

Town of Farmington
Planning Board Meeting Minutes
Wednesday, August 3, 2022
356 Main Street-Farmington, NH

Board Members Present:

Rick Pelkey, Chairman
Stephen Henry, Secretary
Charlie King, Selectmen's Rep
Jeremy Squires

Others Present:

Kyle Pimental, Planning Director

Board Members Absent:

Bill Fisher, Vice Chairman, excused
Mike Day, excused
Roger Mains, not 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.

Review Minutes:

July 20, 2022- No errors or omissions

Motion: (Henry, second Squires) to approve the minutes as written passed 4-0.

Public Comment: None

Proposed Bylaws Revisions:

Mr. Pelkey said he looked at the revisions to make sure they were the discussion they had concerning recusals and he saw that there was also a change to the RSA (Section 7 General Rules, B Joint Meetings- change to "Reference RSA 676:2").

Mr. Pimental said the only other thing that was changed was that below the title they had all the different amendments but the problem was they were missing a bunch of them. He said there wasn't any consistency so they were consolidating that and saying at the end that they were adopted in 1986 and that they were going to be amended and then update it with whatever amended date that it is. He said if they had a comprehensive list of all the different amendments they could put that as a footnote but they don't and they are missing dates in between dates. In order to keep it clean I'm suggesting that we just put the adoption and then the latest amendment he said.

He said everyone would sign the bylaws and then it would go to the Town Clerk which didn't happen last time.

Mr. Pelkey asked if this is the first reading of the bylaws.

Mr. Pimental said yes. He said they don't have to be public hearings and it just has to be read at 2 consecutive meetings as long as the board is okay with the amendments, one was the statute clarification and the other was that the Chair needs to call for a vote to ask a board member to recuse themselves and that such vote shall be advisory and non-binding.

He said that Mr. King was correct when at the previous meeting he said such a vote would be advisory and non-binding and that he had read it differently that if it was in your local regulations or bylaws you had more control but legal counsel said you do not. It's always non-binding regardless of if you have it in your bylaws or not he said.

Motion: (King, second Henry) to accept the changes and have it placed on the next meeting's agenda passed 4-0.

Proposed Zoning Amendments:

Mr. Pimental said it was brought up at the last meeting that it was a good time to start talking about this and one of the things they have been talking about is making some changes to the Commercial Business District specifically along Rt. 11. He said he has not yet found someone to come in to talk about that and he has reached out to NH Dept. of Business and Economic Affairs and the NH Dept. of Transportation. He said he spoke with a DOT District 6 rep that ran the idea up the chain of command to Bill Watson about whether or not there was any opportunity for DOT to chime in potential zoning amendments along Rt. 11 and they said no. He said he was told it's a local decision entirely and if the Town has technical questions such as access management or dealing with the existing rail trail they would be happy to answer those but that is the extent of it.

He said he also talked to a few planners and consultants about doing a comprehensive corridor management study along Rt. 11 to make some specific recommendations to the board about where to expand and where it doesn't make sense to expand. He said a lot of data is available on the existing land uses, where there is existing water, there is no sewer yet and what types of uses could go in what places and it would be a matter of pulling it all together to help guide the decision to move in that direction. He said that could also include some recommendations of the TIF District and potentially expanding it down a little bit into Rt. 153 towards downtown. He said it is up to the board if they want to move in that direction and it would take time to do that and they wouldn't be ready in March 2023 to make some zoning changes to the CB district. Mr. Pimental said there are some other things they need to address and he put a map in the board's packets that shows the way some of the lot sizes are in some of the districts. He said in the Suburban Residential and the Urban Residential Districts the percentage of non-conforming lots is high because of the existing lot sizes and how they are a lot smaller than that.

He said that not only are there a lot of non-conformities it is creating conflicts with what is

allowed in zoning ordinance. He said for example in the SR the Town allows duplexes by right but the minimum lot size is one acre so in order to have a duplex you need to have 2 acres and 61% of those lots don't even have 1 acre.

Mr. Henry said Mr. Pimental said you need an acre for a duplex and then he said 2 acres.

Mr. Pimental said that you need an acre for a unit but we allow duplexes by right so that's the conflict. He said if you don't have 2 acres you can't have a duplex even though you allow it by right so it creates a conflict. If you are already saying that 61% of the lots are less than an acre they can't have a duplex and they can have their home if it exists but it is a non-conforming lot. If it was blank you would say they wouldn't be able to put one unit on it he said.

