

Town of Farmington  
Planning Board Meeting Minutes  
Wednesday, May 18, 2022  
356 Main Street-Farmington, NH

**Board Members Present:**

Rick Pelkey, Chairman  
Bill Fisher, Vice Chairman  
Charlie King, Selectmen's Rep.  
Stephen Henry, Secretary  
Jeremy Squires  
Roger Mains, alternate  
Mike Day

**Others Present:**

Kyle Pimental, Planning Director  
Richard Ellis, applicant  
Kim Madsen, Sean McGurty abutters  
Dennis Allfrey, applicant  
Bob Stowell, Tritech Engineering  
Richard Cilley, abutter

**Members Absent:**

Bruce Bridges, excused

**BUSINESS BEFORE THE BOARD:**

**Call to Order:**

Chairman Pelkey called the meeting to order at 6 p.m.

**Pledge of Allegiance:**

All present stood for the Pledge of Allegiance.

Chairman Pelkey seated Mr. Mains in Mr. Bridges' absence which was excused.

**Review of Minutes:**

May 4, 2022- No errors or omissions

**Motion:** (Fisher, second Henry) to approve the minutes as written passed 6-0-1 (Squires abstained).

**Public Comment:** None

**Public Hearings:**

**NEW CASES:**

**Public Hearing for Consideration and Possible Vote on a Major Boundary Line Adjustment for Eben and Charles Dorr, Tax Map R-29, Lot 38-2, Tax Map R-29, Lot 14 and Tax Map R-38, Lot 2-1.** The applicants are proposing to make several boundary line adjustments to their adjacent properties. Adjustments include the transfer of a total of 15.28 acres from Tax Map R-29, Lots 14 and 38-2 to Tax Map R-38, Lot 2-1; a transfer of 14.82 acres from Tax Map R-29, Lot 38-2 to Tax Map R-29, Lot 14; and a transfer of 0.40 acres from Tax Map R-29, Lot 14 to Tax Map R-29,

Lot 38-2. The properties are in the Agricultural Residential Zoning District.

Mr. Pelkey said the noticing for this case didn't get accomplished correctly and asked for a motion to continue the hearing to their next meeting in June.

**Motion:** (Mains, second Henry) to continue this hearing to June 1 passed 7-0.

**CONTINUED CASES:**

**Public Hearing to Conduct a Design Review for Richard Ellis, Tax Map R-4, Lot 7.** The applicant is proposing an estimated 50 site campground. The proposed project is located at 23 Ten Rod Road and is within the Agricultural Residential Zoning District.

Richard Ellis said the engineer came back with the design that the board has in front of them and there are actually 76 sites on it. He said he told him his parameters of having adequate space between each site and that he didn't want campers to be side-by-side so on the larger RV sites there is 40 ft. between each site and on the tent/smaller RV sites it's 32 ft. between each site that would be a wooded area or a space between them.

Chairman Pelkey read the Design Review process aloud to explain what it is and to remind them of what it is they are looking at. He said this is a chance for the applicant and the board to discuss the proposal in much greater detail than is allowed in the conceptual phase and the object of the design review is to provide the board with an opportunity to understand what is being proposed and for the applicant to understand the concerns of board members, abutters and the general public.

He said it is intended to assure that the essential characteristics of the site and specific requirements of local regulations are thoroughly reviewed and understood before the final design is prepared. It also gives the board the opportunity to determine whether or not the development has the potential for regional impact under RSA 36:54 he said.

Mr. Pelkey asked if this was his conceptual design for he wanted to do for sites.

Mr. Ellis said yes and they included 3 bathhouses and 1 laundry facility.

Mr. Pelkey asked if all of this was served by a single well.

Mr. Ellis said no and he anticipated having 3 wells.

Mr. King asked for the number of wells currently on site.

Mr. Ellis said there is 1 well at the mobile homes and there are some dead wells that are not feasible.

Mr. Pelkey said when Mr. Ellis was here before he had 2 accesses to Ten Rod Road and now it looks like he changed that to a single access.

Mr. Ellis said yes and the old campground is going to be like a picnic area and that access will be closed off completely. He said the right-of-way that runs through the neighbor's property he would like to just keep as a maintenance or emergency access and the only issue with it is it doesn't meet the width requirement by the Town.

Mr. King asked for the current width of the r-o-w.

Mr. Ellis said its 10 ft. wide right now and the minimum width is 12 ft. He clarified that the r-o-w

is 16 ft. wide but the road itself is only 10 ft. wide. He said the engineer said for an emergency access the road needs to be a minimum of 12 ft. wide.

Mr. Pelkey said he didn't see any delineation and asked if these were all RV sites.

Mr. Ellis said no they are not and he didn't know what they put.

Mr. Pelkey said it doesn't say which ones are RV sites and which are tent sites.

Mr. Ellis said they could tell that by the size of the site.

Mr. Pelkey asked if each of the sites will be served by water and electricity.

Mr. Ellis said no that would be just for the RV sites.

Mr. King asked which sites are the RV sites on the plan.

Mr. Ellis said the RV sites would be out in the woods in the back and there would be some where the mobile homes are now because that has a septic system already.

Mr. King said in the original conceptual plan there were 50 units and asked he is looking to expand that to 76 or if this is just what they drew.

Mr. Ellis said that is what they drew and he would like to have 75 sites if the Planning Board would approve that. He said he was fine with the 50 and they could keep it at the 50 sites.

Mr. King asked if was still considering a phased approach.

Mr. Ellis said yes and the house, the barn and the equipment shed are going to be demolished and redone and there's going to be a new cow barn built up in the square at the top of the plan. I'm working with the Building Inspector for that he said.

Mr. King asked for the distance from the campsites to the Rochester town line.

Mr. Ellis said he could make it pretty much whatever they need.

Mr. King said he was concerned about screening where it is close to the line. He asked if the cemetery is on a separate parcel.

Mr. Ellis said yes and that he has been checking into who he should contact about fencing it in and that he would like to do so.

Mr. King said in this rectangular area there are 2 lots- the cemetery and the lot owned by the couple here at the meeting and that it goes to the town line.

Mr. Ellis said yes.

Mr. Pelkey asked if the buildings shown here on the lawn would remain in place.

Mr. Ellis said those are the ones that will be replaced. He said a new 4 bedroom house in going in and the new barn will be up on the back hill.

Mr. Pelkey asked if this area (outlined in red on the photo) is all one lot now.

Mr. Ellis said yes and that they talked about asking to subdivide it even though they don't have to but put it (on the 1 lot).

Mr. Pelkey asked if there was a concern about multiple accesses to the road on that lot because it's a single lot or if it was because they are putting a business use in and there could be an additional driveway put in that they should talk about.

Mr. Ellis said he was eliminating one access to make one.

Mr. King said it shows the proposed relocation of the existing access and the r-o-w that he now says he is not going to use and he hoped that they were going to address any sight distance issues coming over the hill as far as the location of the access.

Mr. Ellis said it will be more down towards the end of the field so you actually have more sight on both sides.

Mr. Pimental said it's likely that line of sight will be addressed when this goes before the Technical Review Committee and they will get input from emergency personnel when they get to that point.

Mr. King said he would speak to the regional impact of the proposed development and that it would behoove them to notify Rochester because this directly abuts the town line. He said it is just a notice requirement and they can choose to do nothing or choose to get some opinion.

Mr. Pelkey asked if there is a litmus test to pass for the things that make up a regional impact.

Mr. Pimental said there is and they could take a look at that. He said it was the Rochester property owner that received a letter not the City so if the board determines that this is a project with regional impact or if they wanted them to reach out to Rochester they would do that in addition to the abutters' notices.

Mr. King asked if that would be at the time of formal application for site plan review.

Mr. Pimental said that's correct.

Mr. King said it directly abuts a neighboring town and it would be different if it was a mile or so away. I think we would do that even if it was a gas station he said.

Mr. Pelkey said based on the size of the project and the proximity he thought they should reach out to Rochester as well.

Mr. King said he thought this is a significant density increase and it may look like it works but there are some wetlands in the disturbed area that may make his water management at this density unattainable. He said it may look good on paper but based on some of the soils out there and the water they may not be able to come up with a drainage plan and part of the requirements is all the watershed has to stay on the site so when you put in the amount of impervious surface that you are going to, you have to have a place for the water to go.

He said graveled ways are typically considered 90% impervious so with every campsite that has a gravel area all of a sudden your impervious goes way up from what it is now and that may be a limiting factor to the final density.

