

## **SWANTON PLANNING COMMISSION**

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### **4/17/13 PUBLIC MEETING**

## **SWANTON PLANNING COMMISSION**

**The Swanton Planning Commission held a public meeting at 7:00 PM on Wednesday, April 17, 2013 at the Swanton Town Offices, 1 Academy Street.**

**Present:**

**Jim Hubbard**

**Ron Case**

**Ed Daniel**

**Andy LaRocque**

**Ross Lavoie**

**Ron Kilburn, Zoning Administrator**

**Yaasha Wheeler, secretary**

**Also Present:**

**Rebecca Pfeiffer**

**Staci Pomeroy**

**Allison Stori**

Hubbard called the hearing to order at 7:00 p.m.

- 1. To meet with representatives of the Northwest Regional Planning Commission 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.**

Hubbard stated that, with the Planning Commission applying for a municipal grant to rewrite the bylaws, they were seeking guidance from the Agency of Natural Resources and other agencies in that endeavor. Rebecca Pfeiffer, Staci Pomeroy, and Allison Stori came forward. Pfeiffer stated that she dealt with floodplain issues. She informed the board about the FEMA floodplain insurance program, in which participating towns adopt land use regulations for development within floodplains in exchange for federal government provision of flood insurance for everyone within the town. This would reduce the personal insurance expense of residents within the floodplain. Only violaters of the town's flood bylaws would be exempt from the insurance benefits. She added that her agency was trying to create Vermont and community-specific guidelines for the program, in order to best meet the needs for the area.

Pomeroy added that she was a regional scientist who worked on erosion hazard and flooding concerns. She noted that not all the streams were mapped by the flood insurance agency, yet the streams had the potential to cause hazards to nearby residents.

Hubbard asked for further clarification about what would happen to FEMA funding if the town chose not to implement the flood plans in the bylaws, and Pfeiffer explained that anyone who currently had flood insurance would not be able to renew the following year and, if someone had a mortgage or a loan, they might lose funding from the bank. If no one had flood insurance and a major flood like the 2011 flood occurred again, people might get disaster assistance (individual assistance) for some level of reimbursement, capped at \$30,000. That type of assistance, however, would only be triggered if a disaster was federally declared. Hubbard summed up that if the town did not adopt the plans for the bylaws, there would therefore be no funding. Pfeiffer noted that the program was voluntary, but almost mandatory because of so many people living in flood zones.

Pfeiffer added that there were minimum standards for compliance, focused on new buildings and structures within the floodplain. If a building were to undergo “substantial improvement” (defined as an improvement of 50% or more of the structure’s value), that would trigger the building to have to come into compliance. Also, if there were substantial damage (of 50% or more of the building’s value), that would also trigger the building to have to come into compliance. She explained that there were also two types of flooding: inundation floodplains (from events on Lake Champlain, like the 2011 flood) and approximate floodplains (which do not require as much engineering and analysis).

Hubbard asked how to combat neighboring community runoff and Pfeiffer replied that the Regional Planning Commission was the best resource for that issue. Kilburn reminded that the stormwater issues would be discussed at another time.

Pfeiffer stated that she had looked at the Swanton Zoning Bylaws, and that Swanton had the chance to comply to minimum standards, as well as to look at other things that might be more focused on the types of issues relevant to the community. She recommended having the floodplain issues addresses both in a separate section of the bylaws, and mentioned briefly in relevant other portions in the bylaws.

Case asked if the floodplain went inherently by elevation, and Pfeiffer replied that floodplain was determined by an overlay district. It was noted that even places out of FEMA floodplain were damaged by the 2011 flood by wave action. Pfeiffer explained that FEMA mapped Lake Champlain like a pond, not like a coastal area, and suggested that some coastal regulations might be applicable in Swanton’s case, because of the wave action. Kilburn asked how this would relate to building standards, and Pfeiffer explained that the plans were to make building in the floodplain more resilient to flooding, such as having engineered open foundations to allow water to pass underneath the building without harming it, as well as structures that could withstand torquing. She added that building higher than the current FEMA elevation was recommended as well. Hubbard stated that he understood that these updated regulations would apply to new development, and asked how that would apply to things like mother-in-law apartments. Pfeiffer

said that that could be up to the board's consideration, especially if the new building was structurally independent.

Pomeroy explained erosion hazards of rivers and streams, such as Hungerford Brook. She looked at the likelihood of a river moving, its sensitivity to the watershed, and other factors. The Agency of Natural Resources had assessed many of the minor tributaries in the area and were looking at using the river corridor to complement the NFIP information, to have an area of setback from the tributaries. Just because something was not mapped as a flood hazard did not mean that it was not a flood hazard, and therefore she encouraged the Planning Commission to have stronger language regarding rivers and streams. Hubbard summed up that there were larger or smaller setbacks from streams, depending on their potential to move and their sensitivity.