Mr. King asked if he was suggesting that they consider looking at that conflict in those areas.

Mr. Pimental said yes and that he was not as concerned about the **Agricultural Residential** district even though it's 42% there is a large portion along Baxter Lake and if you take that away that percentage is much lower.

Mr. King said he thought that subdivision was done in 1971 before we adopted zoning and it was like a village that went around the lake. He said a lot of the other lots were created when the zoning for the AR district was 2 acres and then it got moved to 3 acres so a lot of these lots were subdivisions before that happened and were conforming at the time.

Mr. Pimental said the AR and the **Rural Residential** districts are not big concerns it's really more of the **Village Center**, the UR and SR. He said those are pretty high for non-conformities so and suggested that they try to reconcile some of that by looking at what makes more sense.

He said he had the GIS analyst put together the median parcel sizes to give you some idea of what they were and the VC is almost in line with what it is but it is still non-conforming by 50%. He said there are areas in the downtown that are very small so they could think about changing the minimum lot size or the other option is if they don't want duplexes to be allowed by right in every residential district. As of right now it's creating conflicts in that they would need relief from the ZBA for something we allow by right which is problematic he said.

Mr. King asked if it would make sense to consider some allowances where a duplex would be allowed on a lot that's less than the required minimum if it met the other requirements.

Mr. Pimental said possibly and they do allow for some density bonuses if they're connected to water and sewer. He said the problem with that and that's another piece he would look at, is the way that its phrased and they have been relatively flexible with it but it says water and sewer to a single family home. It doesn't say to the lot or to a multi-family building which is problematic and should be changed if that's the intent of the board he said.

Mr. King said he didn't think it was to prevent development with water and sewer for multi-units.

Mr. Pimental said they've interpreted it as the density bonus was to allow for more units and more density if they have water and sewer but the way that its written someone could take it as if it's not hooked up to a single family home we are not going to allow the density.

He said he was bringing all of this up because there has just been a lot of focus on how to remove some of the barriers to create more affordable housing for the region and some of the things exist right now like minimum lot sizes, maybe expanding the density bonuses and perhaps putting some other standards in there.

He said another option he would consider is by using the innovative land use controls if there are issues that come up in these zones they could come to the board as a conditional use permit as opposed to getting a variance. He said he didn't think they would want to do that everywhere but they could do that in the VC and UR. He said a good example of that would be instead of a dimensional standard for the VC having to go to the ZBA they could come to the Planning Board for a conditional use permit and they could choose to allow it. It would be different because there would be different standards as part of the conditional use but they wouldn't have to meet the 5 criteria for a variance where it's prohibited and it would offer additional flexibility he said.

Mr. King said if they were going to be more flexible on a duplex on a lot that's undersized they could allow it with special use conditions such that it provides the proper distance from abutting residential uses, screening to lessen the impact to close abutting neighbors.

Mr. Pelkey added to make sure they have adequate parking.

Mr. Pimental said that is exactly what they would do. He said if they had a lot that was too small and they wanted a duplex instead of having to get a variance they could do it through a conditional use permit and tailor it to the site to make it work. He repeated that he didn't think they should do that everywhere but they could consider it in the most densely populated areas of the town.

He said there are other things they could look at to concentrate this year on removing some of those barriers and potentially finding some ways to study the Rt. 11 corridor for a more informed decision on how and where to expand those areas. He said they would talk more about it when they get to the Invest NH funding later in the meeting as there are some ways they could apply it to looking at zoning, site and subdivision regulations and Rt. 11 as one big application because the Town allows for mixed use development in the commercial areas. Invest NH has to be tied to housing but Farmington allows mixed use development in the commercial zone so you could make the case that on Rt. 11 you're looking at places that could have mixed use or larger apartment buildings he said.

Mr. Henry asked if mixed use has to be in the same building or if it could be on the same lot. He gave the example of a larger development that has retail on the front side and apartment buildings behind that building.

