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**MORRISTOWN/MORRISVILLE
PLANNING COMMISSION
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Minutes of September 16, 2003

Members Present: Bruce Tomlinson, Bill Bourne, Bill Henchey, Sam Guy, John Meyer

Members Absent: Peter Wright

Recorder: Mark Leonard, Zoning Administrator

Guests: Steve Rae (Conservation Commission Chair), Kevin Lane (Conservation Commission), Carleton Piper

Sam called the meeting to order at 7:05 PM.

Carleton Piper was introduced to discuss ponds and issues regarding whether to require zoning permits for them. Currently, the bylaws are unclear on this question. Under a strict interpretation of the definition for "development" in the bylaws, ponds would need a permit as they involve excavation. They would likely be considered an accessory use. As such, the only determining factor in granting a permit would be whether the pond met the applicable setbacks.

The town has not required permits for ponds on the basis that the excavation is minor (not such as is found with a quarry, house foundation, or other significant excavation activity) and that there did not appear to be a public benefit in requiring that ponds have a zoning permit. Recent inquiries from property owners and adjoining property owners have raised concerns that ponds may infringe on setbacks, alter water flow onto adjoining properties, impact wetlands, or pose a hazard to adjoining properties should they fail.

Carlton reviewed the various state and federal permit requirements. Generally, only very large ponds (greater than 500,000 cubic feet, or roughly an acre or more) require state permits. The state permit review is concerned with water quality and wetlands impacts. It does not address construction standards. The Army Corps of Engineers reviews ponds to determine wetlands impacts.

Bill B asked about potential liability the town might assume in granting pond permits. He said if a permitted pond failed and damaged property, owners could hold the town liable as it had approved the permit. If the criteria for approving ponds were to include design or construction standards, an engineer's certification might be required, similar to the certification now required for septic system designs.

Bill H asked Carlton how many ponds he estimated were constructed in Morristown annually and whether there were any construction standards for ponds. Carleton guessed that there were dozens, maybe a hundred or more, ponds built each year. The average size was about a quarter-acre, 10-12 feet deep. He said there were no specific standards; soil conditions, terrain, and lot layout dictated the size and design of the pond. Ponds could be created just about anywhere, though steeper grades and/or porous soil would increase the cost. He said some pond builders are better than others in constructing well-made ponds. He added that an engineer review would be a good idea, but would likely be expensive.

Sam asked if Carleton could suggest any wording for a pond bylaw or specific requirements. Sam suggested that ponds of a minimum size (to be determined) might require a permit, while smaller ponds would not. Carleton did not have any suggested wording, but said we should check with Warren, Underhill, Moretown, and Stowe to see how they have addressed the issue. The ZA said he would send a query out to all towns and VLCT about how they deal with ponds and report his findings back to the commission.

Steve Rae and Kevin Lane of the Conservation Commission discussed possible changes to the Rural Residential with Agriculture zoning district. The discussion focused on whether and how to create new zoning districts in the areas of town at higher elevations (along the Sterling range on the west side of town and Elmore

Mountain on the east side) to reflect their distinctive character and land uses. Bill H stated that the first step in any such effort would be to define the boundaries of any such new district and then to list what uses would be allowed. The Conservation Commission agreed to work on a draft proposal. The ZA offered to obtain a copy of Waitsfield's recently adopted Forest Reserve zoning bylaw to use as an example.

Sam addressed plans for review of the Route 100 Corridor. The ZA reported that LCPC and the Central Vermont Planning Commission were reviewing proposals from two contractors to conduct a study of traffic and land use along the corridor from the I-89 intersection in Waterbury to the intersection with Route 15 in Morristown. The study results would not be available until late next summer. The preliminary work on the study would provide information to be used by LCPC on a separate land use study specifically for the Morristown section of the corridor.

This would be conducted in the spring. The ZA suggested that the commission hold public hearings ahead of this study to provide input to LCPC on the public's views on this subject. Sam suggested identifying large, undeveloped parcels along the corridor and inviting those property owners to any public forum on this topic.

Steve Rae referred to the Town Plan's recommendation to consider creating a bike path along the corridor to link existing bike paths and trails in Morristown with similar paths in Stowe. He felt such a network would enhance the area's attractiveness for visitors and residents alike. Bill B suggested that property owners along such a new path might be allowed higher building density on their remaining land in exchange for granting easements for the path. The ZA noted that a natural scenic route for such a path might be along Ryder and Lawrence brooks, on land that is restricted from development due to flood zones and wetlands. These restrictions might pose some challenges to developing a bike path, but that such a use would not be as likely to adversely affect wetlands and flood zones as residential development.

The ZA advised members of a series of public information forums (on the fourth Tuesday evening each month) on various community topics. The first would be on September 23, addressing the need and options for new town offices.

The next meeting will be on October 7, 2003. Agenda items include review of other towns' pond permit requirements, a list of proposed bylaw changes, and discussion of a proposed bylaw change regarding review of stormwater issues for conditional uses.

Respectfully Submitted,

Mark Leonard, Recorder