

APPROVED / REVISED
MINUTES
SPECIAL MEETING OF THE
PLANNING AND ZONING COMMISSION

February 28, 2006

Present: Michael Autuori
Joseph Fossi
Nelson Gelfman
John Katz, Vice Chair
James McChesney
Rebecca Mucchetti, Chairman
Patrick Walsh
Lillian Willis

Absent: Walter Slavin

Also Present: Betty Brosius, Director of Planning
Richard Baldelli, Zoning Enforcement Officer

At 7:40 p.m., Chairman Mucchetti called the meeting to order.

PENDING ITEMS

1. **#2005-125-REZ-A:** (1) Application to rezone ± 133 acres of land from CDD-Corporate Development District Zone to ARH-Age Restricted Housing, (2) application to amend zoning text in the Ridgefield Zoning Regulations and (3) application to amend Town Plan of Conservation and Development for the zone change and text change. Property located at **616 Bennett's Farm Road**, south of Bennett's Farm Road and west of Route 7. Owners: Eureka V LLC. Appl./Auth. Agent: J. Casey Healy, Esq. *Received 9/6/05. Public hearing commenced 11/9/05. Walked 11/20/05. Public hearing continued 11/22/05, continued and closed and tabled 1/10/06. Discussion tabled 1/17/06. Discussed 1/31/06. 65-day action period ends 3/16/06. Denied 2/14/06. For reconsideration, discussion/action.*

Chairman Mucchetti explained the error in parliamentary procedure made at the meeting of February 14, 2006, when the Commission voted to deny all three applications. She says that she had a lot of questions during the discussion and concerning the action taken on the applications at that meeting, as noted in the minutes, and as a result she re-read Robert's Rules of Order, in particular Section 21, regarding the proper way to handle "Calling the Question." She thought "Calling the Question" was the same as "Point of Order," and that it would take precedence over other motions on the table and would halt discussion.

The Chairman discovered in Section 21 that her assumption was incorrect. Calling the Question requires a second, and if no one seconds, the motion to Call the Question can be ignored. If someone does second the motion, then you can discuss whether or not to halt debate, and it requires a 2/3 majority to do so. The Commission did none of that.

The Chairman says she was concerned enough to call legal counsel Tom Beecher on Friday, and asked if a procedural error that halted discussion would be grounds for an appeal. She expressed her concern based on Commission by-laws which require meetings to be conducted under Robert's Rules. Mr. Beecher offered to research her question, and did so over the weekend, with response forthcoming on the afternoon of Tuesday, February 21st (Monday was a holiday).

The Chairman and the Planner had a conference call with Mr. Beecher on Tuesday, and it was his opinion that the proper way to correct the procedural error would be to reconsider. Chairman Mucchetti asked for an opinion in writing for the benefit of the Commission. The opinion was received by e-mail on Tuesday evening, and was forwarded to the Commission with her cover comment on Wednesday, the 22nd. As noted in Mr. Beecher's opinion, there is a 15-day window allowed by law, if the legal notice has not been published, or 15 days, whichever comes first, that gives you an opportunity to reconsider if you choose to do so. Because Calling the Question was out of order, it was not seconded and voted upon and debate was cut off, then it may have prevented a full and careful review of the application. That is why the motion to reconsider, in Mr. Beecher's opinion, is valid and the question can come back to the table.

The Chairman says if we choose to reconsider, we can go back into discussion. If we choose not to reconsider, we have been given the option to go back into discussion, and have chosen not to take it. The presentation of the opportunity to reconsider rectifies the procedural error. The motion that is being considered is not Calling the Question; that was out of order, there was no vote, there is nothing to consider there. The motion to be reconsidered was Mr. Katz's motion to deny the proposed amendments to the Plan of Conservation and Development. What we are doing is going back to the point where we were in the discussion, prior to Calling the Question.

