

# UNDERHILL PLANNING COMMISSION

Thursday, March 7, 2024 @ 6:00 PM

REGULARLY SCHEDULED MEETING

Minutes (Draft)

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## Attendance

### **Planning Commissioners:**

Commissioner Brian Tijan  
Commissioner David Edson  
Commissioner Lea Van Winkle  
Commissioner Sandy Wilmot  
Commissioner Bart Johnston  
Commissioner Roy Dunphey - absent  
Commissioner Boris Seagraves  
Commissioner Carolyn Gregson

Commissioner Tim Frost - absent

### **Others:**

Penny Miller\*  
Jeff [last name unknown]

\*participated via GoToMeeting

To view the recording of the evening's meeting, visit:

<https://www.youtube.com/watch?v=UnQDKts3APQ&list=PLm9TgJr7n7xePmrmx4P1AwYbnxYkYrXNx>

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[6:00] Chair Tijan called the meeting to order.

### **AGENDA ITEM: ADDITIONS TO AGENDA**

[6:00] Chair Tijan said Penny Miller of the Development Review Board is here to contribute some insights on the DRB issue list.

### **AGENDA ITEM: PUBLIC COMMENT**

[6:01] No members of the public were present.

### **AGENDA ITEM: REVIEW AND APPROVE 2/15 MINUTES**

[6:06] Not everyone had received the minutes so it was agreed to postpone approval until the next meeting.

### **AGENDA ITEM: DRB ISSUE REVIEW**

[6:10] Penny Miller said a home industry is permitted to the person in the dwelling. If they move the home industry closes. Chair Tijan said that was the consensus on the Planning Commission. If someone with a home industry moved, the new owner couldn't just keep operating the business. The new owner would have to get it permitted again. Other commissioners said that was not their opinion, that they felt the business should go to the person who bought the property. DRB member Miller said she believes according to the current regulations a home industry is permitted to the land but the person who lives there is running it. If that person moves away another person could move into the house and run the business but the first person could not keep running it after they move.

Commissioner Van Winkle said it seems to her that if the home occupation runs with the land then it doesn't matter who is running it – the person who started it or the person who now owns the land. Chair Tijan asked, if someone has a business at his house and he moves down the road and rents his

house, should he still be able to run the business he was running out of his garage or barn without the involvement of the renter? Other commissioners said they felt that should be allowed. Chair Tijan asked, if he had a business at his home and he sold his home and the new owner says he can keep running his business there if he pays rent, should that be okay? Other commissioners said that would be okay with them. DRB member Miller said the current regulations say a home industry must be conducted on site by residents of the dwelling. Chair Tijan suggested the problem is with that wording. DRB member Miller said there are zoning districts where you can have something like an auto repair business that is not a home industry tied to home ownership. Commissioner Gregson said she thinks home industry was tied to home occupation because there was concern about absentee owners running businesses. DRB member Miller asked, what if someone has an entertainment venue at their home and they let someone else run it? Chair Tijan said that specific example will probably get caught up in the event venue definition the Planning Commission is working on.

DRB member Miller said it would be helpful to the DRB for the Planning Commission to consider home industries and whether any wording in the regulations needs to be changed.

- [6:14] DRB member Miller said another item to consider is the intent and wording of the regulations on double-sided signs. Is the maximum square footage for one side or for both sides added together? Commissioner Van Winkle said it is the square footage of the sign itself. If the limit is 10 sq. ft., each side can be 10 sq. ft. DRB Miller asked the Planning Commission to consider whether the regulations are clear enough.
- [6:15] DRB member Miller said sidewalks are part of subdivision review in the village centers. The DRB reviewed a proposed subdivision that was in the village center but in a hilly area with gravel roads. They considered it not physically feasible to have sidewalks there but they are always wondering when sidewalks come into play for developments. When are they appropriate and when are they not? Should the regulations reflect the issues of gravel roads and hills? Should there be a smart plan for sidewalks? Should it be left to the DRB to decide if a development should have sidewalks?
- [6:16] DRB member Miller said the regulations say a seasonal camp can only be occupied for 180 days or less and has to have something about it that is not permanent – for instance, it may not be insulated, it may not be hooked up to a utility or it may have no septic system. She thinks she could plan a year round house and leave off one of those and it could be considered a seasonal camp. For instance, it could be off grid. The DRB wonders what the intent of the regulations on seasonal camps is. Is it mainly that we don't want year round use? And how is it policed? Another question with camps is whether access requirements should be different. As far as the DRB knows, access should be via a driveway that meets certain standards. Do we have to require that for camps? DRB member Miller suggested checking the definition of a seasonal camp to see if it is clear enough.
- [6:24] DRB member Miller said the regulations say a PRD or PUD application needs to include building elevations and exterior design specifications. We don't have any design review and it could be quite financially burdensome to the applicant to have to have building plans and have an architect do elevations. She suggested maybe the DRB should be given the ability to waive the requirement or maybe it should only apply in certain districts.
- [6:25] DRB member Miller said she talked to Brad Holden today about contiguous land and he said the Planning Commission has already looked into it. Chair Tijan said Town Administrator Holden has a strong feeling that contiguous land cannot be separated by a road. Commissioner Van Winkle said the state has a different interpretation. DRB member Miller said the words "contiguous land" are nowhere in our regulations but they are in the definitions. Should contiguous land be brought into the regulations? She also feels the definition is not clear. The Planning Commission may also want to consider whether to add something about natural subdivision and whether it should be taken into

