

Town of Pine Plains Zoning Commission Minutes
September 27, 2006

Members Present: Jon DePreter, Peter Caldwell, Gary Keeler, Helene McQuade, Vikki Soracco, Margo Jackson, Scott Chase and Nan Stolzenburg (Consultant).

Guests: (5) members of the public. Register Herald.

Meeting called to order at 5:15 PM.

Caldwell motioned to approve the September 13, 2006 minutes. Seconded by McQuade. All in favor.

The Commission began their meeting with a continuation of the discussion from the last meeting regarding the idea of a limited hamlet PUD for the Carvel property. DePreter stated that the Commission didn't get much time to talk about it and Stolzenburg was asked to do a build-out of that property so the Commission would have it as an exercise to get a general idea of how people want to treat that parcel. DePreter stated that he thinks it would be a good idea to read the build-out results into the record.

Caldwell requested a change in the agenda with respect to the discussion of PUDs. Caldwell stated that he thinks it would be more efficient if the Commission simply decides on whether or not to incorporate the PUD mechanism into the zoning code for the reasons that Stolzenburg outlined at the last meeting and do it in a general context and then argue that each individual developer may apply for a PUD through a PUD mechanism. Caldwell explained that the PUD mechanism would require the developer to make a presentation as to why he needs a PUD given the liberal and flexible zoning code designed. Caldwell stated that the developer should explain what he expects to get out of the PUD mechanism and then let the Planning Board deal with that individual application. Caldwell stated that he thinks it is inappropriate for the Zoning Commission to discuss a specific development with respect to a PUD mechanism but it is entirely appropriate for the Commission to decide to adopt a PUD mechanism and draw out the general outline of what that should be. Caldwell made a motion that the Commission not discuss a Carvel PUD but should discuss incorporating a PUD mechanism into the zoning code and define what the limits of it would be for any developer who applies for through that mechanism.

DePreter stated that Caldwell has a point but that he is really here to see if there is a general interest in pursuing a PUD. DePreter stated that there are two ways to set up a PUD with one way being to say that there is a generic PUD pretty much as Caldwell is saying. DePreter stated that he thinks that certain parcels are not created equal and he feels there is going to be more benefit in the long run to consider having the Carvel property be a separate district. DePreter stated that he thinks the conversation would be whether the Commission wants a generic PUD or a PUD district. DePreter further stated that he is not in favor of just a generic PUD unless he knows some other things like where the Commission stands on density incentives. DePreter stated that he would rather have the conversation extended to getting a feel for where we were last time. DePreter

stated that he is open to the idea of a general PUD if that's the way the Commission wants to go but feels that limiting it to just one thing and voting right now would stifle the conversation at this point.

Chase stated that he thinks there are reasons to think about the Carvel parcel but he is trying to look at the entire process and to him it's totally inappropriate to raise that to the level of the biggest thing we're going to talk about right now. Chase stated that the Commission should be focusing most of its attention in the hamlet and downtown and getting good standards. DePreter stated that if the Commission would rather do it later then just tell him. DePreter further stated that he thinks in some ways it might be easier if we just say we want to deal with this in a certain kind of way and this is just the way that he feels it will be the best for the town. DePreter asked the Commission if he can just get the build out numbers on the table. Caldwell stated that DePreter should invite McQuade to comment on the proposal.

McQuade stated that before she would have an opinion about the proposal she would need to know more about what a general PUD would be. McQuade stated that she needs more information. Soracco stated that she would like more information also regarding a general PUD. Soracco stated that she likes the idea of forming a hamlet and if we're going to do that, she feels that now would be the time to consider it but she really would like to know more about what a general PUD is and what it involves. Jackson stated that she feels it makes sense to focus first on the downtown hamlet and then that might color how she perceives the discussion. Jackson also stated that she too doesn't feel informed enough to make a decision at this point and would like more information about PUDs. Discussion regarding PUDs ensued.

Chase stated that he feels that as the Commission works through the language and tries to finish up the zoning ordinance, the Commission should be thinking about what types of things we want to accomplish and the types of guidelines for development that the Commission wants to provide and try to put them into the regular ordinance. Chase stated that if at the end of the day, it seems that we haven't provided sufficient flexibility then the PUD discussion would be appropriate. After further discussion DePreter stated that Caldwell's motion is still on the table and asked if that motion can be tabled. Caldwell stated yes. Caldwell's motion was tabled.

