourage low-impact development. The Tractor Supply parking lot was referenced as a case in which the current bylaw requirements required situations that unintentionally opposed low-impact development. Mr. Kenney explained various types of pervious pavement (pervious asphalt, pervious concrete, and interlocking permeable pavers) that could be available to produce extra parking space without creating impervious surface. Those options needed maintenance and still had some details to work out of the new technology, but the interlocking pavers were considered the best solutions to deal with Vermont ice and snow conditions. Mr. Benoit reminded that engineers were required to present a

design of any constructed pervious surfaces. Ms. Stori suggested that stronger language could be designed, to the effect that if the applicant triggered X on a checklist, the design would need to incorporate certain measures. Mr. Kenney added that some towns required the permittee to prove or justify why certain practices could not be incorporated into the plan.

Mr. Kilburn asked for model language to consider and Ms. Stori promised to supply some. Mr. Hubbard summed up that they were trying to strike a balance between addressing issues of quality and protecting the town without driving people away because of prohibitive measures. Mr. Hubbard was concerned that the permits would become burdensome or would duplicate other requirements, and Ms. Stori explained that the main regulations were already in place and there would be no additional regulations for the big projects. The process mostly applied to smaller projects that the state would not be reviewing anyway. Mr. Daniel suggested that language could be created to grant waivers in cases where the design was more beneficial than the actual bylaw.

Ms. Stori stated that the next step was to go over the outline options for the floodplain issues, review the report that indicated deficiencies in the current bylaws, and consider involvement with FEH. Mr. Kenney added that the town would earn extra points for ecosystem grants if they had FEH. Mr. Daniel asked about channels that could become dangerous and flooded during storm events, and whether those were under the Planning Commission's purview. Mr. Kenney suggested that such issues could be addressed by "daylighting projects" to minimize potential risk.

The board thanked Mr. Kenney and Mr. Benoit for their very informative presentation.

The Planning Commission decided to meet June 19th at 7 p.m. to review the issues touched on so far, and to discuss possible historic district in design review. The board thanked Ms. Stori for her time and help.

Mr. Kilburn explained that Ross Lavoie was absent because of his presence at a Planning Conference elsewhere. He added that a new kind of zoning called "form-based zoning" was now a trend, and he would present information about it later. He invited the Planning Commission members to the Friends of Northern Lake Champlain annual dinner at the Tyler Place. He also informed the board that the Chinese restaurant next to Hannaford was closing and that Aubuchon was moving to that location, which would result in parking issues.

Mr. Daniel made a motion, seconded by Mr. Case, to approve the minutes of 04/17/13 as written. Motion carried.

Mr. Case made a motion, seconded by Mr. Daniel, to adjourn at 8:49 p.m. Motion carried.

Respectfully Submitted,

Yaasha Wheeler
Planning Commission secretary

Jim Hubbard

Ron Case

Ed Daniel

Andrew LaRocque