Minutes of the meeting of the TOCI Planning Board, September 19, 2013 at 7:15 at the Hall

Present: Sam Birkett, Mabel Doughty, Jane Frizzell, Charles Hall, Beth Howe (Chair)
Absent: Chip Corson, Louise Doughty
Also present: CEO Ron Tozier
Mark Dyer, Ariette Scott

1. Jane moved, seconded by Mabel to accept the minutes of August 22, 2013. Passed unanimously.

2. Appointment to TOCI Sunset Landing Committee.
Beth suggested that Jane might do it. She declined and Sam said she might be interested but would have to talk with her family. She will get back to Beth.

3. Draft Changes to Zoning Ordinance Section 412
Beth said she had begun this new draft of Extraction and Excavation as a separate ordinance modeled on Town of Washington. But she realized that there was a lot of overlap in the application requirements and process with our site planning provisions. So this draft became a new Section 412 and some changes to the Site Planning provisions (Section 206).

The group then worked through the provisions of the new draft of Section 412: Extraction and Excavation of Earth Materials:

Goals/Purpose:
Sam said she thought that groundwater protection should be at the top of the list. Beth asked whether we should include protection of wildlife and natural resources since we don't have very specific provisions about this in either the Comp Plan or the Zoning. Mabel said she thought it was a goal that should be included. Beth said that it may be possible to develop specific criteria to look at this impact.

Activities exempt from these provisions:
Beth said that if we want to cover borrow pits, we would need to exclude that from the house construction exemption. There were no additions to the section. Mark asked what a “borrow pit” is. Beth said that she understands it to be an excavation dug by people who are building a house to get gravel for a driveway, for example. Ron said that usually borrow pits get filled with debris from the construction – things like stumps, so usually they are not a continuing problem. He thinks that the ones on Curit Farm Road are the only ones on the island that have been left unfilled.

[After the meeting Beth looked in the State Statutes and other sources for a definition of borrow pits. Wikipedia defines one as a place where soil, gravel or sand is excavated for use in another place. The term often is used for places where borrow was taken and the hole never refilled. In the State regulations for excavation of borrow, clay, topsoil or silt the
definition of a “medium borrow pit” is a borrow pit that has a total reclaimed and unreclaimed area from 5 to 30 acres, with a working pit no larger than 10 acres and natural internal drainage.]

Activities prohibited:
Beth said that we had discussed last time about having no gravel extraction in the Shoreland Zone. So this is prohibited. But it is important to allow excavation beyond that required for houses, in order to allow for bluff strengthening like the two projects we have had. But these would still fall under the size threshold of the Shoreland Zoning.

Threshold for requiring a permit:
Beth said that last time we had settled on any extraction or excavation larger than 1,000 cubic yards of earth. This is a large amount. Ron said about 80 large dump truck loads. Do we want the threshold this high? The current ordinance sets the threshold at 100cu. yds.

Ron said he had recommended this large figure under the assumption that it would supersede the exemption for house construction. It is a very large amount – only a really big house would move that much. If there is a separate exemption for house construction, then it might make sense to make the threshold lower. But the lower it gets, the more projects get included and the application process spelled out in this draft would be very cumbersome. Ariette said she had talked with Wayne who said he thought 1,000 cu. yds. was too large. He thought the current threshold of 100 cu. yds. makes more sense. This would be about 100 loads in his dump trucks, or about 7 loads in the larger ones.

Ron said he thought that 100 cu. yds. is rather small. Maybe it would make more sense to go to 500 cu.yrds. Jane and Sam said they would like to have some regulation of smaller projects. Beth suggested that this might involve a permit granted by the CEO. Ron said it could be like the Shoreland Zoning permit, which is fairly simple. Beth said she would look for other ordinances to see what kind of thresholds they have.

Mark asked how realistic can anyone -- CEO or applicant – be about estimating the size of the borrow pit beforehand? Ron said you can figure it roughly by surface area and depth. But now there are computer programs that an applicant can use to determine the volume of extraction or excavation.

Activities covered:
Beth said she had followed the Town of Washington ordinance in this section. and pointed out that one of the provisions is to require permitting of any existing operations that have not been permitted. The existing ordinance grandfathered existing operations. Ron said that the present permitting regulations including the grandfathering provisions were adopted in 1984. It might make sense to cover all operations since 1984.

Beth asked whether we care about whether the extraction or excavation involves the selling of the material extracted. Jane said we are primarily concerned about the process used to do the extraction or excavation. It was agreed to remove IV.B.4.
Planning Board approval
If we set the threshold at less than 1,000 sq.yrds, and have small projects approved by the CEO, this provision should be removed or changed. Jane and Sam argued that Planning Board review should apply to all projects larger than 300 cu. yrds., so Planning Board approval of the site plan would apply to all projects larger than that.

Accessory uses not included.
Beth said she had taken this provision from Town of Washington as well, but she was not sure what accessory uses to extraction or excavation would be. Ron said that processing of the extracted material would be the logical thing. Processing of loam to take out stones and debris is not extremely noisy but crushing of rock into gravel would be. The present ordinance says nothing about this. Should we allow some kinds of processing but not others?

Application review/classification
A new section covering review of small projects by the CEO would need to be added. Beth said that it might be possible to have a project that was large in scope but lasted less than a year. Is this a problem? Ron suggested that the time that a project required should not be something to use as a dividing line. The Planning Board can set conditions on the time the project will be allowed to operate. The scale would be more important. Beth suggested having 100 to 300 cu. yrds. go to CEO, 300 to 1,000 go as minor site plan, and over 1,000 go to the Planning Board as a major site plan. A real gravel pit would excavate more than 1,000 cu. yrds.

The group decided to leave the application requirements to the next meeting.

Respectfully submitted,

Beth Howe