The Commission moved on to discuss density incentives as described in the draft zoning document. The first incentive discussed was permanent conservation of natural areas or agriculture. DePreter stated that permanent conservation of natural areas would be one option for people to think about. Jackson asked if it would make sense to prioritize the goals of the comprehensive plan first and then make a decision about them as far as what should be mandatory and what should be incentives rather than to decide one by one. Stolzenburg stated that she doesn't think the Comprehensive Plan listed the goals in priority order. DePreter asked if the Commission should discuss the question on a broader, more general level or should the discussion be more specific. Stolzenburg stated that she doesn't know if the Commission ever discussed whether they want to mandate any of the goals.

DePreter stated that he would refrain from making anything mandatory other than the siting of houses and he thinks that it's very difficult from the Planning Board's side of this to have one set of rules and have everything fit into it. DePreter stated that he thinks the Commission has already created a very good environment for people for conservation subdivision by having no minimum lot size. McQuade asked if a person with 20 acres gets two houses, what dictates where those houses are sited on that 20 acre parcel. DePreter stated the first thing people would do is apply and then a resource inventory of the property would be done to find out what's on the property. DePreter went on to explain that then the Planning Board is going to sit down and figure out how many homes that individual would get by going through the environmental factor. DePreter stated that he doesn't think the Commission can mandate that no houses be built on any farm soils because sometimes there's just no other place to put the house. Keeler stated that we may very well end up with land that is totally agricultural soils and soils of statewide importance and there may be no other place to put a house. Keeler further stated that it may just be up to the discretion of the Planning Board. Discussion followed.

DePreter stated that he has been thinking about the idea of incentives and minimum lot size. DePreter stated that with density incentives for affordable housing a lot of the studies have been where people got a maximum lot size that they need to have. DePreter gave an example stating that if a developer gets 20 homes and he has an incentive to put 20% in affordable housing that would be two homes and if the minimum lot size is five acres then that's going to chew up 10 acres of his land. DePreter explained that is not really a particularly good business move for the developer so it's a much better business move for him if he takes those two lots and makes them three-quarter acre lots or half acre lots so now he's only chewing up one acre. DePreter stated that he does not think that this comparison of incentives from other communities that do not have a minimum lot size is a particularly good comparison. DePreter stated that he does not know how that would work in subdivisions because the homes are already being clustered. DePreter asked if there is an advantage to having an incentive for conservation subdivisions in a set of laws that does not have a minimum lot size. Stolzenburg stated that the point of the conservation subdivision is really not oriented to lots, but that it is oriented to strategically placing the homes in a manner that best protects whatever the environmental values of the site are. Stolzenburg stated that the conventional subdivision that just takes the plot and carves it up into long equal sized lots and plunks a house down 50 feet off the road is something that you want to avoid. Stolzenburg further stated that it's best to have people go through a different process to reach the locations to where those houses should be for a particular parcel. Jackson asked if it's the big subdivisions that we are most concerned about not having houses all aligned and asked if it would be mandatory or would it be an incentive that would more likely accomplish that. Stolzenburg stated that is a question that the Commission needs to answer. Discussion followed.

DePreter stated that he noticed that when Anne Saylor was talking about the allowable housing, she was saying that you make it mandatory and inclusionary but people would get a bonus house for it. DePreter stated he doesn't know how much of a bonus it is if you have to do it. DePreter explained that it's kind of a middle ground. DePreter stated that he frankly doesn't know if the word mandatory in Pine Plains is going to go down very well but that it can probably be done with incentives but if you're looking for a middle road then that may be it. DePreter asked the Commission for their feelings on the subject.

Soracco stated that she is not in favor of making it mandatory. Keeler stated that he doesn't see that working either. Chase stated that the typical development scenario is that people usually want to maximize the number of lots they can get under zoning so they'll do their configurations and change their lot lines around however they can and then if the Planning Board comes in and does not approve and requests the developer to make changes, at the end of the day they come up with one or two less lots. Discussion followed regarding design standards and clustering and the Planning Board process.

DePreter stated that there is a motion on the table to accept the idea of the applicability of a clustered or conservation subdivision and that it would be applied by the Planning Board with some type of guidelines for them to consider at their discretion. All members were in favor.

Stolzenburg stated that doesn't answer the question about incentives. DePreter stated that it's a two step process and he went on to explain that if a landowner comes in and has 200 acres and gets 20 homes and he clusters all 20 homes, the landowner then puts a permanent conservation easement on the rest of the property. DePreter went on to ask if in step one the landowner is just clustering his homes or does the conservation subdivision we are discussing require him to do that. Stolzenburg stated that the purpose of doing a clustered or conservation subdivision is to permanently preserve a certain amount of open space so it's kind of inherent in the technique that there would be some permanent preservation of the land that's left over but that doesn't mean you can't give a bonus for doing that. Discussion ensued.