Dr. Autuori asks if we decide to reconsider, how much time do we have to re-work the wording of what's proposed? The Chairman responds that we have until March 16th. The 65-day action period still applies, and that ends the 16th of March. Dr. Autuori asks if we have any documentation that suggests that an extension would be granted? The Planner states that we can request an extension from the applicant if needed.

Chairman Mucchetti states that Attorney Beecher's letter will be read into the record. Mr. Katz clarifies that the attorney did not give his opinion that the

Commission should reconsider, but only that the option to reconsider should be provided. The Chairman agrees.

Mrs. Willis asks if it is true that the Commission needs to take care of the three items in short order, and if that would be a problem. The Chairman says the letter will clarify her question, and asks the Planner to read the attorney's letter, addressed to her and the Planner, into the record as follows:

Moving the Previous Question or "Calling the Question" requires a second and a two-thirds vote. It is my understanding that, at the Commission meeting on February 14, 2006, a Commissioner "called the question" and everyone assumed that that very pronouncement cut off further debate and discussion and the Commission moved to a vote on the motion to deny proposed amendments to the POCD which was the motion then on the floor. Thereafter, in the absence of changes to the POCD and, therefore, due primarily to the absence of consistency with the POCD, the Commission proceeded to deny the text and boundary change proposals.

You have asked me whether closing off debate and discussion prematurely, based upon a procedural error, specifically the absence of a second and a 2/3rds vote to terminate debate and move the question, constitutes good cause for reconsideration of the decisions reached by the Commission on Feb. 14th.

Because a full and thorough review and discussion of any application is a duty of the Commission, it is my opinion that a procedural error that prematurely terminated discussion constitutes good cause for reconsideration of the three decisions. If a Court found that such a procedural error did prematurely terminate discussion and that prejudiced the applicant, the likely relief a Court would grant would be to remand the matter back to the Commission for further full and thorough review. Therefore, I believe the Commission has the power to reconsider at this juncture, rather than having to wait only to be ordered to do so by a Court.

Reconsideration is an extraordinary remedy not to be routinely raised or utilized by Commissions. There must be good cause to reconsider a decision. The Appellate Court held that a board or commission can open and reconsider a decision for good cause, but only within 15 days of the date of decision or before the decision is published, whichever occurs first. This is based upon the legal conclusion that the decision does not become "final" until delivered and published. Therefore, a motion to reconsider in this case must be acted upon no later than March 1st. It is my understanding that notice of the three decisions has not been mailed or published as of now.

Pursuant to Robert's Rules of Order, a motion to reconsider must be made by someone who voted in the majority on the matter to be reconsidered. Anyone can second. Only a majority vote is required to pass the motion to reconsider. The motion to reconsider is itself debatable in this case because the matters to be reconsidered were debatable. Thus, once a motion to reconsider is properly made

and seconded, during debate prior to voting to reconsider, the Commission would have the opportunity to explore whether the Commissioners feel debate was terminated prematurely, whether further relevant discussion would have been forthcoming but for the “calling of the question”, and whether further discussion now would be beneficial.

If the motion is made and adopted as to all three decisions, the Commission would go back to the status of the matters before the call of the question and the subsequent votes. Therefore, it would pick up where it left off and the Commission would be required to follow the same timeframes in effect for this application. There is no case directly on point, but there is Appellate Court decisional support (Wright v. Town of Southington, 43 Conn. App. 654, 658 (1996)) for allowing the commission to review the underlying matters/three applications beyond the expiration of the 15 day period as long as the motion for reconsideration had been passed within the 15 days. If a motion to reconsider is made and passed, the Commission would need to vote on or dispose of the first motion that was on the floor, which was the motion to deny the amendments to the POCD. If that motion is adopted once again, the Commission still must move on to the next two matters under reconsideration and act on them as well. As to any of the three matters under reconsideration, the Commission cannot entertain a motion to approve or modify and approve while reconsidering the motion to deny, nor after a motion to deny is adopted once again.

