

**Brandon Planning Commission Meeting
March 7, 2019**

Board Members Present: Michael Shank, Bill Mills, Lowell Rasmussen

Board Members Absent: Ethan Nelson, Stephanie Jerome

Others Present: Jeff Biasuzzi, Barbara Noyes-Pulling

1. Call to order

Michael Shank, Interim Planning Commission Chair, called the meeting to order at 6:00PM.

2. Agenda Approval

A motion was made by Bill Mills to approve the agenda. **The motion passed unanimously.**

3. Consent Agenda

a. Approve Planning Commission Meeting Minutes – February 4, 2019

A motion was made by Bill Mills to approve the Planning Commission meeting minutes of February 4, 2019. **The motion passed unanimously.**

Michael Shank welcomed Lowell Rasmussen as the new Planning Commission member. The Select Board had received Lisa Rovi's letter of resignation and approved Mr. Rasmussen's letter of interest to replace Ms. Rovi.

4. Zoning Administrator's Report

Jeff Biasuzzi provided the Commission members his monthly Zoning Administrator report. There were eight applications from December to March. Two applications were related to changing from single-family to multi-units, an application to review a permit for Thor's Elegance facility due to the permit running out. There will be a Buehler hearing in the future to appeal the DRB's decision on the Midway Oil application. Midway Oil has filed a motion in Vermont E-Court to dismiss due to the appeal was based on an issue not part of the application and that VTrans has sovereign immunity that overrides local regulation on Vermont highway projects. Mr. Biasuzzi noted this process may need to go to mitigation. Mr. Biasuzzi noted the Brandon Inn owner is planning to subdivide the Annex from the main building. A new tenant is renting the ice cream shop and the permits are still good as far as Mr. Biasuzzi can determine, noting that permits usually go with the title as long as it is the same use. Mr. Biasuzzi noted that he did not find in the BLUO where a sign has to be taken down after discontinuance. Bill Mills stated there had been discussion regarding banners and when these types of signs had to be taken down. Mr. Biasuzzi stated it is difficult to monitor these types of items and suggested the Sign Ordinance could be fine-tuned. Mr. Biasuzzi provided a sample email regarding an inquiry about solar projects and advised that he refers the inquires to 30 VSA Section 248. If there is substantial deference with a new Enhanced Energy Plan, Mr. Biasuzzi suggested there could be another article in the BLUO about this subject to refer inquires. Mr. Biasuzzi advised he is ready to discuss accessory structures at a future Planning Commission meeting.

5. River Corridor Update

Barbara Noyes-Pulling stated there had been discussion of adjusting the maps to include the structures in the River Corridor. Between the river corridors and small streams, there are 68 structures that would fall within the boundaries. A list, by address and type of structure, was provided to the Planning Commission.

This is information for the Planning Commission to share with the Town to determine whom this is going to affect and how the Town will communicate this information to the people affected through public meetings. Ms. Noyes-Pulling stated the property owners would not be asked to decommission the structures, but any kind of new building or changing fill in those areas would be prohibited. If there is already a structure, one cannot put another one closer to the river. Ms. Noyes-Pulling stated this is a new regulation with the small streams and there are no towns in the state that have started the process. She noted that Brandon has a relatively high number of structures affected. Ms. Noyes-Pulling stated the Planning Commission can use one of the models provided, with the recent model having the most changes. Jeff Biasuzzi stated from an administrative point, the flood plain part is similar language to what is already in existence. With the river corridor issues, the administrative officer is not outlined and the burden of proof is on the property owner to contest a river corridor. Ms. Noyes-Pulling stated there is the ability to get a river scientist to visit the Town to ground truth the information prior to approving the map, as there could be changes made. She noted there is a Watershed Planner for this area – Dave Rosa. Because there are so many properties affected, Ms. Noyes-Pulling suggested outreach to the landowners initially to familiarize them with what the river corridors are and then roll it out to the Town. It was suggested to do a mailing to the landowners for a presentation with the DEC expert. Michael Shank will discuss this subject with the Town Manager first. Ms. Noyes-Pulling reported she has provided Dave Atherton with the list and map on this subject. Mr. Shank will confirm who has the authority to move forward on this subject. It was noted that the Town's benefit in this subject is the ERAF funding. Ms. Noyes-Pulling noted there is no elimination of any land use, but it provides protection around area rivers and streams. It does not restrict adding structures, but will restrict structures being built closer to the rivers and includes areas that have been flooded in the past. Ms. Noyes-Pulling stated without this, the Town would not be able to get federal flood insurance. Mr. Shank asked if the RRPC has template language to assure when creating a letter that the proper information is provided. Ms. Noyes-Pulling stated a template letter could be developed with Dave Rosa for the Planning Commission's use. Mr. Shank would like to obtain figures on the previous flood damage, develop a presentation and letter and discuss with the Town Manager on the communication with the public. Ms. Noyes-Pulling advised this would become part of the Brandon Land Use Ordinance. Mr. Biasuzzi noted he is more in favor of a stand-alone ordinance in the event a flood plain manager is hired. The Select Board approves ordinances and Mr. Biasuzzi will determine what the statutory process would be.