Mr. Pimental said he thinks it is the latter and the way that the Town defines it offers flexibility. He said it is defined as "a building or structure containing a mix of residential and non-residential uses or two or more complimentary integrated uses in a compact urban form provided that such uses are individually allowed in the applicable zoning district". He said for a

large development like that they would be asking for a pretty comprehensive "Master Plan" for that entire lot. He said if they were doing phase 1 with all commercial and they planned to do apartments they would want to look at it with a plan set for everything. We wouldn't want to see just the commercial front and they come back years later and say now we want to do this. Mr. Pelkey said he would be concerned where they really want to see business and industry in that corridor that somebody would come in and say they were going to take the mixed use and build a bunch of apartments and never provide the jobs and businesses that we're looking for out there as well.

Mr. Pimental said that would have to come through the master plan for that lot and as part of the approval you want to see the commercial use built first or phased or something to hold them to it.

Mr. Pelkey said he would be interested in finding out what the recommendation would be for how to convert that area from what it is now a rather narrow corridor down through there to a broader area and that is something they have been talking about. He said he didn't think anybody thought they would be ready to do that at the end of this year but he would like to be moving in that direction.

Mr. Henry said the zoning is the first step to allowing people to market property that can't be marketed for commercial development right now. He said most of the gravel pits all the way down to Rochester (off Rt. 11) are zoned residential so it can't be marketed for any industrial/commerce park type of development now it can only be marketed as residential which may or may not be as easy to do.

Mr. Pelkey said that's in the SR on that side and he didn't know if they allow any of those uses in the SR and that the business district is abutting the SR down through there.

Mr. Henry said it's in that zone but it's not in that environment in a lot of places. He said the gravel pits are big open spaces and it is a ways before you get to houses but it's not that far from Rt. 11.

Mr. Pimental said they could look at the language that addresses lots that are split by zoning districts because it is a little confusing the way that it's written. He read where the existing lot of record falls into more than one zoning district the following shall apply: (a) For lots that meet the subdivision criteria the provisions of each district shall apply to each portion of the lot; (b) for lots that cannot be subdivided the provisions of the district with the greatest street frontage exists shall apply to the entire lot.

He said that Pike for example would have to be (a) because that lot could be subdivided but you would have to build a road. He said if that were the case then the provisions in each of the districts would apply.

Mr. Henry said absent a road then it can't be subdivided.

Mr. Pimental said no, it couldn't and they already subdivided a little chunk off the front and all they have for frontage is on Rt. 11 so they couldn't subdivide it again.

Mr. King said he would use an example on the other side of Rt. 11 where a lot of the lots are larger but the commercial/industrial zone has a 1,000 ft. setback. He said if the lot is 3,000 ft. He asked if they wanted to apply some innovative land use tools for lots that come in 2 districts to allow development of either of those zoning districts as long as they meet the requirements. He said if it was a 3,000 ft. parcel and they want to do residential in the back but only want to do commercial in the first 600 ft. they could put something in there to allow those lots. He said Pike's lot is similar where once you get back a certain distance you're in a residential zone even though all the front uses are commercial and asked why they couldn't allow more commercial use back into the lot as long as they meet the setbacks from other uses, etc. That's a pretty hard line in out zoning and we arbitrarily over the years picked that line by what made sense so we picked a distance that sometimes bisected it or split it into thirds that made that lot harder to develop than if it was in one zone or the other he said.

Mr. Pimental said Section 1.04 lots split by zoning district boundaries is something they could take on this year and whether they want to do that town-wide or to focus on lots that are split along the Rt. 11 corridor.

Mr. Pelkey added that abut up against the CB district.

Mr. King gave the example of the former Davidson Rubber Plant and if you were to start fresh on that you are only allowed to develop the 1,000 ft. even that parcel goes about a half mile to the back.

Mr. Pimental said without changing much they could address that if things were to come forward for commercial development along Rt. 11 and they could have something in there that would offer some flexibility for all the lots in these split zones. He said they could come up with some criteria and a plan for what this would look like and advise an applicant how to move forward. He said screening would be a big one because as you get closer to residential you'd want to protect those residential homes.

Mr. King said you can not only screen through physical stuff but with distance.

Mr. Pelkey said people who are looking for property to build on and develop know where the property is and if they make it so that the zoning supports that they'll be doing the studies themselves to find out what is viable for them.

Mr. King said the other benefit if they do it the way Mr. Pimental suggested is that the board would be the ones working with the applicant on those requirements during the site plan review and then the board would have the first look at it to see if in fact its yielding what they want and if they are not getting what they want they can make changes to it.