The Appellate Court case referred to above is the case of Sharp v. Zoning Board of Appeals, 43 Conn. App. 512 (1996). It should be noted that in that decision, the Court stated: “There is a period of up to fifteen days between the date of decision within which the board may open its decision for good cause to correct matters that were overlooked and were capable of speedy and practical correction.” It is acknowledged that correcting the procedural error is a matter that was overlooked and is capable of speedy and practical correction by the allowance of further discussion. It is, however, a fact that further proceedings, after correcting the error and by the allowance of further discussion, may not be all that “speedy”, as the word may connote, and may need to continue at subsequent meetings. On balance, and upon reading both Appellate Court decisions together, it is likely that speedy rectification of the procedural issue (resumption of discussion) followed by proper deliberation with all reasonable speed will be upheld by a reviewing Court.

It is my advice that the Chairman explain her procedural concerns to the Commission, explain that she sought my advice on the topic as it related to fairness and appropriate procedures, and place it on an agenda thereby giving the Commission the opportunity to review the situation. The Commissioners may then determine whether they believe it is necessary to formally reconsider the matters.

Lastly, I would suggest distributing this opinion to all Commissioners.

Chairman Mucchetti says that what Mr. Beecher is suggesting is that we bring the opportunity to reconsider to the table.

Dr. Autuori says he is prepared to make a motion to reconsider, but he is not necessarily interested in going back to vote up or down the original questions. He asks that if the Commission reconsiders the original matters, does that mean all three applications? Mr. Walsh says that it is not how he understands it. The reconsideration is of Mr. Katz's motion to deny the original proposal to amend the PCD. If Mr. Katz's motion passes again, the Commission has to consider the vote on the two other applications, but if his motion fails, then the Commission could discuss possible amendments to the proposals. The Chairman agrees.

Dr. Autuori notes one thing still open when the question was posed, whether we could modify the proposed amendment. He asks if we move to reconsider, could we then go back to discuss possible modifications to the proposed amendment? The Chairman confirms, that yes, the Commission could do that. She notes that the Commission would be back at the point before the vote was taken, in discussion.

The Planner reminds the Commission of the paragraph in the Attorney's letter, where he notes that the motion to reconsider is itself debatable in this case. The motion to reconsider is not about the merits of the applications in front of the Commission, but the debate would allow the Commissioners to explore whether or not they felt that discussion was terminated prematurely, and whether "further relevant discussion would have been forthcoming but for the calling of the question." Does the Commission feel that, had the question not been called and the vote been taken on the motion at that time, that they would have gone on with more debate and have come to a different conclusion perhaps than what occurred? Or did they feel that they had enough opportunity to say what they wanted to say?

Dr. Autuori understands the motion to reconsider could be debated, but if it were adopted, then does the Commission have to vote on what was proposed, or could they begin to propose their own language to the amendment? That's the issue. The Chairman says that if the motion to reconsider was passed, then it puts them back to the point where they were on February 14th, before the vote to deny was taken. The motion to deny, with a second, would remain on the table, and that motion would have to be acted upon again at some point, but it would allow for continued discussion before the vote.

Dr. Autuori asks if Mr. Katz's motion then fails, then is it proper for someone to move a different motion? The Chairman confirms that it would be appropriate to do so. If so, Dr. Autuori is prepared to make a motion to reconsider.

Mr. McChesney confirms that the Commission had established they could modify the proposal to amend the Plan of Conservation and Development, and the proposed regulations. If they choose to reconsider, then they have the opportunity, if they want to, to re-word the portion of the application that deals with the amendments to Plan.

Mr. Katz says the key parts of the Attorney's opinion are two: (1) "Reconsideration is an extraordinary remedy not to be routinely raised or utilized by Commissions. There must be good cause to reconsider a decision," and (2) "Whether the Commissioners feel debate was terminated prematurely, whether further relevant discussion would have been forthcoming but for the 'calling of the question,' and whether further discussion now would be beneficial." These are the key points.