Mr. Pelkey asked if there was a standard for if he had a full campground how much rest facilities he would have to have.

Mr. Ellis said that is a hard thing to facilitate for. He said you could go by the tent sites but the way the engineer did it's actually small campers or a tent.

Mr. Pelkey said that would mean that each site would be served by sewer and water.

Mr. Ellis said not necessarily and they don't have to be served by sewer at all- none of them if he didn't want to according to the engineer.

Mr. Pelkey said there would be dumping stations or he would provide the service to the campers.

Mr. Ellis said that is correct.

Mr. Fisher asked where the bathhouses would drain to.

Mr. Ellis said he has one designed now to go where the mobile home is that's already got a full septic system. He said the other ones would have a full system installed or have holding tanks that would be pumped.

Mr. Fisher said the size of the septic system for the mobile home was probably based on a 3 bedroom site but if you fill all of these campground spaces that is more than 3 bedrooms.

Mr. Ellis said the mobile home system is actually one system for all the trailers so it's actually running 4 three bedroom mobiles.

Mr. Fisher asked if it has been licensed by the state.

Mr. Ellis said yes and it was designed by the state.

Mr. Fisher said he would like to see that paperwork before he approves this.

Mr. King said Randy Orvis was the septic designer of record and it was put in 10 years ago. He said what was originally out there failed and they had to have an engineered plan and that is when they put in the 4 homes and the community septic field.

Mr. Ellis said he would have the engineer dig up the plan and check it. He said he has gone both ways with them and he didn't care if they don't put leach fields in and just put huge holding tanks and have them pumped. I'm fine with that too he said.

Mr. Pelkey said when Mr. Ellis comes to the board with an application he is going to want to be able to satisfy the board that whatever he has is going to adequately service what he is putting in there.

Mr. King said based on the system he has there may be a maximum number of users allowed and that may spill into what he has for his plan.

Mr. Pimental added that when they get there the state has a statute, RSA 216:1 which is recreational campgrounds and camping parks and there is a list of definitions within that, density requirements and that a minimum of 600 sq. ft. needs to be provided for each tent site and a minimum of 1,000 sq. ft. for any RV or recreational camping piece.

He said there are standards about water supplies, disposal systems, registration, eviction and remedial action, storage of property, notice of sale, fireplaces/fire pits and liability penalties. He said there is a whole list of things the state provides guidance on that this plan will have to meet which is good because the Town's site plan regulations don't translate perfectly to a campground so things like the storm water regulations, impervious coverage limitations are all really great but using these standards about the density between sites I think we'll rely heavily on what the state's guidance is.

Mr. Pelkey said that is one of the things they were looking into to see what other towns have done and their process for approving campground applications.

Mr. Pimental recommended that they discuss illumination, if every site will have a campfire, road construction, emergency access and the timeframe. He said the board may want to have more discussions about if this campground will be open all year or if will be open from Memorial Day to Labor Day like a typical campground.

Mr. Ellis said it would be open from Memorial Day to Labor Day because that is what the Town allows.

Mr. Henry said the Town has regulations on the time frame already.

Mr. Pimental asked if that is just for RV's or if it was for all campgrounds.

Mr. Squires said most campgrounds go to Columbus Day and we hold them to Labor Day.

Mr. Fisher said he thought it was for everything because when they wrote the regulations they were having trouble with people putting up tents and staying through the winter.

Mr. Henry said they do have set dates and suggested they look at those dates.

Mr. Pimental read from the section on recreational vehicle parks or campgrounds that the long term tenancy is limited to May 1 to Oct. 1 and the occupancy after Oct. 1 and before May 1 is limited to no more than 4 weeks total.

Mr. Henry said Mr. Ellis wants to do week long stays so he could run it year round under those rules.

Mr. Pimental said May 1 to Oct 1 is a reasonable timeframe for campgrounds and when they get there that may be a condition of approval.

Mr. Ellis said that is fine.

Mr. Pelkey asked if there is going to be some sort of clubhouse for the pool shown on the plan.

Mr. Ellis said he is skeptical about the pool and he didn't know if he was going to put it in or not and they just added that.

Mr. Pelkey said he didn't see a camp office on the plan.

Mr. Ellis said he is thinking of using one of the buildings in the old campground. He said it has to be replaced because it's falling in but that is where it will be and wouldn't be adding a building.

Mr. Pelkey asked if there is anything in the state regulations concerning illumination.

Mr. Ellis said down south they don't have open fires and they make a hibachi at each place so it is not on the ground and he would be fine with that and would be fine with not having a fire at each site. He said that's not the purpose of this and he could have one central place for that.

Mr. Pelkey said the Fire Chief would have input on that one.

Mr. King said illumination is big concern for him because it is a rural area and there is not a lot of lighting out there now and a minimal amount would be better in that area.

Mr. Ellis agreed.

Mr. Pelkey said he was thinking of the people who live out there and joked if they're like him they like living in the dark. He said but at the same time they have to be able to have some safety in the place.

Mr. Pimental said there is nothing specific about lighting in the state statute but the Town's site

plan regulations do address lighting and it might not translate perfectly to a campground but it could a back and forth as they go through the process. He agreed that because of the location they would try to keep the amount of light down to a minimum.

Mr. Ellis said that and noise.

Chairman Pelkey then opened the hearing to public comment.

Abutter Kim Madsen said they live at 11 Ten Rod Rd. and the plan for this is directly behind their property. She said to touch on the r-o-w, as far as Mr. Ellis reaching out to them and saying he was going to help them they got a letter in the mail with him telling them that he was going to extend it and in the deed it does say 10' up to a maximum of 16' for it so he was going to take it upon himself to extend it to 16' cutting down any trees that need to be cut down in order for that to happen.

She said that would take out all of the coverage from their property to that r-o-w with all of the vehicles that would potentially be passing back and forth. She said they're not just little trees they've been there forever so she can only imagine that the mobile homes that were put in there made it through there or came in through a different part of the property in order to be put back there. That would be a concern about widening that and that would be taking away all of our coverage she said.

Abutter Sean McGurty said they were confused about why that would be the emergency entrance and he didn't feel that should be the only way that emergency vehicles should be getting on there.

Mr. Ellis said it's not and it's for them to access to the back side.

Mr. King said when Mr. Ellis submits his formal application the support documentation would include the r-o-w which they will have staff review and maybe a legal review for what is reasonable for what that r-o-w says and how it is written. He said a lot of them go back to the turn of the century and you need an experienced person to read it and determine if you are overburdening the r-o-w and if you're using it for the use intended. I think a lot of those details would be worked through when the formal application is made and all of the support documents come forward but I don't know when that would be he said.

Mr. Pelkey suggested if the proposal comes to them and says they're going to use this as the emergency access they would probably want to have Town counsel look at the wording of the r-o-w to see if that was something in the spirit of the original granting of the r-o-w. He said before that was put on the abutters they would make sure that was in accordance in the opinion of the Town. You'll have somebody that would speak for you and he'll have somebody that will speak for him and us not being lawyers, we will have to get an opinion from the Town's attorney so we have an understanding of it he said.

Mr. King said chances are there will be differing opinions and they would seek legal counsel to make sure they make a solid decision because the decision can be challenged in Superior Court.

Mr. Ellis said he is fine with the road the way it is if the board is fine with the road.

Mr. Pelkey said if the proposal comes before them and he has engineered drawings that show this is an emergency access or if the TRC says he has to have a 2<sup>nd</sup> access/egress and he says this is where it's going to be then they will have to approach it as they will have to make sure that it's supported by the r-o-w that is there.

Mr. Henry asked if it's a passable road now.

Mr. Ellis said its 10 ft. wide so an 8 ft. car goes through.

Mr. Henry said it's just not up to the Town's standards for an emergency access road but it exists as a passable road now.

Mr. Ellis said yes. He said fire trucks might have a hard time getting in but he was sure the other emergency vehicles could get through.

Mr. McGurty said he used to be a camp counselor and kids wander and he wanted to make sure that a fence would be along the camp sites blocking off their property as they have some expensive belongings that he would prefer to stay there. He then asked about generator noise and if there would be generators on site since they don't have electricity.

Mr. Ellis said there will be electricity on site. He said he didn't have a problem putting up a fence but the r-o-w would be a problem because it's not wide enough to put a fence down it.

Mr. McGurty said they don't need one on that side and if you're looking at their house it would be for the back side of their property.