consideration whether the contiguous land is compliant or noncompliant. Chair Tijan suggested the Planning Commission might try to get TA Holden to come to a meeting when this is discussed. DRB member Miller said the DRB has handled contiguous land in different ways because the regulations are not really clear.

- [6:31] Commissioner Edson said he looked over the proposed definition changes for barns and accessory structures and he thinks they are good. We are adding two definitions and amending one. We are adding “Barn, State Defined: One of various farm structures that fall under the jurisdiction of the Vermont Agency of Agriculture, Food and Markets.” And we are adding “Barn, Accessory Structure, Use: One of various structures accessory to the principal structure. See Accessory structure, Use.” We are changing the definition of Accessory Structure, Use to “A structure or use that is clearly incidental, customary and subordinate in overall appearance, but not necessarily in size, to the principal structure or use of land on the same lot.” We will keep the current examples.
- [6:35] Commissioner Wilmot said she looked through our regulations and identified areas where agriculture and farm structures appear, but she didn’t review the farm structure definition. She will report at the next meeting
- [6:36] Commissioner Van Winkle said at the last meeting Commissioner Dunphey asked a question about Act 47: If you have a duplex can you have an ADU as well? The answer is no.
- [6:37] Chair Tijan said at the last meeting the Commission was discussing utilities on steep slopes and whether a septic line could be run on a steep slope where the public utilities are. TA Holden did not see an issue with it. Our question was about the definition of “utility.” Commissioner Wilmot said our regulations refer to “public utility.” To her that is a state designation and would not include a private septic line. Chair Tijan said he thinks the language needs to be cleaned up. Commissioner Van Winkle said a property owner was granted permission one time to run a private septic line up a steep slope. Commissioner Wilmot said a lot of things have probably been allowed one time. Commissioner Edson said utility service vehicles sometimes have to drive along utility lines. Would it be a good idea to have them driving over a septic line? Commissioner Van Winkle said she doesn’t think a septic line could go under a place where vehicles would drive.

Chair Tijan said the exemption from steep slope requirements applies to “utilities, including telecommunications facilities, power generation facilities and transmission lines regulated by the Vermont Public Service Board.”

Jeff [last name unknown] said he has a background in civil engineering and land development. He would never put anything private in a public utility easement because if the utility company damages it, it is the owner’s responsibility to fix it.

Commissioner Edson said he thinks we need to get more information. Can an engineer specify materials that would be okay under power company equipment? Jeff said as an engineer he would not do it. Chair Tijan said if our regulations allowed septic lines on the steep slope the septic line could be 10 feet over from the utility line rather than underneath it. Do we want to allow that? Right now the property owner would have to go the DRB to get permission to run a septic line up a steep slope because it is not covered under the exemption language. Is that the way we want it or do we want a built-in exemption? Commissioner Wilmot said what she wants to clarify is whether the exemption language includes septic lines. Chair Tijan said he thinks it would be hard to argue that it means anything other than electric utilities. He doesn’t know if it even includes fiber optic. The Commission discussed and agreed on a change in wording to “utilities regulated by the Vermont Public Service Board, including telecommunications facilities, power generation facilities and transmission lines.”

[6:54] Chair Tijan suggested reviewing the wording regarding double-sided signs. Commissioners discussed the current wording and possible clarifying changes. It was agreed to continue the discussion at the next meeting. Commissioner Van Winkle will look up real estate language regarding signs.

**OTHER BUSINESS**

[6:59] Commissioner Gregson asked if anyone’s term was up and if anything needs to be done procedurally for them to continue. Commissioner Edson said Chair Tijan’s term was up. Chair Tijan said he will ask TA Holden if he has to be reappointed.

**ADJOURN**

[7:01] Chair Tijan made a motion to adjourn, Commissioner Edson seconded and the motion was passed unanimously.

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Respectfully Submitted by Donna Griffiths

These minutes of the March 7, 2024 Planning Commission meeting were approved on

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Brian Tijan, Planning Commission Chair

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Date