Hubbard asked how putting in larger culverts might influence flooding and Pomeroy explained that Act 138 included new requirements about such structures, and required culverts to be the width of the channel. Case asked if the goal was to get all tributary run-off as quickly as possible back to the lake and Hubbard answered that that would cause erosion, and buffering areas was a better option. Case added that finding places to absorb the water would also be advisable. Pomeroy noted that streambank stabilization was costly, and there was no funding for that, but there was technical assistance.

Hubbard asked whether people were in violation to dump riprap along the lake front to stabilize their banks. Pomeroy replied that permits were required to do so. Kilburn pointed out that Swanton only regulated boat ramps, not riprap. Pfeiffer explained that the permit should come from the Town of Swanton, because the town's flood hazard regulations should regulate that. The permit was just to document the development, which was defined as any human change to the land. One of the insurance program stipulations was to require such permits, which would not set a technical standard but just offer a mechanism to document the change. She recommended changing that type of permitting from conditional use to permitted use. Hubbard asked if the Town would be disqualified from the insurance program if such permitting was not required in the regulations and Pfeiffer said that, if FEMA audited the Town and discovered that permits were not required for such development, the Town could be put on probation. She recommended reviewing the Regional Planning Commission Developed Shoreline Stabilization Handbook, and perhaps use language that referred back to it. She further suggested created broad language as a catch-all.

Kilburn mentioned a case in which a farmer was taking down trees along the riverbank and ANR, after sending an investigator, had concluded that nothing could be done. Pomeroy suggested including buffer language in the bylaws, although agriculture was a separate entity. Hubbard noted that there was no effective way to prevent such destabilization of banks. Pfeiffer suggested talking to the legislature and gathering support for regulations regarding the protection of vegetative shorelines.

Pomeroy informed the board that Act 138 and Act 110 were both regarding flooding, and that the Emergency Relief Assistance Fund (ERAF) outlined potential benefits for proactive communities. Each step increased the potential funding level in ERAF, as an incentive for communities to consider stronger flooding language in their bylaws.

Daniel asked if the agency had identified priority areas and Pomeroy replied that sensitive areas had been identified, one of them being Hungerford Brook. Case asked about buffer distances from rivers and Pfeiffer explained that the buffers move as the river move, and that an area is set apart from the middle of the stream line, with room for the river to move back and forth from that. Pomeroy added that the agency was looking at how to address channel migration, to help people develop in ways to reduce their adjustments for such events. Lavoie asked how often corridors were updated and reconsidered; Pomeroy replied that most updates were triggered by events like Hurricane Irene. Pfeiffer noted that FEMA maps were not updated often, and had not yet been updated since the 2011 flood. However, Franklin County was a high priority for FEMA updates, because the area had good topographic information and because of the presence of the Missisquoi River and Lake Champlain.

Hubbard asked what to do if a deed states that a property line follows a brook, which subsequently keeps moving. Pfeiffer said that the attorney general had looked into the legal implications of such a case, but she did not know the conclusions of the investigation. She passed out copies of the booklet Answers to Questions About the NFIP, which included information about maps, regulations, insurance, and other factors. She also drew the board's attention to the checklist, which was focused on the FEMA requirements. She had marked whether or not the suggested requirements had been found in the Swanton bylaws (with accompanying information on where in the bylaws the language had been found). If a requirement was not included in the bylaws, she had marked where to find model language. She suggested considering coastal type of language for the lake, and was currently awaiting the results of shoreline standards now being considered by the legislature, to see what type of model language might be recommended.

The Planning Commission agreed to work with the agency on the changes, to warn the changes in a public meeting, and to have Pfeiffer, Pomeroy, and Stori available to educate the public on the reasons for the changes. The Planning Commission thanked Pfeiffer, Pomeroy, and Stori for their help.

The Planning Commission agreed to meet on Wednesday, May 22<sup>nd</sup>, to discuss stormwater issues.

Kilburn suggested that Section 3.14 (pages 29 and 30) in the current bylaws had some internal conflicts in the language and that Pfeiffer believed that the Zoning Administrator may have the authority by Section B to prevent bank tree removal, but he felt that the section only applied to structures and impervious surfaces. He felt the section was worth review.

## **2. Any other necessary business**

Kilburn stated that he had received a letter from an abutter objecting to a permit issued by the Development Review Board for a storage facility in the SR district, just neighboring the R3 district on the other side of the road. He suggested that the Planning Commission might want to review the district along Maquam Shore Road, because it represented a citizen's position and opinion about what should go into the SR district.

MOTION: Lavoie made a motion, seconded by Daniel, to approve the Planning Commission minutes of March 27, 2013. Motion carried.

Case made a motion to adjourn. Hubbard seconded. Motion carried. The hearing adjourned at 9:07 p.m.

Respectfully Submitted,

Yaasha Wheeler  
Planning Commission Secretary

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Jim Hubbard

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Ed Daniel

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Ron Case

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Ross Lavoie

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Andy LaRocque