

Town of Lyndon
Planning Commission
Public Hearing Meeting Minutes
February 3, 2021
Approved 02/24/21

Public Officials: Christian Thompson, Nancy Blankenship, Dan Daley, Denise Montgomery

Board: Sean McFeeley, Ken Mason, Nedah Warstler, Tammy Martel, Sylvia Dodge

Public: Curtis Carpenter, Mark Bean, Brooke Dingledine (*representing Mark Bean*), Joe Buzzi, Pauline Harris, Roni Leach, Dave Stahler, Daniel McCabe, Fire Tablet, Rep Marty Feltus, Todd Vendituoli, Sacha Pealer (ANR), John Broker Campbell (ANR), NVDA, Kurt Nygren, Todd Thomas, 626-3235, Jon Prue, Holly Taylor,

Press: Amy Ash Nixon

Sean McFeeley chaired the meeting, it was brought to order at 6:05 pm. Mr McFeeley let the public know that each person would be allowed 5 minutes of speaking time so we can hear from everyone wishing to make public comment.

Sean opened the public hearing at 6:10pm.
Public comments were heard from the following:

Pauline Harris requested that Sacha Pealer speak first as she had limited time for questions/comments.

Sacha Pealer is the Flood Plain Manager at the Agency of Natural Resources (ANR). She had submitted a letter to the Planning Commission about the draft that was proposed. She has been working with the Planning Commission and work group for a while. She advised that the draft proposed is compliant with the National Flood Insurance Plan (NFIP) minimum requirements. She advised there are still some parts of 11.5.A.3 that could use some extra thought. Part A could use some definitions ie: reach, newly exposed, neighboring as that could cause some problems later on.

Pauline Harris asked Sacha how the definition of reach would impact the standard or the outcome of the standard "within reach of development" which is in the current bylaws.

Sacha Pealer replied that you would refer to the stream gauges.

Brooke Dingledine is struggling with the new terms and agrees with Sacha on re-routing some of the language. She feels the language is not clear enough and can't be used consistently. She recommends subsection A be replaced with the work groups original submission.

Nancy Blankenship agrees with Brookes comments and would like to see the work groups original submission put back in. It seems to be a fair compromise for all.

Sylvia Dodge was on the work group which negotiated and discussed everything including the river corridor and ERAF. She no longer stands for what she voted for in the beginning.

Mark Bean agrees with Brooke. The work group worked for 5 months and used the most scientific data available from FEMA. He proposes that we go back to the September 3rd proposal from the work group or take Curtis Carpenters well drafted report. Mr Bean feels as though the NVDA & ANR are driving the bus on the decisions being made.

Ken Mason spoke about the rise from filling in the fringe and referenced table 2

Sacha Pealer let everyone know that ANR is not telling the Town of Lyndon what to do . They are just advising against the ramifications of the choices being made by the Town.

John Broker Campbell (ANR) agrees that they do not have an agenda and that they are here to work with the Town of Lyndon

Todd Thomas said that the fringe is designed to be filled and agrees with Sacha about the working groups suggestion with subsection A saying it is very "loosey goosey" and doesn't work with neighboring businesses.

Sylvia Dodge feels that this is the most liberal flood development standard in the state, and that it is missing protection for existing homes and businesses.

Pauline Harris agrees with Sylvia's comments above.

Kermit Fisher says everything should be looked at on a case by case basis.

Holly Taylor read passages from a letter written by the Planning Commission and thinks we should move ahead with the work groups suggestions and work.

Sean closed the public comments for the hearing at 7:24pm.

(last 10 minutes)

9:40 Tammy says she likes the version that we have now.

8:00 Sean to Tammy asks, "What we approved at the last meeting"?

Tammy's response, "Right" (Jan 13th meeting).

7:18 Mason says that is what is in the current Reg's being considered. That is what we approved at the last meeting.

6:24 Sylvia says she can support that, but with a change to the language "newly

exposing” to “increasing exposure to”.

6:00 Sean said he could support that change.

5:00 Mason makes motion to “Adopt the current version of 11.5.A.3.a. with the suggested amended change made by Sylvia and move the Reg’s forward to Selectboard”.

4:36 Brooke states that she thinks the PC is confused about which version they’re considering.

4:23 Mason says that he’s not confused and doesn’t think the rest of the PC is.

Ken Mason made a motion to report to the Selectboard the regulations before us with one minor change to 11.5.A.3. We are changing newly exposed to increasing exposure. Sean McFeeley seconded the motion. Motion carried 5-0.

Sean McFeeley will get with Justin Smith to give him the minor change as approved tonight.