Mr. Ellis said "you got it".

Mr. Pelkey said he would want a fence there too as it's a good place to have a boundary and would be something to provide them with privacy as well.

Mr. Pimental said to get to the concerns of the abutters when he goes back to his engineer he would recommend that at least 4 of the sites that are on the turn-around behind their property if they are not using the pool to maybe move them to the other side and shorten up the roadway so the cul-de-sac turn-around is up maybe 5 campsites to give more of a buffer and maybe think about making those areas only tent sites because all the rest of them are tent sites around the water and move the RV's which tend to be louder further back to where you see more of the RV's already.

Mr. Ellis said that is what he planned on and the only reason he was going to put RV's there was that was where the mobile homes were and it already had the septic system. He said he didn't have a problem with that and they can take out the last 4 sites.

Mr. Squires said he was thinking the same thing about taking out the last 4 sites as he only has about 50 ft. from their property line looking at the plan's scale and if he took away a couple more it would easily double that and put a fence there.

Mr. Pimental said if he put a fence there and knocked off 4 or 5 sites and he could reallocate them to another part of the site and that would go a long way to ensuring some protection for the existing property owners.

Mr. Ellis said "sure".



Chairman Pelkey thanked the abutters for their input and said that they appreciate them coming to the meeting. He then closed the public comment portion of the hearing.

He asked if there were any other comments from the board or Mr. Pimental.

Mr. Pimental said the design review was intended to give Mr. Ellis some general feedback on the site layout and that Mr. King has a good point about density and how many sites he can fit there when dealing with the storm water, moving those sites away from the existing home that's there and some of the other things they are going to have to iron out with noise, illumination and access.

Mr. Pelkey said sight distance on Ten Rod Rd. was a concern to him because if there are people lined up to take a left turn and people come over the top of that hill there could be a problem.

Mr. Ellis suggested that he put in a turning lane.

Mr. King said it may make the most sense to do the delineation and soil analysis that will need to be done first because that may determine the areas of development and the density and everything else will have to come after that.

Mr. Pelkey said once he takes the cost to build this concept and then take a look at what he wants to do it may change what he shows the board.

Mr. Ellis said the engineering is \$100,000 no matter how many sites.

Mr. Pelkey said the construction cost after that is the follow up.

Mr. Ellis said he has \$2.5 million budgeted for that.

Mr. Pimental said that unless the board wants him to come back for another design review they are probably ready for him to start the process for the site plan review application and when that happens, the abutters will receive another letter stating when the public hearing is going to be. He said he wouldn't expect that for a couple of months at least and they would not receive anything else until they receive a submission and when the hearing date is set they will get a letter inviting them back to comment on the full plan set.

Mr. Pelkey said this is the end of this discussion and they are not continuing this forward any further from here and there are no other meetings planned until he makes formal application.

Mr. Squires asked if at that time they would notify Rochester.

Mr. Pimental said the abutting Rochester property owner will be notified regardless and they need to make a decision about this being a regional impact if they're going to notify the City.

Mr. Pelkey said they need an application in order to make that formal decision.

Mr. King said when Mr. Ellis makes application there will be staff reviews, TRC reviews so there will be a minimum of 30 days before he gets on their agenda and that time he could bring it back before the board and ask what the board wants to do as far as the regional impact. He said that notification could potentially happen well in advance of him coming in here for site plan. I don't think that decision needs to be made until he makes formal application he said.

Mr. Pimental said if the board does decide that there is a whole other process they would go through for that.

Mr. Pelkey asked if that would go to the Strafford Regional Planning Commission after that. Mr. Pimental said the SRPC gets involved and the City of Rochester would have a chance to get involved so it's a bigger process.

Mr. Pelkey said as the Planning Board rep to the SRPC Mr. Fisher would take this to the SRPC. Mr. Henry asked if it would be better for the applicant if they made that determination sooner rather than later if there's a whole bunch more red tape.

Mr. Pimental said he didn't know if they could make a decision without having the materials.

Mr. Pelkey said they don't have an actual application they have a design concept that they have gone through with the applicant to give him an idea of what they'd be looking for when he does finally apply. He said if the drawing they get looks like this he would be inclined to say that it is.

Mr. Pimental said once the board accepts the application as complete they will then make the decision on whether or not it's a project of regional impact. He said if they do they hit the "pause button" and start that process.

Mr. Henry said the abutters are noticed that they are going to start to hear it then they start to hear it and decide if they need to notice more people.

Mr. King asked if they could take it under consideration once they receive the formal application and send out the notices if it's determined before so the notice period can overlap.

Mr. Pelkey asked if there would be public input on whether or not it's a regional impact or if it would be a straightforward Planning Board decision.

Mr. Pimental said the way he has seen it in the past the board accepts the application as complete before making the decision on whether it's a project of regional impact but he agreed the process of notifying is a little backward. I'll look into it and get the board an answer he said.

Mr. Fisher said there also has to be enough time for him to notify the SRPC so they can get their people together if they need to do a traffic count or something like that and they schedule those things months and months in advance and have it all laid out before summer starts.

Mr. King said the ability for a traffic study would be determined by the board not the SRPC.

Mr. Henry asked Mr. Ellis if he has a timeframe for when he would like to open this.

Mr. Ellis said he would love to start next spring with phase one.

Mr. Henry asked if it is inappropriate to get a consensus on what the board thinks based on what they've seen on whether it would be a regional impact or not.

Mr. Pelkey said he didn't have a problem with a non-binding consensus of the board and asked if he would like a show of hands on what the board members feel about the design that they see before them. It's preliminary not a final design this is a design review but if you feel this would be a regional impact when it comes in-just your opinion not a binding vote on it he said. He said he feels if this comes in at this level of density in this area along the border with Rochester it's going to be a regional impact.

Mr. King agreed and said that land is in a conservation easement and some of that is owned by Rochester so not only is the landowner but the Conservation Commission and Rochester were

part of that land being put in conservation so in some ways they have a vested interest.

Mr. Henry said the abutter may be concerned about knowing what is happening but as far as the whole formal SRPC and City Hall he isn't sold that it is large enough to be a regional impact.

Mr. Mains said he felt it is a regional impact because it is bordering two towns and Ten Rod Road is a major road. He said if they don't use it as an impact he would still inform them that this gentleman is doing that so they know what is going on when they see 40 cars pull out of there one morning. He said impact studies are a good thing and some of them were terrible.

Mr. Pelkey said Mr. Day also indicated that he felt that way as well so he would say that a majority of the board feels that way.

Mr. Henry advised Mr. Ellis to prepare for a regional impact determination.

Mr. Pelkey said there are guidelines on that and they should highlight what the guidelines are so the board can take a look at it and not create their own and just follow the guidelines.

Mr. Pimental said in the state's guidebook for Planning Boards under development of regional impact (RSA 36:54) it says: "Decisions on the potential for regional impact are formal actions of the board. When the Planning Board accepts an application as complete it should also take a vote to determine if the proposed development might have a regional impact or not. If a determination of a development of regional impact is made the board should not take any further action on the application and continue it to a specific date and time. This would give the board enough time to properly notice adjacent municipalities and the Regional Planning Commission."

He said he would look into this more and look at the specific RSA but the state's guidance is that they would vote to make that determination once they accept the application. It does create a bit of a wonky notification piece and people might come to the first hearing and then it's going to get continued to another date he said.

Mr. Henry asked if there is something that prevents Mr. Ellis from saying he wants them to notice it and treat it as though it's a regional impact and just do it if he predicts that's going to be the Planning Board's determination.

Mr. Ellis asked what the cutoff is and they're saying if it comes in like this design they would think it was a regional impact. He asked if would be one at 50 sites.

Mr. Pelkey said his biggest concern was the way it would affect the traffic on Ten Rod Road and how that's going to affect both communities.

Mr. Ellis said he is fine with doing whatever they have to do.

Mr. Mains asked if when they accept an application that the clock starts ticking for them and when the clock starts ticking they have to come up with some decisions.

Mr. Pelkey asked if they get additional time based on the fact that they find that it has a regional impact.

Mr. Mains said if they say yes and they go into a regional impact study they can stop the clock at a certain time.

Mr. Pimental said it may be worthwhile to talk about this more in a workshop over the summer but a few of the criteria they should be thinking are the size and number of the units, proximity of the development to a municipal boundary, impact to transportation networks, light, noise, smoke, odors, proximity to aquifers or surface waters and shared facilities. He said those are examples of what sometimes makes up a regional impact.