The Chairman says Mr. Beecher's opinion was reached after reviewing the minutes of February 14th, and he said that there were several points in the minutes where Commissioners expressed that they might have come to a different conclusion had they been given the opportunity to discuss the matter further (she is paraphrasing). She notes that Mr. Beecher looked at the minutes from the viewpoint of the Court, and thereafter rendered his opinion.

Mr. Katz says that as the maker of the motion to deny the applicant's request to change the Plan of Conservation and Development, seconded by Mr. Slavin who is not here tonight, he is concerned about what this procedure does because it is different than the circumstance on the night the vote was taken. He feels it is untoward to continue without Mr. Slavin's participation.

The Chairman agrees, but says she already confirmed that only the motion to reconsider has to be dealt with on February 28th. If the motion to reconsider is made and seconded and voted by a majority, then discussion could be held on a subsequent night when Mr. Slavin is back. The motion to deny with second, to be reconsidered, would come back at that time. Dr. Autuori agrees that it would be best to deal with the major issues with the same group as in the original discussion.

Mrs. Willis says one problem that still remains is that even if they agree to change the PCD, there may still not be an agreement from other parties, and they would be setting themselves up for something that may not find any favor. So, the changes that may be reasonable to the Commission may not be agreeable to the other parties, and perhaps they would be opening up a massive can of worms.

The Chairman says that the outcome may ultimately end up being the same, but her concern is the integrity of the process. If the applicant wanted to take an appeal on a decision of the Commission, they have every right to do so. However, giving them an opportunity to take an appeal on a matter that is a procedural error, that the Commission could have rectified before the decision was published, is something that she thought they should have an opportunity to discuss. The procedural error would be corrected by offering the opportunity to reconsider. The integrity of the process is worth the exercise.

Mr. Katz compliments the Chairman on providing the opportunity, and says that offering the opportunity itself rectifies the integrity of the process, regardless of whether that opportunity is exercised. The integrity of the process has to be preserved,

and is perhaps not better or further preserved by making the motion to reconsider. It is the opportunity to do so that is preserving the integrity of the process. The Chairman agrees.

Mr. McChesney says that if the Commission reconsiders and decides to modify the Plan, the discussions held by the Commission would at least produce a consensus of what changes needed to be implemented. If they did not come to a consensus, then perhaps they would not vote to make the amendments.

Mrs. Willis says the proposed changes would be better worked out in a different way and brought back to the table, as a new application, having listened to the concerns put forth by the Commission, understanding what the Commission wanted. There would then be a much better chance of creating a regulation that both the Commission and the applicant would find palatable.

Mr. Fossi says he would agree with Mrs. Willis except that there was never really a consensus as to what the Commission would find favorable. He feels that the discussion was cut short. This is one of the most important decisions this board has had to face in a long time, and if the decision is brought up for discussion, then the Commission should wait until Mr. Slavin is present. He agrees that it may not come to a consensus, but they should at least provide the opportunity for additional discussion.

Dr. Autuori remembers feeling pressured to vote on the motion as it stood, but would probably have felt differently with more discussion. In response to Mrs. Willis, he would not vote in favor of what he voted against on the 14th; he does not think the language is appropriate as it stands. But he would favor the opportunity to modify it and re-work it. A consensus may be reached.

Mrs. Willis says the language promotes substantial development outside the center of Town. If words like that are included, she is not in agreement. She fears that the Commission could go for massive tweaking and changes, and it might be all for naught.

The Planner points out that massive amounts of tweaking and changing is not what the statutes permit. The statutes permit the modification of the proposal that's in front of the Commission, but this does not give the Commission carte blanche to change all sorts of parts of the Plan. That's important because what the Commission is talking about is not adding all sorts of sections throughout the Plan, but taking what's been proposed and modifying it.