Meeting adjourned 8:58pm

Respectfully submitted by: DMontgomery

Roni Leach
590 Main Street
Lyndonville VT 05851

Re: Nick's Gas'n Go

Dear Planning Committee,

As a property owner with property located partially in an area prone for flooding, I am concerned about the new bylaws.

It seems as if the language may be limited just to neighboring properties. What about those properties that are next to tributaries or low areas where flood water accumulates during a flood?

What if a new project allows fill or landscape changes that sends flood waters to other areas?

What if a property has already had some flooding? It is not **newly** flooded. Would more flooding be OK?

How much extra flooding will be allowed? What if part of my property is below the 1 foot mentioned?

Sincerely,

Roni Leach

Pauline Harris
267 Harris Hill
Lyndonville Vt 05851

Lyndon Planning Commission
Lyndon Selectboard

Dear Planning Commission and Selectboard Members,

I request that this letter be submitted as part of the record for the Planning Commission Public meeting on February 3rd, 2021, and be posted on file along with the minutes and findings of same meeting. The same is requested for the upcoming Bylaw Revision Public meeting to be held by the Selectboard.

The current language can allow other properties in the SFHA to be negatively impacted by development in the SFHA. **No other bylaw in Lyndon allows negative impact to others.**

Who will determine the extent to which the "reach" of a project must be evaluated? The reach could impact any property in the community within certain elevations of a new development in the SFHA, not just those within a defined section of the river or stream.

How is a building "identified" in 3a? From previous permits? By survey? What about other structures? Example, a storage facility with no building, or other land uses that might have a lower elevation than a building located onsite, or no structure at all.

The term "structure" should replace the term "building" throughout 11.5.A.3.

What about structures located below or above, not "within" the one foot of the BFE?

What is the definition of neighboring? What about properties that may be impacted by a new development that are not neighboring? What if neighboring structures are not at risk, but others in the wider definition of reach are?

Instead of the subjective term "newly exposing" why didn't the Planning Commission use the ANR's suggestion in the January 12th letter from Sacha Pealer to change that term to "increasing exposure" to . . . ?

Allowing an existing building footprint to be raised, or adding a minimally sized accessory structure that would not impede, increase, or divert floodwaters should have a reasonable way within the bylaws to be permitted without excessive engineering cost. That standard should not be co-mingled with a standard that defines the parameters of allowing fill in the SFHA unrelated to those aforementioned scenarios.

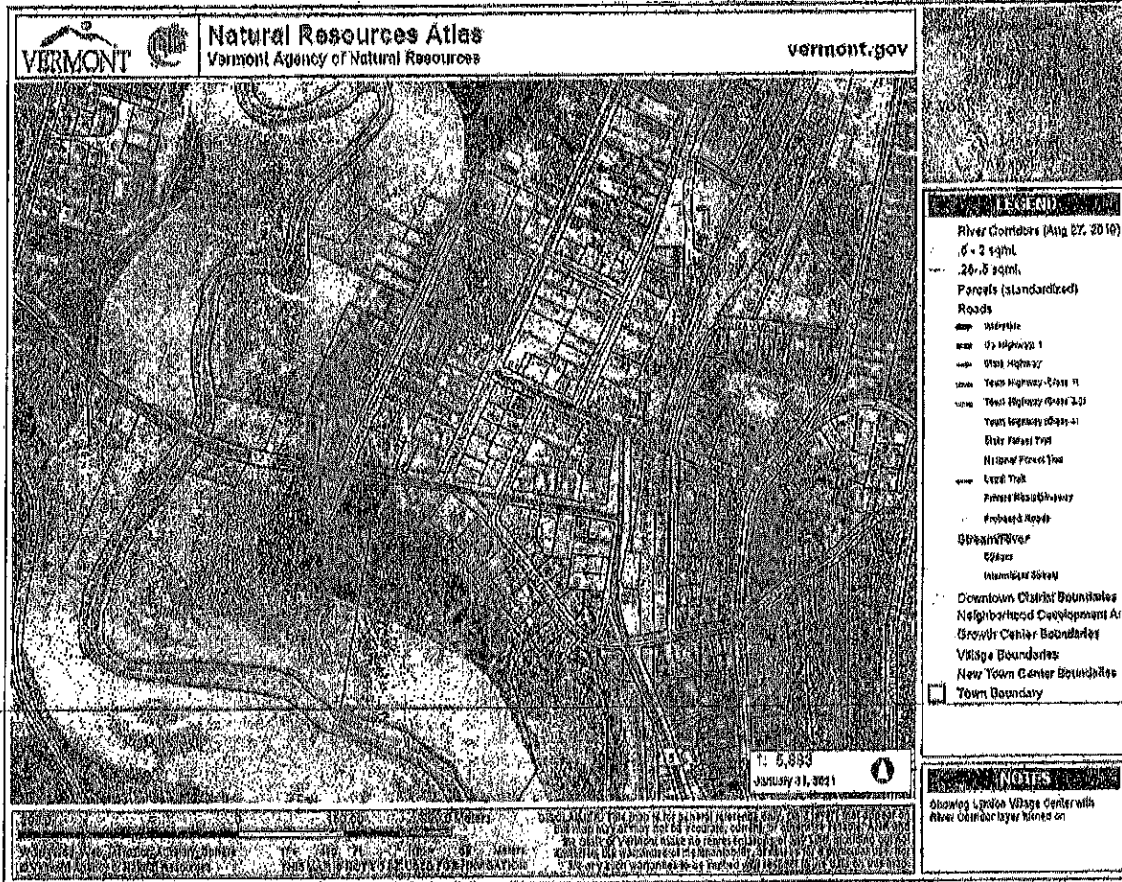
Filling and development in the SFHA can be done without putting others at risk.

