

TOWN OF MIDDLEBURY CONSERVATION COMMISSION

Monday, May 16, 2022

12:00–1:30 PM

In Person Location: Middlebury Town Office, or via zoom

MINUTES

(Approved at June 27 meeting)

A. L'Roe called the meeting to order at noon

In Attendance: A. L'Roe, J. Howarth, M. Anderson, C. Harden, C. Tate
J. Murray, Fred Dunnington

Approval of minutes of April meeting. A misspelled name was corrected. M. Anderson moved to approve the minutes as amended, J. Howarth seconded the motion. The April minutes were approved.

Meeting attendance records –A. L'Roe noted that Town committees are now asked to keep records of meeting attendance and report attendance figures annually to the Town Manager's Office, prior to the Selectboard's annual appointment discussion. During a committee's first meeting after appointments are made, committee chairs will also poll their members to determine the number of terms each has served, including the current year, and include this in the annual reporting to the Town Manager's Office. The current Conservation Commission Term list is located in the shared folder and [linked here](#).

Proposed Zoning Bylaws Amendment –Town Planner Jen Murray summarized proposed amendments to the Town's Zoning Bylaws, as drafted by the Planning Commission (PC) in collaboration with a consultant who was engaged in 2021. Documents and Maps are located on [Town Website, here](#). The PC will present details of this amendment on May 26, 2022 at 5:00 pm. The Selectboard will hold hearings on this at a later date.

The purposes of the amendment are to increase downtown vitality, encourage better neighborhoods, and promote new construction of affordable housing. The amendment addresses various issues deemed to impede efforts to implement the Town Plan. The proposed changes would also help Middlebury qualify for a Neighborhood Development Area designation from the State, which would

provide development incentives for affordable housing projects. Our discussion of the amendment focused on housing, wetlands, and the Fluvial Erosion Hazard.

1. Housing

To promote housing and neighborhood development, the amendment proposes to divide the current single downtown zoning district into a series of smaller districts with different visions for mixed uses and housing density. This will allow for increased housing density in parts of the downtown area.

J. Howarth asked whether the new zoning designations (e.g., r-12 can have up to 12 housing units per acre) are based on total acreage of a parcel or the net acreage after subtracting lands, such as wetlands, that must be excluded from development. J. Murray responded that total acreage is used in the calculation but that developers would not be able to build the full number of units on a site containing un-buildable land, due to the many other constraints they face, such as the need to provide roads, sidewalks, setbacks, etc. In the case of an r-20 parcel containing wetland, the developer would be able to count the wetland in the requirement for green space.

F. Dunnington pointed out that some older subdivisions have deep covenants that prevent subdivision of lots, so that density would not increase there, even with the amendment. J. Howarth asked whether new downtown densities handled space for cars. J. Murray noted that car and traffic questions are raised during the conditional review of a project and that guidance exists for calculating offstreet parking per residential unit. CC members asked whether the capacity to produce solar energy could be incentivized for new housing, giving developers incentives to choose aspects and roof designs that would promote the addition of solar arrays and help the Town achieve its energy goals. The response was “unlikely,” as developers of affordable housing face thin profit margins.

The role of the Conservation Commission is limited, but it could offer friendly suggestions if involved early in the design of a project.

2. Wetlands

The amendment removes language about Class III wetlands to line up with the State and neighboring towns (e.g., Bristol). The practical meaning of a Class III wetland has not been clear. Given that developers are required to get permits from the state for stormwater and wetlands, this topic did not provoke much discussion.

3. Fluvial Erosion Hazard (FEH) areas

The proposed amendment removes fluvial erosion hazard area regulations from zoning, pending completion of the CC's Conservation Plan and revision of the Town's Hazard Mitigation Plan (for which funding is in-hand). The PC would like to have an up-to-date map of this zone in E. Middlebury and to consider an alternative such as the Vermont River Corridor program, which post-dates FEH. The PC proposes to remove FEH from this zoning amendment and send this question to the CC for decision early in 2023.

At issue appear to be questions about what structures could be built or rebuilt in back yards of river-side residences in E. Middlebury, property values, and the extent to which the recent engineering work has decreased the fluvial erosion hazard there. Flood hazard and fluvial erosion hazard maps have not been updated since the new work was completed. Amended zoning for housing is not expected to have much effect on E. Middlebury, which would now be r-4.

Members of the CC did not want to agree right away to remove FEH from the zoning without having more information about the situation. One suggestion was to hire a consultant to work with the CC. Unfortunately, A. Shelton, the CC member most knowledgeable about the flood erosion hazard on the Middlebury River in E. Middlebury, was not able to be present at this meeting.

Because the CC was not ready to make a decision about the FEH section, the question was left open.

Next Meeting

The next monthly meeting will be on **Monday June 20 or June 27**. Those present will be able to attend on either date. A. L'Roe will check with A. Shelton to see which date might fit her schedule.

The meeting adjourned at 1:48 PM. M. Anderson moved to adjourn.