Chairman Mucchetti says what is needed tonight is a decision about whether the Commission wants to reconsider. The kinds of conditions that Mrs. Willis is mentioning are the kinds of things that would come up in discussion.

Mr. Katz revisits the chronology of events that brought the matter of reconsideration to the table. When he made his motion to deny, and presented his comments where he

cited what was being requested of the Commission for alteration of the PCD, a couple of Commissioners, including Mr. McChesney and Mr. Walsh, wanted to review his comments against the existing Plan. Each of those Commissioners came back to the table having read the comments in detail, and their concerns were aired at the table exhaustively before he called the question. When he called the question, there wasn't a peep out of anyone. Perhaps the call of the question was taken as a sign for silence, but he does not believe so. He feels that everyone had a fairly broad and thorough discussion of the issues at hand. He feels that the vote was an honest vote. And many had voiced the fact that changes would be acceptable, but total reincarnation was not appropriate at this point, and it was too hard to change it in an acceptable way to meet the needs of the proposer of the changes. There were very significant philosophical differences between what the applicant wanted as a modification and what the Commission saw as the serious context and philosophy of the Plan of Conservation and Development from page iii, as Mr. Walsh pointed out, all the way to the end, as he pointed out. He says he would not want to see the process before the Commission used because of "buyer's remorse" by the individual Commissioners. What should be at play here is an honest intellectual assessment of whether all or any of them believe that debate was somehow thwarted, that ideas that might have been on the table were prevented from so being because he called the question and the Chair reacted to the call.

Dr. Autuori says he does not have buyer's remorse. He never felt that the proposed changes would so radically corrupt the Plan, as appears to be the opinion of others. He feels that he can come up with language to modify the two statements made by the applicant that would be a more reasonable modification to the Plan, and allow the Commission to go forward if they choose.

Dr. Autuori therefore makes a motion to reconsider, and if seconded he will talk more on the issue. The motion is seconded by Mr. McChesney.

Chairman Mucchetti notes the opportunity for discussion on the motion. Dr. Autuori references the discussion of February 14th, and cites one of the things that irritated him immensely, that our attorneys gave us incomplete information about the Commission's opportunity to amend the regulations after the close of the public hearing. We were informed that we could not amend the proposed regulations. Then, three weeks later, on the morning of the 14th, the answer was different. He again cites his personal dilemma regarding the need to vote on the 14th. If afforded more time, he would not want to vote in the absence of additional amendments to the proposal. When the question was called, he felt compelled to vote and feels that discussion was prematurely terminated. He has ideas of how this could be modified to benefit applicant, community, the Commission and so forth, and he would like the opportunity to do that. If it doesn't go anywhere, fine.

Mr. McChesney, speaking to his second, says that he did not agree with everything that Mr. Katz had to say, and more discussion would give the opportunity to determine what changes they could make. It's worth pursuing. He cites one of the points that Dr.

Gelfman made, regarding the question of tabling discussion to review the comments from counsel, but Mr. McChesney was concerned about the critical timetable in which they had to act, and he thought the matter had to be acted on that night. As it turns out, the Planner stated that there was more time, and the applicant could be asked to grant an extension, especially if discussion was continuing. The Planner says that the opportunity for extension was also mentioned during discussion on the 14th.

Mr. Katz says the idea that we would take the applicant's request for the three applications and re-draft each one of them seems to be patently unfair as Commissioners. We don't do it for anyone else. We've had applications that have been denied, and we could have done all kinds of things with them. We are not the designers of these three pieces of requested legislation, the applicant is. We spent a great deal of time sharing with the applicant in our own discussions and through questions at the public hearings the things in his applications that we found not in the Town's interest. We're not dealing with stupid people here, and we're not dealing with people who want to fold their tent and go away. And if you combine their intelligence with their perserverity to make a proposal that is more in line, that may need an occasional tweak here and there. That's not what we have here – each of these needs a total re-do. Why should we do this for them, and not be expected to do it for any applicant who comes to the table? This is an applicant that didn't meet with the office upstairs to prepare these proposals, he has the opportunity to do it, he is now better informed of the lay of the land and what the Commission is and is not looking for, and has professionals sitting on the second floor of this building ready and able and paid to help them. That's the way this should go.