Respectfully,

Pauline Harris

Warned Floodzone Bylaw River Corridor Exemption

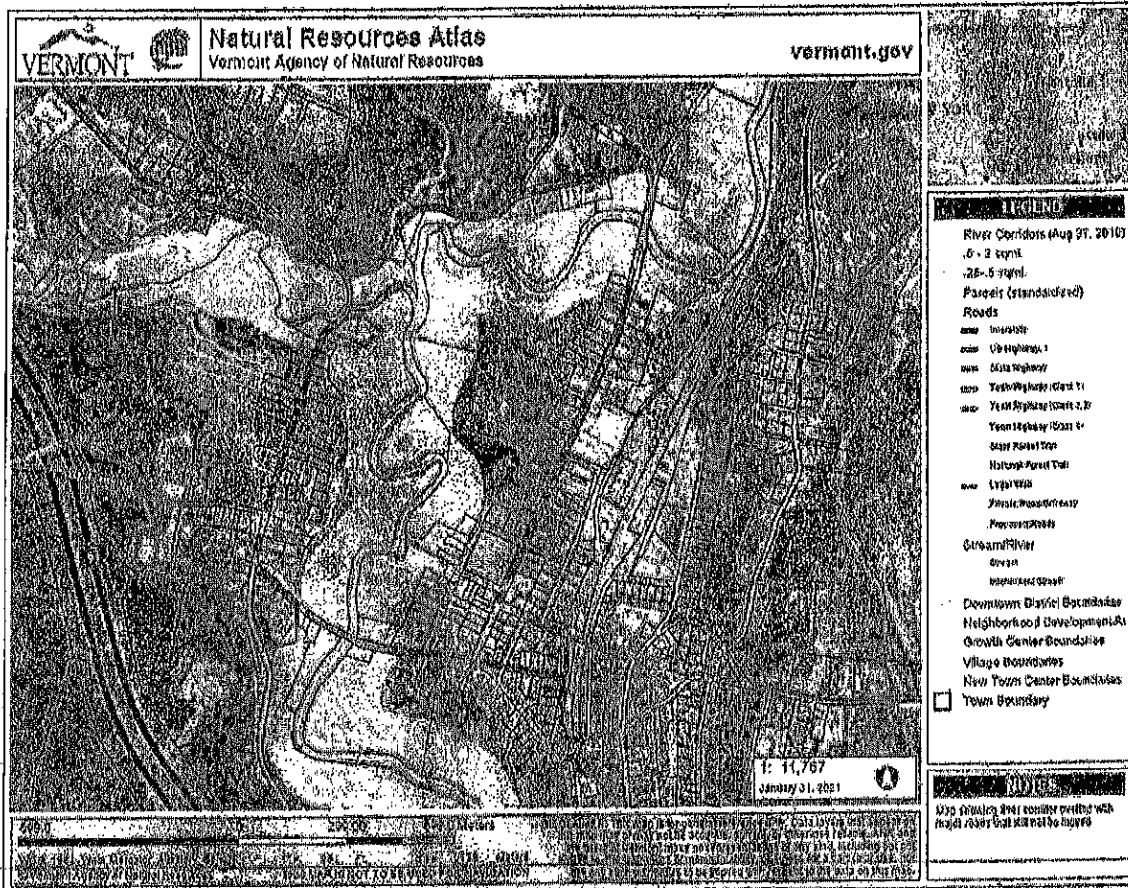
In section 11.5.C.1 of the warned flood zone bylaw, development within "designated centers" is exempted from the river corridor regulations if "the proposed development will not be any closer to the river than pre-existing adjacent development." The below map shows ANR's designated river corridor in green, and Lyndon's designated village center in pink. This ANR map clearly shows that there is almost zero overlap between these two areas. The warned flood zone bylaw's allowance for "development within designated centers" is practically no allowance at all.