DePreter stated that if the Planning Board does what the Commission said and they implement the guidelines at their discretion by clustering the homes should the people get an automatic bonus. Stolzenburg stated that nothing should ever be automatic. Stolzenburg stated that you can always offer an incentive because you may have some situations where the Planning Board feels that a conservation subdivision isn't really needed in a particular area but the landowner might want to do it anyway. Stolzenburg stated that the landowners can always be encouraged to do that on their own by giving them the density bonus. Discussion continued regarding clustered and conservation subdivisions.

The Commission discussed possible incentives with regard to clustered and conservation subdivisions. Chase stated that he would not give a bonus to people to do what they have to do anyway, but he would give a bonus if they don't only put the land in a permanent open space situation but that they are going to allow a trail or some public access to that permanently preserved land. Chase stated that then it is worth something to the community and they should get something for that. DePreter stated that would work for him. Stolzenburg stated that's where you come up with a list of amenities that you would like to encourage. Stolzenburg stated that it's feasible that somebody might say that the density bonus is attractive enough to go to the Planning Board rather than wait for the Planning Board to say that they are required to do something. Discussion followed.

Keeler stated that the only thing he doesn't feel should be used for conservation are deed restrictions. Keeler stated that it should be the use of an easement because after several generations things get lost in the deed somewhere and nobody knows about it until

somebody does something that they shouldn't do and by then it's already done. Chase stated that the problem with a lot of deed restrictions is that the neighbors are the people who are left to enforce them. Chase stated that it's all right as long as it's a mechanism that is enforceable by the town so that people don't have to sue their neighbors in order to make them meet whatever that deed restriction says. DePreter stated that he thinks the Commission has pretty much covered the density incentive. Stolzenburg stated that in concept the Commission made some decisions but there are still the actual numbers like how much of a bonus to give. DePreter asked the Commission if they wanted to talk about that now.

The Commission discussed the density bonus specifics with regard to percentages. DePreter asked the Commission how much of a density bonus they would feel comfortable with if somebody not only permanently conserves their land but they actually put things like trails on it and gives something back to the community. Caldwell stated that in general when the Commission starts talking about bonuses he thinks we have to recognize that we are going to be talking about a whole spectrum of bonuses for different kinds of performances. Caldwell stated that he had advocated that the Commission make low cost housing mandatory and provide a bonus for doing that and his idea would be a 10% mandate of a development to low cost housing and that a bonus would be given that would be equivalent to the number of mandated units. Caldwell explained that then the developer with the 10% requirement would get a 10% bonus to offset any loss of profit. Caldwell stated that the developer would be selling the low cost housing at building costs but he would get a reward with an equivalent number that he can sell on the market for his profit. Caldwell went on to state that he feels that the percentages that Stolzenburg listed in the draft zoning law are preposterously high. Caldwell asked Stolzenburg where she came up with those numbers. Stolzenburg explained that she was just giving the Commission an example. Stolzenburg stated that those numbers can be set for whatever the Commission feels is appropriate. Stolzenburg further stated that when she did her research, the numbers she used as examples are common bonus figures that other communities have used. The Commission continued their discussion on percentages of density bonuses.

DePreter suggested a 25% bonus with a maximum of 50% for accumulative incentives. DePreter asked if the Commission thinks that is something they are comfortable with. Jackson and Soracco stated that they are comfortable with those numbers. Caldwell stated that he thinks those numbers are too high. Chase stated that he also thinks they are too high. Chase further stated that he thought the Commission was talking about no more than a 25% total for accumulative incentives. Keeler stated that he does not want to go more than a total of 25%. Jackson asked Keeler if he thinks 25% would be enough for a developer. Keeler stated that he does. DePreter stated that he is comfortable with a maximum of 50% for accumulative incentives; Jackson agreed and stated that she feels 50% is a good reward for developers to give something back to the community. Soracco agreed. DePreter reminded the Commission that the percentage is a maximum amount and doesn't mean that everyone is going to come in and get 50% all of the time. Stolzenburg stated that it's ultimately up to the Town Board. Stolzenburg explained that somebody might be eligible for up to 50% but the Town Board might say that they will only give them 10%. Keeler stated that what he likes about it is the community or hamlet development. DePreter asked Keeler if the Commission adds hamlet development to the list of amenities if he would be willing to go up to a 50% maximum. Chase stated that if

that's a 400 or 500 unit development, that would add 200 houses and that's a lot of school kids. DePreter asked what difference that makes if we're trying to promote affordable housing aren't those people going to have kids too. Chase stated that 10% is a lot different than 50%. Stolzenburg stated that she can bring in some other samples from other communities for the Commission to look at before making a final decision. Stolzenburg stated that she is getting the sense that the Commission is kind of throwing the numbers out there but not really sure. DePreter stated that he is 100% sure and that he feels that 50% is fine. DePreter further stated that everyone else has to be sure though and suggested that we just leave it at 50% for now and the public will tell us if they think it's too high.