He said if they just make it a zoning effect it's more difficult to make adjustments than just saying this is what they want for screening and distance, etc. He said they already do this in site plan review but to get the special use permit they would need to prove that fully and be able to demonstrate that to a higher extent than they would require on a standard site plan.

Mr. Pimental agreed but said they would still have to change the split by zoning districts.

Mr. Pelkey said they would be the ones to put the throttle on what's going to be allowed and just make everything by right and they would have to come to the board for a conditional use permit to do it.

Mr. King said each lot is different because may be abutting no residential uses or no other uses in close proximity and other ones might be where there has already been development directly adjacent to and there is more chance for negative side effects.

Mr. Pelkey said if it is a development of size and the developer reaches out to the abutters and says he'd like to purchase a piece of this and a piece of that it may be easier for them to do it that way as well.

Mr. Pimental said it sounds like he can start looking at the split zones to come up with some draft recommendations, to see through a conditional use permit how they would allow that and maybe start to think about that a little bit more.

Mr. Pelkey said that dovetails with the piece about the non-conforming lots with conditional use and they could have a concentration on conditional use permits as a means of solving these issues.

Mr. King said that may act as an interim solution until they can consider re-zoning the area behind Pike. He said it may also give them a better feel for how they want to do that when they get to it.

Mr. Squires asked how many of these lots are Pike's and if they were talking about just one lot or all the lots out behind it.

Mr. King said some of them just never combined their lots and they would see lot lines but they might be the same owner even though they're considered as an individual lot of record they're contiguous with other parcels.

Mr. Pimental said there are a lot of lots like Pike's that are long in the back and only have a small amount of commercial frontage but the lot is huge.

Mr. Squires noted that it looks like a bunch of them are isolated from any roads.

Mr. Henry said or they are accessible from Chestnut Hill Road.

Mr. Pimental said he would come back over the next month or so with some recommendations and asked the board if they wanted him to look at minimum lot sizes and ways to deal with the non-conformities through a conditional use permit for the VC, UR and SR zones.

Mr. King said he would like to see that because that would be the best opportunity for in-fill on housing and he would rather see it there where it is close to services than in a rural area where the services have to be brought to it.

Mr. Pimental said he would look at the base zoning bulk standards for those three. He said he liked the density bonus idea and that it already exists and they just need to message the language a little bit on how they want to expand that into any other zones. I'll work on that and we can discuss that moving forward he said.

He said they are going to suggest moving Section 1.08 which is the Housing Maintenance and

Occupancy Code out of the zoning ordinance to be its own building regulation where it really should be and not tied to the zoning.

Mr. King asked if they do that if it would function like zoning where it would have to be approved by the voters.

Mr. Pimental said to remove it has to be approved by the voters.

Mr. King asked if they put it in a separate document if changes to it would be through the legislative body or by this board or by staff.

Mr. Pimental said they were going to ask how any changes that need to be made would be implemented going forward so he wasn't positive.

Mr. King said these are rules that the town has adopted for enforcement on property and he didn't think they should stray too far from that because they will hear arguments on both sides where people say look at all these messes we should be cleaning up and the other side says people should be able to do what they want with their land. If we take away the taxpayers' ability to vote up or down and put it with the staff or this board then we could get off track of what the residents want he said.

Mr. Pimental said he would talk to the Building Inspector and to the Town Attorney to get their opinions on this. He said the larger concern is some of the minimum standards that point to certain codes that need to get updated if the code changes whether the residents like it or not.

Mr. Henry said he thought that as a town we have to adopt the codes to say we are going to follow those codes. He asked if there is a date on them and that we don't just say whatever the current one is we accept it.

Mr. Pimental said he thinks the Town defers to whatever the state uses.

Mr. King said maybe we shouldn't do that because there could be a change that the community doesn't agree with.

Mr. Pimental said he would have to ask about that and that most communities default to what the state has.

Mr. Henry said the building code tells you what kind of light bulbs you have to have and you have to have a programmable thermostat and they get real nitpicky. I don't think it will become less nitpicky over time he said.

Mr. Pimental said in this version of the zoning it says that the Housing and Maintenance Occupancy Code has not been revised since 2012.