The Planner commented on something that Dr. Autuori said about the Commission's learning on the 14th that they had the opportunity to modify the regulations that were in front of them. The question that Mr. Katz raised, calling the question, was the motion to deny the proposed amendments to the Plan of Conservation and Development, which the Commission knew from the get-go they had the opportunity to modify. Not to totally re-write the PCD, but they could modify what was in front of them as proposed amendments to the PCD. That was the question that was on the table, the motion to deny. She just wanted to point that out because the "error" in the knowledge of what you could and could not modify did not have to do with the question that was raised and voted on that night. Mr. Katz agrees.

Dr. Autuori agrees this is a good point, but what he felt was that there were so many things to consider, and that they had run out of time to do so. He says that was an inaccurate supposition on his part. It seemed to him that with or without modifying the PCD, they still had a regulation that they looked at three weeks ago, they could have worked on, and suddenly they found out on the 14th they could modify it. It almost seemed that the task was so overwhelming, and so suddenly put upon them, that whether the question was called or not was not the real issue. It was perhaps a misjudgment, a failure to understand parliamentary procedure, but the three-week lag period where everything laid fallow essentially corrupted his motivation.

Mr. Walsh says he can't agree with Mr. Katz more about buyer's remorse, but as he looks back over the entire public hearing process, he looks on a word and that's "information." Information leads to an informed decision, and he thinks that from the get-go this Commission didn't have proper information. They were lead to believe from the get-go that they had to accept or deny the proposed regulation, which as he stated on that Tuesday night, cut off certain trains of thought in the public hearing process, that he wasn't going to go down certain roads because he couldn't make certain changes. That information was presented to them at the 11th hour, the morning of the meeting on the 14th of February, that they could change the regulations. They always knew they could amend the applicant's proposed language to the amendment for the PCD, but they never thought they could amend the applicant's proposed regulation. So he thinks that the misinformation has led perhaps to an uninformed decision. He specifically stated that he could not support the applicant's language for its amendment to the PCD, and he stands by that. He would not vote for the language that is proposed, but he had written down possible changes to that language before coming to the meeting that evening, and then there was the calling of the question and the vote thereafter. The reason he voted against the proposed amendments as he stated that evening, was because Mr. Katz's motion was specific to the proposed language of the amendment as presented to the board by the applicant. If there were an opportunity to bounce around language to the PCD, and further discuss more in depth the possible changes to the zone change, he thinks that it might be a good idea. He completely agrees that this Commission should not be in the mode of completely re-writing an applicant's work. Again it goes back to mis-information and poor information. A lot of things discussed on the 14th could have been vetted out in the public hearing stage, if they had had proper information about what could be modified in the zone. He is not certain that should be held against the applicant at this stage of the game.

Mr. Katz responds that the applicant had full opportunity to present to the Commission at any time during the timeline, certainly at the public hearings, that they were permitted to make alterations to their proposal for amending the regulations. It strains credulity that the applicant didn't know that.

The Planner interjects that the Commission did make some changes to the regulations during the public hearing process. Mr. Katz notes that the changes were the type frequently made well in advance of the change in the legislation.

Dr. Gelfman notes that there are a couple of things that complicate reconsideration. First is that the plan as submitted carved out a piece for a corporate zone, and his comments during the discussion were to include the whole 155 acres, and he had suggested a density of two units to the acre instead of three. He says these changes can't be made by the Commission, they can only be accommodated by a resubmittal. The other thing that complicates this, and although they were told not to discuss the third party agreement it was made part of the record, is that the Selectmen and the applicant had agreed to a sewer line to Danbury, and that can only be changed by reconsideration of that agreement. He thinks that it would be more in the interest of

everyone if the applicant would withdraw the application and resubmit one along the lines of the discussion that took place during all those weeks.