The Commission went on to discuss uses. Stolzenburg stated that two things mentioned in the Comprehensive Plan that are relative to uses are that future development should strengthen the hamlet area and encourage higher residential and commercial growth there and that distinct boundaries between built and unbuilt areas should be maintained. Stolzenburg further stated that the Comprehensive Plan also says that regulations should incorporate incentives to reach community goals and that land use regulations should focus on impact of uses rather than regulate solely by the type of use.

Caldwell stated that he thinks the Commission should go back and discuss the office use. Caldwell stated that we were told after we had considered offices last time that we hadn't really considered enough commercial development for the community, especially considering that we are allowing for a three-fold increase in residences and that we haven't allocated enough consideration to offices in the rural area. Caldwell stated that the Commission has not discussed offices in the rural area, the hamlet of Bethel nor the hamlet of Pulvers Corners. Caldwell further stated that there are a limited number of developable properties along Church and Main Streets in the Pine Plains hamlet and he thinks the Commission should consider offices in rural Pine Plains, Bethel and Pulvers Corners. Caldwell stated that one individual has already told the Planning Board that he intends to develop a small business in Pulvers Corners on the property next to the electric station. Caldwell further stated that another individual had commented that he would like the possibility of converting a dairy barn facility into office space in rural Pine Plains. Caldwell stated that is what he thinks the Commission should consider. DePreter stated that a rural office is something that he has been entertaining. DePreter stated that he thinks there can be a rural office if it's a certain size. DePreter further stated that he thinks the Commission was afraid of a large office complex but with certain guidelines and design regulations he would be amenable to considering a rural office. Stolzenburg asked what the definition of a rural office would be. Caldwell stated a commercial office building in rural Pine Plains is what we are talking about and whether they should or should not be allowed. Caldwell explained that the impression that the public had after the Commission's last meeting was that the Commission had ruled that offices in the rural area would not be permitted. Caldwell further stated that he does not believe that the Commission made that ruling but thinks the Commission has to consider such offices. DePreter stated that he thought that the Commission was pretty close to deciding that. Caldwell stated that you can not find it in the minutes and if you read the minutes you will find nothing referring to Bethel or Pulvers Corners. Caldwell stated that all the Commission talked about was the Pine Plains hamlet. Caldwell stated that a physician may very much like to set up an office in rural Pine Plains, Bethel or Pulvers Corners. Stolzenburg asked if they would be allowed anywhere outside of the hamlet or just in

Bethel and Pulvers Corners. Caldwell stated that he would advocate that we should leave it open as to whether or not commercial offices should be permitted in rural Pine Plains and the hamlets of Bethel and Pulvers Corners. Caldwell stated that it should be left as a possibility for a permitted use with site plan review and special use permit. Keeler asked if there should be a square footage limit on such offices. DePreter stated that he thinks there should be some language for that. A brief discussion regarding the square footage of dairy barns followed.

DePreter asked if the Commission would want an office complex as big as a dairy barn. DePreter stated that he doesn't know if he would want to see an office building that big sitting out in the middle of the rural area and suggested that maybe we can say that existing structures could be converted but a new structure is going to be a smaller footprint. Caldwell stated that it would have to go through a special use permit and site plan review. Discussion ensued.

DePreter suggested that the Commission give the matter of office complexes in the rural area some thought for a while.

DePreter stated that he is afraid that the Commission is making a little bit more of a traditional zoning schedule than maybe we had thought. DePreter stated that his impression is if something is not on the list of permitted uses that it's not going to be permitted. DePreter stated that somebody may have a very interesting idea that we are not aware of and a commercial PUD district would allow the town some flexibility. DePreter explained that there would be some specific guidelines for that and it would be more form based and wouldn't just be about the use of where something is located but it would be about the impact of that use. DePreter stated that a commercial PUD would be another level of protection for the town because it's more than just a special use permit but it doesn't outright say you can't have something. Stolzenburg agreed that it would offer someone an opportunity to have a commercial use if they meet the criteria that are set up outside of the bounds of the traditional use table that would be in the zoning. Stolzenburg stated that there is no such thing as a zoning code that will list every possible use that someone might come up with. Discussion followed.