Mr. Pelkey asked if the national code hasn't been revised since then.

Mr. Pimental said the national code definitely has been updated.

Mr. Pelkey asked if we haven't chosen to take and use a later code.

Mr. Pimental said this is the Housing Maintenance and Occupancy Code so it's different than the National Building Code.

Mr. King said if there have been any changes they haven't been significant that he could remember so either the date is correct or there have been no changes that are significant.

Mr. Pimental said the Building Inspector wants to make some changes to this and he will find out how changes moving forward would be approved-if that's internal or would have to go before the voters.

Mr. Henry said when he hears maintenance codes and stuff he thinks of things that could be added such as how tall your lawn can grow before you get a fine or your driveway has to be paved.

Mr. Pimental said he didn't think so.

Mr. King said we don't have that but that would be the section it would be in.

Mr. Henry said it would be giving that control up to where your trash cans can't be out before 6 a.m. and have to be in by 7 p.m. and that he didn't want town-wide HOA's (home owners assoc.).

Mr. Pelkey said he was not in favor of giving control of that to anybody besides the legislative body which is the people of the town. He said if there is an argument to be made for updating it then bring it before us to make a recommendation to the town and that's fine.

Mr. Pimental said they would see whatever changes the Code Enforcement Officer is working on. He said if the housing code hasn't been looked at since 2012 it's probably a good time to look at it anyway. He said they have between now and the public hearings in December and if there are other things that come up that should be addressed they have a little bit of time. He asked the board for their "homework" to think back to the last year where an applicant came before the board and something funky happened where they made a decision but it wasn't super clear and if they remember anything specific he will go back and look at the zoning.

Proposed Planner Fees:

Mr. Pimental said at their July 25 meeting the Selectmen agreed on a Planner fee of \$85 an hour and this board recommended 6 hours and the Selectmen went up to after 8 hours.

Mr. King said that was a recommendation that he made because he wanted to make sure that they were covering the smaller ones but when it got into more commercial that there were higher rates as that seemed like a tradeoff between coming in at a \$65 rate at 6 hours to just come in at the full \$85 at 8 hours which is a full day. He said in the end it will be about the same amount of revenue and the board was in favor of it and hopefully it will be posted soon for a public hearing.

Mr. Pimental said it is posted on the Town website and the Selectmen will be voting on this on Monday, August 8.

Mr. Pelkey said the fees need to be published by Aug. 23rd to meet the new law requirements. He said one of the changes in the new law is if you don't have your fee schedule published by the 23rd they get it for free.

Mr. King asked if that was for every year.

Mr. Pelkey said he didn't know if that's every year.

Mr. Pimental said the existing fees are already posted on the website. He said he worked on putting in some general guidance (Aug. 3 meeting memo, page 2, Guidance for Determining

Planner Fees) because the comment was made that there has to be someone on staff to pay attention to how many hours these things are taking. He said they are not going to be able to keep the time for responding to every e-mail and they are not going to do this in increments of 10 minutes. He said they have to make some generalizations of how much these things cost so he put together from the very beginning to the end how much time and what is involved in processing an application as follows:

Pre-application meeting-1.5 hours to meet with the applicant, research permits needed, zoning interpretations, preliminary consultation with Planning Board adds 1 hour, design review with Planning Board adds 2.5 hours;

Public Notification- 1.5 hours to confirm abutters' list, create labels, type abutter letter and public notification, post to website, Municipal Offices and Town Hall, submit notice to newspaper and process payments. He said splitting this up among 2-3 people is about 1.5 hours so it's not a lot of time. He said the trigger is that is going to put any application over the 8 hour threshold is if they need the Technical Review Committee and that is going to be for larger projects, subdivisions and commercial development. He said they don't typically need the TRC for a two lot subdivision.

TRC-5 hours to initial plan review and memo, organize and facilitate meeting, consolidate notes and correspond with applicant on necessary revisions based on feedback.

Mr. King said in Mr. Pimental's estimation 8 hours gets you through TRC and then if they need ZBA approval, a Special Use Permit and Planning Board time (that is additional time). He said if somebody had a site plan and it was commercial/industrial in nature they would end up going to TRC and if they came to one meeting it could be 5-20 hours if they didn't have a Special Use Permit or the ZBA.