He said the statute changed and when an application has been accepted the Planning Board typically has 65 days to approve, conditionally approve or disapprove it unless they work with the applicant for an extension because they needed a third party review or more information was needed. That agreement needs to be made as part of a motion in agreement with the applicant he said.

Mr. Pimental said in cases where there is a regional impact it gives the board an additional 30 days. He said the 65 day period starts when the decision was made to accept the application and if they decide it's a regional impact that's another 30 days and if they need more time than that they have to work with the applicant and make that a part of the public record.

Mr. Pelkey said if they need more time to make a decision it's in the best interest of the applicant to work them otherwise they'll have to decide against it because they don't have enough time to make a good decision.

Mr. Henry said his concern is letting him save time and if you hit a certain date it's tough to break ground. Time is money he said.

Mr. Pelkey said he has a long way to go before he is ready to break ground. He said he supports anyone in the community that wants to build a business and he doesn't want to hold them up 1 more day than they have to. I can't wait to see the drawings they're going to be special he said.

**Public Hearing and Possible Vote on a Major Subdivision for New Style Homes, Tax Map R-61, Lots 10 and 19-1.** The applicant is proposing a 7 lot major subdivision with a 900 foot long cul-de-sac with associated driveways and drainage facilities, on-site wells and individual sewage disposal systems. In addition, a Special Use Permit is required due to impacts within the Wetlands Conservation Overlay District, creating 2,950 square feet of permanent impact to a wetland because of fill in connection with road construction and additional disturbance within the wetland buffer associated with the remainder of the development. This project was reviewed by the Technical Review Committee on January 11, 2022.

Bob Stowell of Tritech Engineering introduced Dennis Allfrey from New Style Homes.

Chairman Pelkey said when the applicant was here before they asked for an engineering review of the drainage, a plan for the site and the road construction.

Mr. King said they limited the scope to 2 sub-catchment areas and some road review not the entire design review.

Mr. Pimental said the motion made by the board was passed along and that was done by the third party review.

Mr. Stowell said that is how they left things at the last meeting and prior to that they had been to the TRC, the Conservation Commission and then they came to the Planning Board. He said they got the board's feedback and their marching orders to seek a 3<sup>rd</sup> party review, they got a couple of proposals on that and ended up having Norway Plains out of Rochester do the review. He said they've had a chance to respond to the review and they've also received their state subdivision approval from NH DES and the wetland impact permit from DES and the Army Corps of Engineering so all of their permitting outside of Farmington is completed at this point. He said Mr. Allfrey has evicted his tenants that were brought to his attention at the last meeting that were troublemakers.

**Third Party Review Comments/Responses:**

Mr. Stowell said they received the review from Norway Plains Assoc. and the plans the board received addresses those comments and they got a follow-up review from Norway Plains that gave them a clean bill of health. He said they felt that they had revised their plans and drainage models to their satisfaction and there were a number of things that they took care of.

**Subdivision Plan Review-Sheet C-1-**He said they have a cross culvert in the project that was on Sheet C-1 that the board asked for them to review. He said the culvert drains under the roadway it doesn't drain into the roadway itself and they have swales on the roadway that drain the roadway but it drains where the natural flow of the wetland goes through where the road is. We have a wetland impact there so we put a culvert there to let the water continue to go through there he said.

He said Norway Plains asked them to confirm the size of the culvert and they were able to document that for them so the culvert there is sized properly. He said their second concern was they have the proper cover over the culvert as it passes under the roadway but the ditch beside the roadway they lose their 3 ft. of cover and they are down to about 1.5 ft. of cover. He said they talked to Scott Lawler and they agreed where it doesn't have any vehicular traffic the 1.5 ft. of cover would be enough cover. They asked us to confirm that number and they have 1.5 ft. of cover in the swale but in the travel lane they do have the 3 ft. of cover he said.

Mr. Stowell said #2 and #3 in their letter was inconsistency with their plans that called out dimensions and the drainage pipes in their storm water modeling were slightly different so they adjusted things to get them consistent. They weren't significant but they are consistent now and they didn't have any effect on any of the modeling or any of the design he said.

He said they proposed flared end sections with riprap at their culverts and they asked them to confirm the appropriate sizing of the riprap and those calculations are in the board's packages as well and Mr. Lawler reviewed them to see that they were adequate and sized properly.

He said that was the same for the bioretention details and they asked for a little bit of riprap in there and for some consistency-the labeling between the plans were accurate but the modeling needed to be updated to be consistent with the plan so that work was done for them.

**Sheet C-2-**Mr. Stowell said their comment #2 was a little bit different where their modeling had

a spillway but the construction plan didn't show the spillways so they got that added for them so everything was consistent.

**Storm water Drainage Analysis Review-** Mr. Stowell said the main sub-catchment of the property where 99% of the water runs is down through the center of the property. He said on lots 10-1 and 10-2 the water flows the other way for the houses themselves and they asked them to include that in their model to show that wasn't going to have an inverse impact on that sub-catchment. He said with the new drainage modeling that they sent to them they did improve that modeling and showed that that was not an issue for meeting the standards for the drainage review. He said there were a couple of those where they needed to document the things they had gone through and get it in the record so they were comfortable that they had done things the way they thought they had done them.

He said they added a little more impervious surface and that they had accounted for the road construction and the house construction and they asked them to look at what will happen when the lot development happens and to model some more pavement for the driveway construction and to model that some of the woods will change from woods to grass. We changed some of those surface types within our drainage model and presented that to them and they were comfortable that that was going to work out okay and it worked out fine he said. Mr. Stowell said they had an error on one of their runoff coefficients within the model that was a 92 and should be a 98 which is a harder surface than a 92 and they addressed that and it didn't have any impact on the model. He said based on their revisions to Mr. Lawler's comments they were content that the things they had been asked to review were done properly.

Mr. Pelkey said Mr. Pimental received a letter from Norway Plains saying "I reviewed the revised 11 page subdivision plan set (revised May 16, 2022), Drainage Analysis (revised May 2022), the riprap calculations and the roadway culvert hydrology prepared by Trittech Engineering in accordance with our agreement with the Town. As directed by the Town, this review was limited to certain elements of the drainage design and subdivision roadway construction only. Based on that review we find that all of the previous comments have been adequately addressed and the project is now acceptable from an engineering perspective, signed Scott Lawler, PE, Norway Plains Assoc." Our independent review has found that these are acceptable with the changes as listed he said.

He said he was a little concerned about the timeliness of the application because of the amount of data that went into it but because the end product was what they were looking for they were not doing the engineering work themselves. He said it was a recommendation from an engineer and he could read that one page cover letter pretty quickly and lost the amount of concerns he had at that point. We appreciate Norway Plains for doing the engineering for us because it's not something we're capable of doing and they would have been here tonight but they had a scheduling conflict he said.

Mr. Fisher asked if everything has been worked out with the abutter about the fence and his backyard.

Mr. Stowell said they did what was discussed at the last meeting that is represented on the plans. He asked the board to go to Sheet C-1 and pointed out the fence symbol and Note D-13 that says they are going to install 136 ft. of 6 ft. high vinyl clad stockade fence and it will be installed 2 ft. onto the abutter's property so he owns it and has control over it as was discussed at the last meeting rather than in the r-o-w and him not being able to maintain it. He said Mr. Allfrey was responsible for installing it but the ownership will be the abutter's and if he wants to do something different with it it's his fence.

He said the other revision they made was Mr. Pimental had in his notes about the well for the existing mobile home out there does not meet the Town's current setback regulations so they had represented a viable new location for that on Sheet S-3 should that need to be replaced. He said Mr. Pimental asked that they get a note on there to explain what that was all about and if the well fails or a new septic is put in it will need to be replaced to meet the current standards. He said Mr. Allfrey plans to replace that mobile home which would involve a new septic system and a new well and that will get taken care of.

Mr. Pimental said they have already gone through the revised Trittech plan set and that all looks good. He said the board should have a discussion about potential conditions for construction hours for the roadway. He said for example that construction for the road and any associated infrastructure those contractors shall work between the hours of 7 a.m. to 5 p.m. Monday thru Saturday and if work needs to be performed outside those hours the owners must first notify the Town. He said the board could message those numbers or dates or not touch it all but in the past he has seen for construction like this they could put this as a condition of approval for what they would like to see for construction hours for the road. He said it was up to the board's discretion on whether they want to dictate that or not.