Dr. Autuori asks if the only thing they can consider is what they are proposing for the zone change? The applicant drew the corporate piece on the map. The Chairman agrees that the zone change proposal is for the 133 acres. So in response to Dr. Gelfman, he thinks they should go forward with that part of it (the 133 acres). There is no application for the corporate land. If they choose to come in with an application for a corporate park, then there would be an application reviewed, and if they choose to come in to re-zone that corporate piece to residential there would already be a model for it. He does not see that they can legally consider that as part of the discussion.

The Planner clarifies that the application is to re-zone 133 acres, but the corporate land is part of the discussion because it is part of the property.

Mr. Katz notes that the applicant has as much of a project on the 133 acres as they have on the other corporate acreage. It is a concept plan in both cases.

The Chairman notes that these issues can be discussed later. She asks if there is any other discussion on the motion to reconsider the previous votes on the three applications, noting that a motion was made and seconded and discussion has occurred. Hearing no further discussion, she calls for the vote.

Voting in favor of the motion to reconsider are Mr. McChesney, Dr. Autuori, Mr. Fossi, Mr. Walsh, and Chairman Muchetti. Voting against are Dr. Gelfman, Mrs. Willis and Mr. Katz. The motion to reconsider the applications passed, 5-3.

The Chairman notes the schedule for March 7th and that Mr. Slavin is expected to return for that meeting. The Inland Wetland Board has scheduled a discussion for upland review areas on that night; she suggests moving that discussion to the March 21st and scheduling the Eureka matter for the 7th. Mr. McChesney voices his agreement, and the Commission joins in consensus.

The Planner notes that the first item to be considered is the motion to deny the proposed amendments to the Plan of Conservation and Development. The Chairman notes that the original motion to deny, made by Mr. Katz, will come to the table as a motion with a second on March 7th. The Commissioners then agreed that if that motion is defeated, a subsequent motion to modify the proposed amendments could be put on the table.

Mr. Katz notes for posterity, for those who would re-examine the record and next week's agenda in years to come, that the agenda item should be shown to be based on a motion to reconsider of this date, and the motion to deny comes back to the table for a vote. The Chairman confirmed that the wording of the agenda would be submitted to counsel for review.

In reference to what can be considered for regulations amendments, Mrs. Willis asks what happened to the regulation about slopes and wetlands affecting density? The Chairman notes that the Town's regulation was not upheld in Court, following a challenge on appeal. The Planner explained that the appeal was based on the fact that the regulation was in the subdivision regulations and not in zoning. If there would be a way to include it in both zoning and subdivision regulations, or just in zoning, it would be possible to implement a similar regulation. Dr. Autuori points out that this is the type of regulation that could be put into the proposal before them, to count wetlands or not, to exclude steep slopes, and so forth.

2. **WORKSHOP SESSION:** Zoning Regulations update with Glenn Chalder, Planimetrics, Section 7, "Basic Standards."

Continuing the previous workshop discussions on proposed revisions and major reorganization of the zoning regulations, **Mr. Chalder** presented Section 7, "Basic Standards," including regulations for landscaping, parking, and signage. The discussion will continue at the next session, to include review of the sections for excavation and grading, erosion and sedimentation control, access management, driveways, sidewalks, utilities and outdoor lighting.

The Commission made several recommendations, and will continue review of Section 7 and go on to Section 8, for "Special Provisions," (non-conforming uses, telecommunications and other miscellaneous provisions) in March. The proposed schedule includes presentation of the revised and reorganized regulations to the public in June, and refinement of the proposed changes for continued work in the fall. The completion of this major re-write is anticipated by the end of the year, following required public hearings.

Hearing no further discussion after the workshop session, the Chairman adjourned the meeting at 10 p.m.

Respectfully submitted,

Betty Brosius
Director of Planning