Mr. Pimental directed the board to page 3 of his memo and the table he put together was application fees and if they were to have these fees in place over the last 18 months. He said in 2021 the only one that would have gone over was Mr. King's project (major site plan/minor subdivision) and none of the minor boundary line adjustments, minor subdivisions, the amended site plans, etc. would have gone over. None of those needed TRC or had ZBA or Special Use Permits he said.

He said the ones in 2022 (New Style Homes subdivision, Yacoub excavation, Kodiak Group major site plan, Farmington Self Storage) all had TRC, some of them had Special Use Permits, Kodiak needed a variance for the residential on the bottom floors and the most expensive probably was that 7 lot subdivision and Mr. King's was next because it was not only a site plan but was also a subdivision that they grouped together. He said the gravel excavation off of Rt. 11 really wasn't complicated and didn't need TRC and the Self Storage really didn't need much either. That would have been more if the board decided to go for a third party review, they decided not to do that and that fee probably would have been a little bit higher he said.

Mr. Pimental said the idea is to not capture every single project and they are not trying to put

more fees on smaller projects. He said the proposed planning fees are just an example to show these are the projects and the size that they are trying to capture with the guidance he put on the document on the prior page. At least that's the intent and we're certainly not trying to have every applicant come in paying more fees than they already have to with their applications but trying to capture the larger projects he said.

Mr. Henry said he was looking at a few of these that had larger application fees (Mr. King's project, New Style Homes, Kodiak Group and Farmington Self Storage) and asked if those application fees are that because of the square footage of the buildings.

Mr. Pimental said it's based on the sq. footage of commercial space which is 10 cents per sq. ft.

Mr. Henry asked what the \$1,500 in application fees for the self storage units was paying for.

He said they paid \$1,500 and they are proposing that they tack \$850 On top of that.

Mr. King asked based on adopting the planning fees if it would have been an additional \$850 for the Farmington Self Storage application.

Mr. Pimental said yes.

Mr. King said his application fee was \$1,675 and the proposed planning fees were \$1,700 so it would have been \$3,400 plus the \$9,000 building permit.

Mr. Henry said that's just to ask permission.

Mr. Pelkey said that is to have it staffed and reviewed and recommendations made and all the other things that have to happen before they come to us to ask permission so they can make an informed decision it's not just "hey I want to do something".

Mr. Henry said he understood that but there are a lot of costs and more checks to be written to the Town after this. He said looking at the application fees he was wondering how the \$1,500 gets justified, what justifies \$1,675 and \$825 to New Style Homes. He said the New Style Homes' application fees are pretty low compared to the proposed \$2,550 in planner's fees and he knew that a lot of work went into that application because that was a difficult piece of property but then he looks at something like the self storage which was a fairly easy property.

Mr. Pelkey said based on the size of the buildings that's what drove the price up.

Mr. King said the self storage was an easy piece of property because the applicant paid a lot of money to have an engineering firm re-engineer the site to work so it looked easy to them as far as doing the drainage calculations, the screening, the retention wall and all the other stuff.

Mr. Pimental said they worked closely with Jones & Beach Engineers to change that plan around.

Mr. Pelkey said which they took and didn't make them get an independent evaluation of that through the Planning Dept. so they didn't put that additional cost on them.

Mr. King said on his application the engineering bill to get to that application fee was approx. \$40,000 start to finish. He said it was \$3,500-\$4,000 to wait 9 months to have the DOT say they didn't have any issues with his plans.

Mr. Henry said that is stuff that is out of the Town's control.

Mr. King said he looked at the plan and saw that they did a lot of work and if the Town had a lot of back and forth it ended up in the plan. To us it looked easy but there was a lot of work to it he said.

Mr. Pelkey asked Mr. Henry if he remembers the stuff the board used to get 3.5-4 years ago that would come in here and barely have grades on it and they want to pave all this and the board would start asking questions from an uneducated point of view and they are now getting a much better product to review when they do it.

Mr. Henry agreed but he didn't think that should be captured in the application that's based on the size of a building it should be captured in the work that actually has to be done.

Mr. King said it is captured in the work that needs to be done which is reviewing the plans to make sure it meets all the requirements. He said all applications are not equal but the fees are based on some metric so if they adopt the Planner's fees maybe the sq. footage fees could be reconsidered in the future.