Mr. Squires asked if they have dictated it in the past.

Mr. King said he couldn't recall any instances where that was a specific requirement, but this is an area that's populated with smaller lot sizes.

Mr. Pimental said if they go to the drawing at the top of Sheet C-1 they will see on one of the driveways it says "12" HDPE Driveway Culvert @ each Driveway" and this was something that during his review with Town Counsel is to bring up to the board on whether or not the Town should accept responsibility for those driveway culverts. He said right now all 6 driveways go over that swale and if this is going to become a Town road without doing anything right now the Town would be accepting the responsibility to fix them if any of those culverts were to fail because they're in the Town's r-o-w.

He said if the board does not want to do that legal counsel gave an example of a condition of approval to include where the maintenance would be on the property owner and would allow them to make the upgrades or improvements if a culvert were to fail within the Town's r-o-w.

He said the board could accept it the way that it is- nothing needs to change with the plan either way and it would just be a matter of does the Town want to take responsibility for the culverts under the driveways or do you want to put that onto the owners.

Mr. Pelkey said if the Town was to accept the road it wouldn't be the Planning Board accepting it, it would be a vote of the people and it might have a recommendation from the Planning Board. He asked if that time would be the appropriate time to make that recommendation.

Mr. Henry said he was thinking this would have to be put in the deeds for each lot.

Mr. Pimental said he didn't know if it necessarily needs to be put in the deeds. He said the attorney said the board should make a decision now to be prepared for if this is going to become a Town road on whether they want the Town or the property owners to be responsible for the culverts.

Mr. Pelkey said the plan won't change whether they recommend taking control of them and someday down road when the Town might decide to take over the road.

Mr. Squires said he thought it would be the way they set up their (homeowners') association.

Mr. King said he differed with the attorney and if the r-o-w for the road is a 50 ft. r-o-w by this plan and they were to make petition to the Town to accept it and that infrastructure is in there he didn't think anything they decide is going to prevent them from saying the culverts were petitioning too. He said we could say the culverts are going to go for maintenance and ownership with the lots of record but it's in the r-o-w which we have been to court before on accepting roads with infrastructure and if they were to make the petition that it's a 50 ft. r-o-w with all the drainage in that r-o-w that's going to override anything the board decides.

Mr. Pelkey said it's all going to be written into the deeds at some point when and if the Town approves taking possession of the road.

Mr. King said they could put this as a condition of approval but the Town has the right to accept or not accept this or portions of it. He said he didn't think it was worth weighing into its driveway culverts in the road r-o-w.

Mr. Stowell said with all the time and effort they spent on designing the drainage system if the culvert fails the drainage system fails. He said the Town wants to be in control of those culverts.

Mr. Henry said as much as he likes anything that he doesn't have to pay for he thinks the Highway Dept. should be control of that and they need to be able to fix the culvert if it fails and not fight with the homeowner over their responsibility while 3 other houses are having problems because of it.

Mr. King said that's if and when it gets accepted and the documents he presents would be reviewed by legal counsel and as a condition they would have to make sure each owner is responsible to maintain that infrastructure because if they don't their drainage system fails.

Mr. Stowell said Mr. Alfrey is setting up the homeowners' association so until or if they are taken over the association is going to take care of the road and the culverts.

Mr. King said that has to be addressed in the first phase and in the second phase if the Town



accepts it the Town may or may not assume responsibility.

Mr. Pelkey said the road association document concerning the culverts is more important than the Town's interest in that because there is no Town interest right now it's on private property.

Mr. Fisher said he agreed that if the Town accepts a road they accept the culverts. He said it's like that on any other road the Town has accepted and we own the culverts and fix them when they need to be fixed. If it's a private road the landowner owns the culverts and it's been that way forever and that's the way it should be. It's up to the people at the Annual Town Meeting if they want to accept it or not and if they accept it we got it he said.

Mr. Pimental said if that is the case then they don't need to do anything with that. He said his last comments were potentially to try to address the concerns raised by the property owner on Map R-61, Lot 18 regarding the well contamination. He said during the construction of the roadway one potential is to install some sort of monitoring well that could be checked to ensure there are no excessive pollutants getting into the groundwater. The second would be post construction once the road is in place and the Town takes it over is to ensure that there's low salt application at least during the first 75 ft. of the new roadway because that property owner's well radius is into the road. He said it's up to the board to discuss with the applicant on whether or not they feel that is reasonable and it's just an idea to help address the abutter's comments.

Mr. Squires asked if the abutter said he had an artesian well.

Abutter Richard Cilley said that's correct but it's a shallow sum because of the water level in the well itself and its drilled to about 300 ft.

Mr. King asked how far down the casing is and if it one casing.

Mr. Cilley said he believes it is one casing.

Mr. King said the casing is the steel tube that comes out of the ground and typically it is cased until it goes to bedrock. He said it's artesian but that doesn't mean that there is no ground water going down into that bedrock and the last well he put in because of the crappy groundwater he had it lined to 120 ft. That just improved the situation it didn't fix it he said.

Mr. Pelkey said in talking about the Town using low salt application he was uncomfortable using "when" the Town takes over the road.

Mr. Pimental said he would change it to "if" the Town takes over the road that reduced salt would be applied in that first 75 ft.

Mr. Fisher said he thought they would be using low salt applications in that area anyway because of the proximity to the wetlands and that automatically calls for using low salt.

Mr. Pimental said he didn't know that and if that's the case maybe this is not needed.

Mr. King said he disagreed there is a requirement for low salt but he did agree with the intent of the low salt application. He said at this point they should be concerned with it being a requirement for the homeowners' association and hopefully when the Town takes it over that spirit and intent is carried over to the Town's side.

Mr. Pelkey said if it's a concern of the board they can ask the applicant to put up a sign for reduced salt application in that area.

Mr. Henry asked if there is a definition for reduced salt.

Mr. Pelkey said the state puts up signs saying reduced salt usage but they don't have the RSA on them. He said he wasn't familiar with that RSA so he couldn't answer his question.

Mr. Henry said he didn't know how to define that or how to tell them they violated it. He asked if it is enforceable and if it's not enforceable why do it. He said he thought the state's signs were to warn drivers that the road may be slipperier not a direction to the truck driver.

Mr. King said they've had landowners that have requested that to be posted in close proximity to their property like the one on Meaderboro Road because their well is close to the road.

Mr. Pelkey asked if it was a reasonable request to put up a sign for that area.

Mr. Stowell said yes and whether it's a sign or the homeowners' association is going to be responsible until or if the Town takes it that can be in those documents that are going to the attorney for review and the applicant is bond by those. Whether there is a sign or not he knows that is what has to be done he said.

Mr. King said there is no hill or sharp curve there it's a straight section entering or exiting so speeds should be low and it shouldn't create a hazard to have a low salt application area.

Mr. Henry asked who would be the third party engineer to go measure the salt.

Chairman Pelkey said in light of the person who spoke to this previously being present he would open the hearing to public comments.

Mr. Pimental said on Sheet C-2 where there is a blow-up of the bio-retention system at the end of the cul-de-sac this was a recommendation from the applicant's attorney as well as the Town's attorney and they would like to see the easement areas shown on the plan with some sort of boundary line. He said the bio-retention system needs to have, and it could follow the silt fencing but it needs to go beyond that a little bit to allow for the maintenance of that bio-retention system and that needs to be delineated.

He suggested that the bio-retention system and the riprap be labeled as Easement 1 on Lot 10-4 and the Town counsel's recommendation is at least 10 ft. from the edge of the infrastructure to allow a truck or something to get back there to repair or maintain that system because that needs to go into the deed.

Mr. King said the easement should allow for repairs or maintenance it by the homeowners' association or a new homeowner because once you sell it you could lose access to the drainage.

Mr. Stowell said that got lost on Sheet S-1 but it shows on Sheet S-2 they have the cul-de-sac that says drainage easement and the line that comes off of the cul-de-sac and goes down and back up that property line. He said they follow the property line along the r-o-w and then up and there is segment where they could add the meets and bounds with the distance to close it out and that was what was intended to be the drainage easement for that.

Mr. King said an important point is when the petition is made that that drainage easement is

part of the submission because if they accept the road and that's not part of the submission then you have an area of maintenance which is in limbo and you probably end up in court. He said as long as there are meets and bounds on the plan someone can measure it and locate it and it's not just a squiggly line.