6. Town Plan Update

Michael Shank advised this agenda item has been tabled due to the priority to complete the Energy Plan and River Corridors section. Stephanie Jerome had suggested starting updates of the Town Plan to do adjustments prior to its renewal in five years.

7. Energy Plan Update

Michael Shank reported the RRPC will be doing a practice run of reviewing energy plans on March 19th and will start with a review of Brandon's proposed plan. The Planning Commission is waiting for the RRPC to update the maps prior to submitting the Plan to the Select Board. Barbara Noyes-Pulling stated there might need to be additional review of the maps, as some of the larger parcels should be confirmed for their prime solar sites. Ms. Noyes-Pulling stated there is not a specific timeline for approval, however, there is currently interim flood-hazard protection due to it being in the old Plan, but that will expire in November if another plan is not in place. Ms. Noyes-Pulling stated the Town Manager had asked the Planning Commission and RRPC to start the process for the River Corridors. Mr. Shank will contact Mr. Atherton to advise him that the Planning Commission will take the lead on this subject.

8. RRPC Update

Michael Shank reported he was unable to attend the last RRPC meeting, as he was out of the country at the time. The Town Manager attended in his place and noted there was no discussion held at the meeting

that pertained to Brandon. Mr. Shank encouraged the other Planning Commission members to also attend the RRPC meetings.

9. Old/New Business

Michael Shank noted Ethan Nelson will provide an update on definitions to the Planning Commission at the next meeting.

Jeff Biasuzzi noted with regards to changes in the future around net metering, the PUC will rule on telecommunications as it relates to town zoning ordinances. Mr. Biasuzzi suggested once the Town receives substantial deference, it could be possible to add an article in the BLUO addressing rooftop solar and net metering versus non-net metering. With substantial deference, the PUC might want to see the town's approval prior to evaluating. The PUC now is the autonomous authority, but by decree from the Legislature, it should give substantial deference to towns with enhanced energy plans. The PUC will always have the ultimate authority on projects, but it is hoped they will respect the Legislature and Governor in allowing more input from the towns. Michael Shank stated this gives the towns more leverage on energy power and encourages towns to develop energy plans. Mr. Biasuzzi advised that up to 15-kilowatts is considered residential solar, up to 50-kilowatts would be small commercial, up to 150-kilowatts would be large commercial and above that would be considered industrial. If there were rules in the BLUO, the people would know the Town would be involved if the project is over 15-kilowatts.

Michael Shank reported the Energy Committee will be proposing to the Town Manager to poll the local citizens to obtain information on preferred view sheds in Town.

Jeff Biasuzzi advised the distillery has gone through the local permit process and is awaiting the wastewater permit. There are delays in the permitting process due to understaffing of their office. The State has to review the permit within 30 days. It is a concern and an expense if there is a water line capacity increase required.

Jeff Biasuzzi reported he has had a discussion with Naylor/Breen regarding parking for one of their projects. There was concern there would need to be digging near the river, as well as questions about plowing. It was thought there could be some parking spaces added that could be approved that would be impervious material. Michael Shank asked who oversees impervious parking areas. Mr. Biasuzzi noted he will review the minutes and information for the project, as he was not sure why the DRB did not address the issue of off-street parking for this project. The BLUO indicates there needs to be adequate off-street parking in the central business district that was not planned for this project. Mr. Biasuzzi advised there will be technical drawings provided for the project that he will refer to ANR for evaluation and a recommendation. Bill Mills recalled previous conversations that the project would use on-street parking and municipal parking. Mr. Biasuzzi stated the rule indicates satellite-parking areas can be used by leasing property or using municipal parking. He noted the BLUO indicates adequate parking, but specific information is not provided. If specific guidelines were included in the BLUO, it would assist the DRB with making decisions. It was noted the municipal parking area that will be behind the Mobil Station is about ½ acre and will provide a good number of parking spaces.

Jeff Biasuzzi advised that he will put together a binder for Mr. Rasmussen that will include information on the Open Meeting Law, Brandon Land Use Ordinance and the Brandon Town Plan. Mr. Biasuzzi also offered to meet with Mr. Rasmussen.

Jeff Biasuzzi stated he is in favor of doing an updated version of the BLUO this year and noted anything prior would be grandfathered in. The process for a change to the BLUO requires completion of a checklist that would include notifications sent to adjoining towns, advertisement of the warning, copies of the report sent to the Rutland Regional Planning Commission and Department of Housing and Community Development outlining the changes. Mr. Biasuzzi will follow-up with Town staff to obtain the back-up

information for the current BLUO. Mr. Shank will also follow-up with the prior Planning Commission Chair to determine if the information is in her possession.

10. Date of Next Meeting

Monday, April 1, 2019 at 6:00PM – Brandon Town Office – Planning Commission Meeting

13. Adjournment

The Committee Chair adjourned the meeting at 7:15PM.

Respectfully submitted,

Charlene Bryant
Recording Secretary