It is quite likely that because this designated center "allowance" is so limited, it does not comply with the newly approved Town Plan. Action 9.6 on page 75 of the plan, calls for the Town to "Adopt revised land use regulations that will implement the objectives and policies of this plan related to flood hazards, riparian areas, and stormwater management. **Specifically consider more flexible River Corridor regulations in developed areas (emphasis added).**" The warned flood zone bylaw only offers "more flexible regulations in developed areas" within the "designated centers, which was demonstrated by the lack of overlap on the above map to be, at best, an insincere or even a disingenuous consideration.

The 11.5.C.1 exemption, in order to comply with the new Town Plan, must be expanded to certain developed areas in Lyndon. Expanding the offered exemption to an area that is north and east of Center Street, and south of Route 114, thereby capturing a good chunk of Main Street, seems like a reasonable

way to ensure the warned floodzone bylaw actually contains more flexible River Corridor regulations in certain developed areas. The below map gives a better scope of the "developed areas" that the Planning Commission and Selectboard should consider granting additional flexibility in relation to the river corridor requirements in the warned floodzone bylaw.



It is also important to note the general intent of river corridor regulations is to allow a river the room, free from development, to meander over time, with the goal of achieving equilibrium. There are certain developed sections of Lyndon where the river will never be allowed free movement over time. As an example, the Passumpsic River will never be allowed to meander far enough to overtake existing improved properties on Main Street. Main Street, the buildings and businesses thereon, would be armored and protected from the river's fluvial erosion long before this road would ever need to be relocated. Frankly, neither the Town, nor the State, can afford the cost to relocate Main Street and buy-out all the properties thereon. It is therefore quite unfair to subject the already developed property owners on Main Street to the warned floodzone bylaws regulations that are designed to let the river meander through these properties, when the river, in actuality, will never be allowed to do said meandering. This paradox makes it clearly discernable that it is critically important for the Town's zoning bylaws to offer property owners in "developed areas" where the river is not logically going to be allowed to meander the "more flexible River Corridor Regulations" guaranteed by the newly Improved Town Plan.

4.6.2 - It should be clarified that the DRB, and not ANR, will make the variance determination required by this section. It is ok to seek outside assistance, but local zoning decisions should be made by the Town's DRB. Zoning decisions should not be farmed out to state workers (likely Sasha P.).

11.3.A.1 - *I* object to the language in this section that includes "refinements to the data based on field-based assessments." The applicant should be able to read a zoning bylaw, or look at a map, to see if their property is impacted by something like river corridor zoning. ~~This language creates~~ uncertainty over what lands the town has river corridor jurisdiction over. Also in this same section, don't know what a VT DEC approved administrative area is.

I would guess few people on the Planning Commission or Selectboard do. They should know what they are voting on. Surely, the average

landowner will have no clue what this language means.

11.3.B - I recommend allowing the FEMA approved use of "contour interpolation" in this section, either by the Town or by the applicant, for unstudied flood zones.

11.4.A - In the summary table, and in the following corresponding text, I feel it is overburdensome to send "storage" uses to the DRB within the river corridor. This is too much regulation for temporary uses. The storage use should be changed to a Permitted use. I also think grading work, fill to elevate existing structures, and fill for new structures should also be switched to permitted uses. The Bylaw is overly strict here. As you know by now, the flood fringe is designed to be completely filled.

11.5.A.3.a - The word "all" in the 5th line down needs to be replaced with the words "publicly available" so the bylaw doesn't have applicants having to

provide data about the interior of neighboring buildings. There is no guarantee of access to "all" of these buildings, as the bylaw requires. Also, "neighboring" needs to be better defined. Something like "directly adjacent" properties should work better.

11.5.A.3.b - I disagree with the use of compensatory story in the flood fringe. This is a valid concept in the floodway only. The calculation that creates the flood fringe assumes it will be completely filled.

11.5.A.15 - The language regarding access to new subdivisions and PUDs needs to be changed from "on dry land outside the special flood hazard area" to access to these subdivisions shall be located "at or above the base flood elevation." Flood zone work is about elevation more so than just location on the flood map.

11.5.c - See Enclosed "Warped Floodzone
By Law Area Corridor Exemption