Mr. Pimental suggested they put it on Sheet C-2 because it might be easier to see and they are also going to need an easement shown for the riprap area of where the culvert is.

Mr. Pelkey said the drawing on Sheet C-2 is too zoomed in and it doesn't show the entire area of the easement.

Mr. Stowell said Sheet C-2 just shows why they need the easement and Sheets S-1 and S-2 are the ones that will get recorded at the Registry of Deeds and the ones the deeds will get written from.

Mr. Pelkey said he was speaking to Mr. Pimental's concern about how Sheet C-2 looks and he understood that it doesn't show it because it's zoomed in on the actual bio-retention area not the entire easement area.

Mr. Pimental said he was fine with it being on Sheet S-2 and the only thing they need to add is the Town's legal counsel would like to see another drainage easement around the riprap of the outfall of that culvert and that culvert is not shown on S-2 so he would add that in there. If that is the one that's going to be recorded we want to be able to show that culvert and the easement around the riprap area as well as the entry way of the culvert on both sides he said.

Mr. King said the easements need to be listed in the specific deeds and the deed needs to reference that easement on this plan and potential reference to homeowners' association and/or Town documents as being responsible with rights.

Mr. Pimental said there are 3 easements, the bio-retention system is on Lot 10-4, the culvert inlet is on Lot 10 and the culvert outlet where the riprap is on Lot 10-3 so they would like to see the bio-retention system labeled as Easement #1, the culvert inlet as Easement #2 and the culvert outlet as Easement #3. He said he didn't think it was necessary to have 10 ft. on the inlet but it should show something as to where that is to allow for maintenance to occur and make sure that those are coordinated.

Mr. Stowell said that makes sense.

Mr. Henry said there's a homeowner's association that owns the road and asked if the road becomes a separate lot of land that the homeowners' assoc. owns and how it transfers to the Town. He asked if the easements go with the lot that is the road so if the road transfers the easements transfer.

Mr. Stowell said they typically have that language that they're in favor of the homeowner's assoc. but may be transferred to the Town if it's accepted.

Mr. Pimental said the drainage easements are going to go with the lots because they're on private property.

Mr. Stowell said they would encumber the lots but they're going to go in favor of the

association and in favor of the Town.

Mr. Henry said but somebody owns the easement.

Mr. Stowell said the landowner will own the land under it but the homeowner's assoc. or the Town will have the rights.

Mr. King said ideally they want to make sure that all the infrastructure goes with the road and if it's on private property they need to have an easement.

Mr. Stowell said Mr. Pimental's comments on the easements made perfect sense and the bio-retention needs to be better defined and on the other 2 they did not have on the ripraps so they can get those added and referenced in the homeowner's documents. He said on the construction hours the applicant is agreeable to some restrictions on the heavy construction.

Mr. Pimental said he was referring to the road and utility construction.

Mr. Stowell said the applicant was good with that. He said the low salt issue makes a lot of sense and that can be incorporated in the plans and the HOA. He said he was not sure about the test well and how that would come into play, who would monitor it, what expense would be involved, whose property it would be placed on and who is qualified to test it. He said if they look at Sheet C-1 they are above grade with the road center line and it is set so that it is just deep enough to get a drainage swale in the ground so they can convey the water where they want it to go. He said the road center line is above grade as they go past his house so they are going down and they are going to take a foot of material out to make a swale as it goes by his house and he didn't see how it would impact his well.

Mr. Mains said they had a problem like this in another town with accepting a road and the Town said the road must meet the state specifications before they would accept it. He said the board could say it must meet our specs but before they accept it they have to have an engineer make sure it was what they wanted and that burden was on the person doing the project.

Mr. King said that typically on projects where infrastructure is put in they've required oversight and review to make sure it meets the standards presented and approved. He asked if they built this to the road and driveway standards of the Town of Farmington how they would monitor that it meets that standard so if and when it comes before the town because if it's built and there are no records the town is not going to accept it. He asked what would be the requirement or if they were going to advise the applicant to keep good records and have somebody double check it.

Mr. Henry said he was not inclined to put requirements here. He said it is in their interest that the Town accepts it and they have to come to Town Meeting and make their case and they are pretty well aware of what they'll need to make their case to get it accepted. It behooves them to have those records and their ducks in a row to say they did what they told them to do and here's the proof.

Mr. Pelkey said he understood Mr. King's and Mr. Henry's points but if they don't put a requirement on the applicant to do this when the applicant comes to the Town to ask the town

to take it and they come to the Planning Board and ask for a recommendation that the road be accepted as a Planning Board member he is going to want to see evidence from qualified persons saying it was built in accordance and this is the method that they used to ensure it was built that way signed by a person qualified to do this.

He said he could also see if they said to the applicant they want him to do all this stuff because it will make it easier for him to get his road accepted and then he says they did all the things they asked him to so take our road.

Mr. King said the board was going to approve a 7 lot subdivision and say the applicant hires someone and doesn't supervise them because he's busy and thinks everything is going to come out right and the Town doesn't require even base level minimal inspections or review of any documentation. He said the road is put in substandard and it falls apart and the Town gets sued because we approved it but didn't make sure it was put in to the standards that we require. He said there is a bare minimum that needs to be as a condition of approval because they set the standard and they also need to monitor it or at least have some basic inspections so that they can say it's been reviewed and the steps follow the specs.

Mr. Mains said they (in another town) had a road put in where he was supposed to make a turn but he kept going straight and years after the fact they have wells and septic systems in the middle of the road that belong to somebody else so that's something to keep us saying the engineer took this plan and went out there and said it looks good and he will sign off on it.

Mr. Henry asked if they would have a problem with it if they put a requirement in that says engineering review throughout the process of building the road and it would be at their expense.

Mr. Allfrey said they had discussed it at a previous meeting and they had 4 basic things-to make sure it was grubbed out properly, to make sure they had the proper material that was tested, the compaction and the asphalt. He asked if he would have Mr. Stowell do that or get another engineer to certify those phases or is it something the Road Agent would be involved in.

Mr. King said at times they have contracted with a designated engineer to act as the Town's engineer because they don't have the ability to send the Road Agent out there and that person may/may not be qualified in certain areas or may not be available so in the past they have used an outside engineering firm but right now we do not have one.

He said in another situation they needed to have a basic review of somebody that's qualified so he didn't think they would resolve this tonight and the only way to resolve it is to say at a minimum we are going to require a review to be done by a qualified professional to be determined and accepted by the Town Planner.

He said they have to add to that list and they have basic road profile and layout requirements and there are multiple steps for construction. He said they can delegate that there needs to be some basic review and that can be done by the person they propose and the Town accepts.

Mr. Pelkey said he didn't have any problem with the applicant's engineer doing it he's a

qualified person and he can do it.

Mr. Allfrey said if they are ever going to have this road accepted they are going to have to do these things so he didn't object to it.

Mr. Henry said the engineer is not building the road the engineer is qualified to go in and say this guy did or didn't do what he specified as it goes along.

Mr. Stowell said they were going to work with Mr. Allfrey on the individual lots, the septic design, etc. and the road construction requires a construction permit from the EPA and they have SWEP program outlined on the storm water inspections throughout construction so they will be on-site. He said you wouldn't count on a third party review to do construction layout he'll have him out there no matter what to make sure the road is in the right location and that Mr. Allfrey is "cautious".

Mr. Pelkey said where he designed it he didn't know anyone that would be more intimate with the design he is trying to have executed.

Mr. Henry said the engineer in something like this is probably disinterested enough to say no you need another 2" of gravel because he's not the guy bringing in the gravel.

Mr. Pimental recommended that they address this as a condition of approval by using the "catch-all" that he and the Town Attorney came up with that says the Planning Director in consultation with the Town's legal counsel would review and approve all legal documents, draft deeds, easements, right-of-way requirements, restrictions and covenants, transfer of ownership documentation, construction phasing and inspections and storm water management obligations. That would be something that myself, the Town's Attorney, Trittech and Mr. Allfrey would work together on all of those and they've started to go back and forth and they got copies of the draft bylaws for the homeowner's assoc., the draft deeds and some of the revised covenants that came in on Monday and the attorney has not reviewed them yet he said. He said that catch-all will include things like construction phasing, inspections and all the other obligations and they would handle that there. He said the Town Attorney is comfortable with having that as a condition of approval to move this forward and allowing them to do that with staff to work with the applicant and not try to figure that out here. If the board is comfortable with that we could keep that as the recommendation and be able to work through all of those documents he said.