Keeler stated that he would not be opposed to a commercial PUD. Soracco stated that we are running out of room in the hamlet. DePreter stated that the idea is to allow for something that the Commission is just not foreseeing. DePreter explained that the Town Board, being elected officials, would be held accountable for their decisions one way or another so he would feel comfortable with that. Caldwell stated that he sees us moving towards PUDs one way or another in a variety of sorts and the Commission has to be very careful about the limits that are put on a PUD. DePreter agreed. Brief discussion followed. **DePreter asked if the Commission is generally interested in the idea of a commercial PUD. Soracco, Keeler, Caldwell and DePreter were in agreement. McQuade, Chase and Jackson were no longer in attendance.**

Caldwell asked Stolzenburg how she is coming along on the draft law for affordable housing. Stolzenburg stated that she has not received anything from Anne Saylor and does not have anything on paper specifically for Pine Plains but she has some models from other communities that she can forward to the Commission. Stolzenburg stated that she thought she would give the Commission some models to look at and then see what

Anne Saylor comes up with. Caldwell asked Stolzenburg if she has communicated with Anne Saylor yet. Stolzenburg stated that she has not but will do so soon.

Public Comment – Rick Osofsky stated that as a dairy farmer if he wants to get out of farming and wants to use his buildings to have a Mercedes garage repair shop, he can't understand why he can't do that. Osofsky stated that at the last meeting when offices were discussed and when the town hall building was discussed, Chase had stated that the town hall building should not be a rural office. Osofsky stated that he can't understand why and he doesn't understand what is driving this process. Osofsky stated that he thinks it has a lot to do with fear. Osofsky further stated that over the last 20 years, since the last attempt at zoning, there has been no major development in town and that during the most active real estate market in our history, there has been no growth in Pine Plains. Osofsky stated that he sees this zoning process as being entirely negative because there are all sorts of restrictions being imposed and you're not going permit anyone to do anymore when in fact nothing has happened. Osofsky stated that one of the things the Commission wants to do is give a bonus if someone opens their property up to the public. Osofsky stated that right now on a 200 acre farm, he is allowed 100 lots but under this zoning ordinance, he would be allowed 16 or 17 lots. Osofsky stated that if each of those lots is worth \$60,000, he thinks he is giving up a lot. Osofsky stated that potentially he stands to lose millions of dollars. Osofsky went on to state that now if he wants to take and cluster all of the houses on 10 acres of his property, he thinks he deserves a bonus because he would have given up a lot of potential. Osofsky stated that he is not suggesting that the Commission is at the end of this process but he is just talking about things that the Commission should be thinking about.

Osofsky stated that we have been in the most vital real estate market and nothing got developed and now we are going to come in with the most restricted zoning ordinance telling people what they can't do and where you can't do it and you're afraid of this development and afraid of that development. Osofsky stated that if someone wants to turn a barn into a commercial office, he thinks it should be allowed and should be invited. Osofsky stated that the Commission wants to offer a bonus to someone who opens their land up to the public but stated that his land is already open to the public. Osofsky stated that the Millbrook Hunt Club uses all of the farmers' property. Osofsky further stated that he would suggest to the Commission that there are at least 100 people in this community who are on our land annually using it as though it were their own to fish, to hunt, to park, etc. and nobody kicks them off of the land and now the Commission wants to put that in and require it. Osofsky stated that the Commission said that if you do that, we will give you a greater bonus or a greater incentive. Osofsky stated that he doesn't like that because he doesn't want to be told that he can get three or four more lots if you don't develop the property but will put trails in there and allow the public on it. Osofsky stated again that he already does that. DePreter stated that these are all voluntary. Osofsky stated it may be voluntary but he would get a bonus if he does it but he already does it.

Osofsky further stated that he wanted to make a statement with regard to Keeler's earlier statement about deed restrictions. Osofsky stated that he does not know of any deed restrictions today that can be ignored. Osofsky stated that as to the private deed restrictions, title companies check them all of the time. Osofsky further stated that if a deed restriction exists and your neighbor is doing something wrong, you don't have to get

into a lawsuit over it because all you have to do is point it out by writing a letter and say here is the deed. Osofsky stated that we are not talking about major litigation. Osofsky further stated that he thinks it's better to have deed restrictions than to have the town trying to enforce things because then you politicize it and it's much more complicated for the town to enforce it than to have a simple piece of paper.

DePreter thanked Osofsky for his comments.

Caldwell made a motion to adjourn. Seconded by Keeler. All in favor.

Respectfully submitted by:

Karen Pineda
Zoning Commission Secretary

*** Bold font denotes a decision made by, and agreed to, by the Zoning Commission for purposes of composing the Generic Environmental Impact Statement.**