Mr. Stowell said he liked the board having some input on milestones and certain inspections as voters at Town Meeting on what are things that they would want to make sure were done right.

Mr. Henry said he wants to hand it off to staff and the Attorney to iron it out after they stamp it and asked who mediates if there is a disagreement and if they can come back to the board.

Mr. King said it has to be the board and that should be part of the conditions.

Mr. Mains asked if they would take a physical walk out there and measure it.

Mr. King said if there is something they can't reach consensus on because the applicant feels the Town is adding requirements that shouldn't be there then he has an avenue to come back

and say that what the board said doesn't match what they're telling him he has to do.

Mr. Henry said he was comfortable handing it off to the Planner and Town Counsel to iron out some of the details but if they don't come to agreement he wants to this board to be the board that mediates it and not kick him off to the ZBA or what the lawyer says is what he has to do.

**Waivers:** Mr. Pelkey said before going further into the conditions of approval there are 2 waiver requests to address. He said the 1<sup>st</sup> waiver request is from Section 6. B. 1 (f) ii of the Subdivision Regulations to show a minimum buildable area of 30,000 sq. ft. on proposed Lot 10-1.

Mr. Stowell said they clarified last time that it's not the 30,000 sq. ft. that they are looking for relief from and they have the required area it's the box configuration that is the difficulty. He said Sheet LD-1 shows where they were challenged on that and shows their rectangles and what they were able to do. He said it works for most of them and Lot 10-1 is the problem one because of the exterior boundary line that is kind of pie shaped that was a challenge.

He said they show the box on Lot 19-1 but he didn't think it is a regulation size box.

Mr. Pimental said because that's already exists the waiver didn't apply to that one and the one that really matters is Lot 10-1.

Mr. Pelkey asked for any comments from the board on this waiver request.

Mr. Fisher said he didn't think he could do anything else but what he has done.

**Motion:** (Henry, second Fisher) to approve the waiver request for Section 6. B. 1 (f) ii;

**Discussion:** Mr. King said fundamentally he isn't in favor of this but they had given the applicant the indication that it was acceptable up to this point so he wasn't going to go against it.

**Vote:** The motion passed 6-0-1 (Mains abstained).

Mr. Pelkey said the second waiver request is from Section 9. I (4) c of the Subdivision Regulations requesting that a NHDES subsurface disposal permit be obtained prior to the issuance of a building permit instead of at the time of plan signing.

**Motion:** (Henry, second Fisher) to grant that waiver request;

**Discussion:** Mr. Pimental said they should flag this as something they probably should change in the regulations because this is going to continue to come up. He said most developers he has spoken to are not in favor of getting a subsurface permit prior to the signing of plans as the timing is not ideal. Instead of issuing waiver after waiver we may want to change this he said.

Mr. Stowell said they have subsurface approval for the overall subdivision it's the individual septic systems that they're asking for.

**Vote:** The motion passed 7-0.

**Special Use Permit:** Mr. Stowell said this is the one that they attended the Conservation Commission meeting for and received a favorable recommendation from them. He said he understood that the Planning Board makes the decision but the Con Com was supportive. Mr. Pelkey read the section is Section 4.02 (J) of the Town's Wetland Conservation Overlay District which was established to regulate the uses of lands subject to standing water, flooding or high water tables for extended periods of time, states the following use may be granted with

a special use permit: streets, roads and other access ways and utility r-o-w easements, including power lines and pipelines, docks, piers and other water related structures if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the wetlands.

He said based upon the entire wetlands water management system they have in place he thought they made every effort to do exactly that.

Mr. Fisher said that is how the Con Com felt looking at the retention ponds, the swales and everything that's been done and the encroachment on the wetlands is very minimal on the road basically just a couple of little chunks where he has to cross it to get the road through.

Mr. Pelkey said when the applicant first came to the board with the conceptual plan for this they had a lot of discussion about trying to minimize this and he changed his plans and his approach in order to do that and they appreciate the fact that they did that.

**Motion:** (Henry, second Fisher) to grant the Special Use Permit;

Mr. Pimental said this item has its own public hearing and asked Mr. Pelkey to open the public hearing before the board votes.

Chairman Pelkey said he didn't realize that and then opened the hearing for public comments.

Hearing no inputs on the matter he then closed the public comment portion of the hearing.

He asked if there was any more discussion from the board on the special use permit. Hearing none he called for the vote on the motion.

**Vote:** The motion passed 7-0.

**Conditional Approval of the Application:** Mr. Pimental said there are a few things that need clarification with the first one being the board hasn't confirmed if they want to do the construction timeline. He said he suggested 7 a.m. to 5 p.m. Monday thru Saturday but that was just an example.

Mr. Pelkey said if that is acceptable to the applicant that will work.

Mr. Allfrey said he had no problem with that.

After some discussion about various work hours, consensus of the board was to limit road construction to 7 a.m. to 5 p.m. Monday thru Saturday.

Mr. Pimental said the applicant mentioned the recommendation about the Planning Director and the Town Attorney reviewing all the documents and asked if there are any milestones the board wanted to add to that that hasn't been discussed yet. He said he liked Mr. Henry's comment if agreement on any of these can't be reached between those parties then it comes back to the board.

Mr. Pelkey said they mentioned some of the milestones for road construction and Mr. Stowell listed 4 specific points and asked the board if they thought those checkpoints along the installation of the road would be adequate.

Mr. Stowell said the proper grubbing and materials is key and they would do an inspection at each level of gravel, they would have the compaction tested and documented and the



pavement are the obvious checkpoints but there are simple things like the loam and seed that might just require some photos.

Mr. Day asked how they will set milestones when they don't know what month they will start construction.

Mr. King said they were not setting the milestones on a timeline and the intent is these are the placeholders where the applicant should have inspections done or oversight.

Mr. Stowell said the bio-retention area is a key one to make sure the bio-retention media is put in properly and at the proper depth. He said the pond at the bottom has specific layers of material that has to go in for that.

Mr. King said his list includes layout, grubbing, installation of base materials, culvert and drainage placement and pavement installation including compaction and pavement installation oversight.

Mr. Stowell said Mr. Pimental's recommendations include providing as-built plans at the end that would be available at Town Meeting.

Mr. Day asked about the property behind the retention pond and if the ground is able to accept all the water from the retention pond when it drains off into that property.

Mr. Stowell said it is and it drains through the media, treats the water and then it hits an under drain that drains to daylight so all the water exits and enters the wetlands and keeps going the way it did. That's the way it was modeled for the 3<sup>rd</sup> party review he said.

Mr. Pimental said that in addition to the condition that has all the legal documents they should also have one that says inspections during road construction shall include at least the following: during layout, grubbing, installation of base materials, culvert and drainage installation, pavement compaction and pavement installation oversight. He said it should be a separate condition and it provides a little more local feedback to it. This will be captured in item f but if you want it specifically laid out that you want these to be the timeframes when inspections are done we will make sure that is in the construction phasing and inspection document he said.

Mr. King said one of the things discussed was the drainage easements on the plans and in the documents and asked if this was in the staff recommendation list.

Mr. Pimental said it's under g. 2 but it is going to change from Sheet C-2 to Sheet S-2 and will be part of the homeowner's assoc. agreement so the bio-retention system and riprap will be labeled as Easement 1 on Lot 10-4, the culvert inlet will be labeled as Easement 2 on Lot 10 and the culvert outlet will be labeled as Easement 3 so those will all be defined easement areas of the plan including the boundary lines over the areas, the meets and bounds and the labels he just mentioned.

Mr. King asked if the discussion of the low salt application adjacent to Map R-61, Lot 18 in that.

Mr. Pimental said it's not in here because they brought it up and will have to make it a condition.

Mr. Stowell said in condition e, the certificate of monumentation where they are doing road

construction typically they wouldn't set monumentation until the construction is done and this is before they can sign the plan.

Mr. Pimental asked if he wanted that to be a condition for issuance of a building permit.

Mr. Stowell asked to have it be a condition for issuance of a certificate of occupancy because they would still be pushing dirt around at that point.

Mr. Pelkey said that would move item e down to under section 3.

Mr. King said the applicant's engineer stated they were going to construct a fence on the abutter's property and asked if the abutter was agreeable to what has been presented- that the fence would be placed 2 ft. onto his property and he would own it.

Mr. Cilley said there is not room for that and it would have to be right on the property line.

Mr. Stowell said they were trying to make it his ownership but they can put it 2" onto his property just so he can own it.

Mr. Cilley said he was hoping they would do it along the total length of the property.

Mr. Stowell said they started from the face of the house and went back and they didn't do the front yard.

Mr. King said this needs to get resolved and hopefully the applicant would be acceptable to it being as close to the line as possible but still on his property.

Mr. Pelkey said the location isn't noted anywhere other than on the drawing and asked if has a setback.

Mr. Stowell said they noted the 2 ft. onto his property on Sheet C-1 and they could adjust that. He said note 13 could say it would be installed with minimum intrusion into the adjacent lot.

Mr. Pelkey said that would be as close to the line as practical and still have it installed on his property.

Mr. Cilley said that's good.

Mr. Fisher suggested adding "within the boundaries of Map R-61, Lot 18" that way when it comes time for the installation he could dig holes where he wants it and its inside his boundaries and just go from there. He said then they don't have put the exact measurements just within the boundary.

Mr. Pelkey said he didn't want to say that because then they could put it right next to his house if he wants to and that making minimal intrusion into the property would be the best way to put because that seems to be what the abutter is looking for.

Mr. Cilley said that's right.

Mr. Henry said they are proposing 136 ft. starting at some depth into the lot.

Mr. Stowell said they started at the front corner of the house trying to preserve the private area of the property the backyard.

Mr. Cilley said he was hoping it was going to be the whole length just he doesn't have to watch the traffic go by.

Mr. King said he didn't think it could go to the corner because it will cause a visibility issue so it

would need to come back a certain distance for vehicles coming out of there. He said he thought they would want to go a minimum of 20 ft. from the edge of the pavement and that would add another 44 ft. to what was proposed.

Mr. Allfrey said that was fine.

Mr. Henry said the fence comes in certain sizes and he didn't want the applicant to go to the expense of cutting panels to different sizes. He suggested giving a 6 ft. range and it will land where it lands.

Mr. King suggested it state the fence would be no closer than 20 ft. and no further than 30 ft. from the road.

Mr. Pelkey said the revised Note 13 would read a 6 foot high vinyl clad stockade fence to be installed with minimum intrusion into Map R-61, Lot 18 and to run along the boundary line to within approx. 20 feet of the road.

Mr. King asked how they would ensure that the construction of this roadway doesn't significantly alter the current state (of Fox Trot Drive). He said this is a significant amount of construction, 7 houses and a new roadway and bringing in some of the biggest equipment that roadway has ever seen and asked how they would do it in a manner that does not deteriorate the road excessively.

Mr. Stowell said they will be bringing in trucks and materials but that's not going to be as intensive as the loggers who were just in there for about a month.

Mr. King asked if it would make sense to do some visual recording or a site visit by staff and then review it after the fact with an agreement that there would be no degradation past its current state to a significant state and deal with it after the fact.

Mr. Squires said the road is in its grave so he didn't know how far they could go.

Mr. King said if we end up in there we might have 1 ft. wheel ruts that might only be 6" now. He said they owe it to the residents there to make sure it doesn't deteriorate excessively during this construction and asked how they do that reasonably.

Mr. Pimental said this is a tough one because Fox Trot Drive is a Town road so it's the Town's responsibility for the upkeep of that road and they haven't so it's not the applicant's fault. He said he didn't have a suggestion other than to take some photos of what the road looks like pre and post (construction) but he didn't know how they would make the case that any deterioration is directly related to any construction that took place and hold them responsible.

Chairman Pelkey said he would re-open the hearing to public comment because a member of the public wished to make a comment.

Mr. Cilley said 2 or 3 years ago they went in to do some clear cutting on the Currier Trust lot and during that time the logging trucks going up and down the road made it so it doesn't pitch from the center of the road out and there are gulleys where the trucks have traveled up and down the road. He said it was a dirt road when they first moved in and they put one layer of pavement on it 20 years ago which is deteriorating. He said it hasn't seen any coating or any

type of upgrade since that time. The road doesn't pitch from the center out anymore and basically we have drainage swales running down the road from where the trucks were running he said.

Mr. Pelkey said he didn't know how they could make a cause and effect statement unless somebody sat there and watched it deteriorate as it happened.

Mr. Henry said short of gross negligence such as driving a bulldozer down the road he didn't know how they could say they did this.

Mr. Squires said there are some small business owners with heavy equipment that live on that road. He said this was a major concern from a lot of the residents on that street but asked how they would police it.

Chairman Pelkey then closed the public comment portion of hearing again.

Mr. King said the only thought he came up with is to notice the Town of this approved subdivision giving them the opportunity to record and monitor the road construction as they see fit if they choose to. He said sometimes there is a disconnect and the Town says nobody told them and so we would notify them and it's their right to monitor or assess it if they choose to. He said the Town Administrator or the Selectmen could task it out to the Building Inspector, the Road Agent or some other individual and it's not for this board to say who would do it.

Mr. Pelkey asked if the Planning Director would notify the Town.

Mr. King said as part of the Notice of Decision the Town would be notified of the new private road being constructed off of Fox Trot Drive.

Mr. Pelkey said a task for the Planning Dept. and the NOD would be to notify the Town Administrator of the approval.

Mr. King added and supply them with a set of plans.

Mr. Mains asked if the Town's Master Plan allows cluster housing and suggested maybe they could give him so many more lots in exchange for taking care of Fox Trot Drive.

Mr. Pelkey explained that when he originally came in he had 8 units and they asked him to see if he could do it with less impact to the wetlands.

Mr. Pimental said the Town does not allow for manufactured homes to be a cluster subdivision and that's one of the reasons they didn't go in that direction. He said the way Mr. King's potential condition is phrased now it sounds like more of a Town process and they could potentially put something on the applicant so when they start road construction that they then notify the Town as opposed to the Planning Dept. letting them know that the plan is approved.

Mr. Henry said if the Town wishes to inspect the construction of the new road they may be asked to take care of they may want to monitor that as well to provide input at Town Meeting.

Mr. Mains said 3 or 4 board members could down there and do a site walk.

Members said they were not qualified to determine if it was being built correctly.

Mr. Pelkey said he wanted to make sure they cover all the concerns and asked if anyone had anything to add. There were no other conditions added to the conditions of approval.

Mr. Pimental then read aloud the staff recommends the board vote to approve the subdivision with the conditions to be met prior to signing of plans; the conditions to be met prior to issuance of a building permit and the conditions to be met prior to the issuance of a certificate of occupancy. (Please see attached Notice of Decision).

**Motion:** (King, second Henry) to approve the subdivision contingent upon all the previous conditions of approval listed by staff;

**Discussion:** Mr. Fisher said on the fencing they said 200 ft. and then there are other dimensions given and asked if they could put 180 feet +/- 5 ft. to preserve the line of sight along Fox Trot Drive and keep it a little more simple. He said originally they said they wanted to keep at least 20 ft. back from Fox Trot Dr., it's a 200 ft. property line so that's 180 ft. worth of fencing. To say 200 ft. and then go into other dimensions it could be argued it says 200 ft. on the drawing. Just say 180 ft. +/- 5 ft. and that will get the dimensions in for the 6 ft. panels he said.

**Amendment:** by Mr. Fisher: to change the wording on the proposal to 180 feet +/- 5 ft.

Mr. King said he accepted Mr. Fisher's friendly amendment.

Mr. Henry said he accepted the amendment as well.

Mr. Squires said he thought they should leave it Mr. Pelkey had it at approx. 20 ft. because if he gets within 50 ft. and Mr. Cilley doesn't like the way it looks, he should have the option to stop.

Mr. Pimental asked if they were still including the no closer than 20 ft. no further than 30 ft. away from the road.

Consensus of the board was to remove that language.

**Vote on the Amendment:** the motion passed 6-1 (Pelkey opposed).

Chairman Pelkey then called for a vote on the original motion to accept the proposal with the conditions as listed by staff.

**Vote:** the motion passed 7-0.

Mr. Pelkey wished Mr. Alfrey and Mr. Stowell good luck with the project and thanked them for working with the board.

**Member Comments:** None

**Any Other Business before the Board:** None

**Adjournment:**

**Motion:** (Squires, second Mains) to adjourn the meeting passed 7-0 at 8:56 p.m.

Respectively submitted

Kathleen Magoon, Recording Secretary

  
Richard "Rick" Pelkey, Chairman