Mr. Henry said the metric is hours rather than sq. ft. and they went with 8 hours as the amount of time that's included.

Mr. Pelkey said at 10 cents per sq. ft. and asked how much time that buys you. He said if you've got 40,000 sq. ft. you're paying \$4,000 up front and asked how much Planner time does that buy you and once you get past that is when you start paying the other fee.

Mr. Henry said it sounds like it gets you 8 hours.

Mr. Pelkey said that is just a concept here and you're paying so much per sq. ft. but it's not always about building size. He said it is not fair to say you bought \$4,000 worth of Planner time with your 10 cents a sq. ft. and everything after that you're going to pay for.

Mr. Henry said the application fee is not acting as a retainer for the time that you're working down. He said depending on your project you may get 8 hours of free time or you may pay more than \$85 an hour for the first 8 hours then your price goes to him.

Mr. King said they have already made a recommendation that is going to be voted on next week and maybe next year they can make another recommendation.

Mr. Henry asked if in the hours billed to the applicant if these meetings count (Mr. Pimental's time sitting at the public meeting).

Mr. Pimental said no.

Mr. King said good because the time that the applicant is here the applicant has no control over and neither does Mr. Pimental. He said if the board "drags them through the bushes" for 3 months he shouldn't be paying for it.

Mr. Pelkey said if the first 3 hours of the meeting is a discussion about planning fees and the applicant is at the end of the agenda he would be here for a long time.

Member Comments:

Mr. Henry asked if there was an update on the property on Rt. 11 that breached the levy.

Mr. Pimental said they hired a survey company to do the wetlands delineation but he has not

seen any correspondence. He said they were supposed to make significant progress by July but he has not seen anything from the state Wetlands Bureau about what has been completed or what the next steps are.

Mr. Henry asked about the status of looking for an engineering firm to do third party reviews that they can point applicants to with a negotiated rate.

Mr. Pimental said they do not have that yet. He said in order to do that they are going to have to put together a Request for Qualifications and put it out for responses.

Mr. King said it should also be a Request for Proposals so someone can submit their qualifications and what they are proposing with a breakdown of what it entails and their prices.

Mr. Pelkey said they should have a history of being contracted to do this and have some idea of what municipalities are looking for.

Mr. Pimental said the two biggest pieces will be drainage and road improvements and he is not comfortable looking at that type of engineering. He said he didn't know if land surveying or consultant firms do gravel pit inspections or if that is something specialized.

Mr. King suggested that he contact S.W. Cole as the school district recently contracted with them to audit the pavement following the paving work done at the schools and it was relatively inexpensive. He said they also do required testing like on his site plan-compaction tests, concrete tests so he thought that might be a good avenue for when they want an analysis of what a road consists of now and to certify what's there. He said in some cases they could change the requirement from a licensed engineering firm to a licensed testing company.

Mr. Henry said that somewhere they changed some language to "acceptable to staff".

Mr. Pimental recalled that there was a case where the results were to be acceptable to staff.

Mr. Henry said it may be something where the Planning Board or the Selectmen accept them and look at their qualifications and say okay.

Mr. Pimental said they haven't had time to draft an RFQ or an RFP or a combination of both. He said it's at the board's discretion whether or not a 3rd party review is going to be required and asked if there can be an earlier time to make that decision. He gave the example of the self storage facility where the recommendation was going to be to send it back and delay them for a month to get a third party review and then come back or if they have a plan like that that they know is going to have that type of impact if they could rule on it at an earlier date or if there's no way to reconcile this and they are going to have make that decision when they see them.

Mr. King asked if it could be brought to the board at a conceptual discussion or design review.

Mr. Pimental said he was asking about the applicant that doesn't want to do that and wants to go straight to full application and they submit a full application, it goes to TRC and at TRC he says he can't review it and is going to recommend a third party review to the board. He said with the storage facility that was in April or May when saw that at the TRC, they did all the work and came here, the board votes on it and then they would disappear for another month and asked if there is a way to streamline that or if the board is going to make that decision they

would make it at the first public hearing.

Mr. Henry said they have to act in public.

Mr. Pelkey said Mr. Pimental could tell the applicant there is a possibility that may be required.

Mr. King at that time in April Mr. Pimental put the applicant on notice that was what he was going to recommend and if at the same he said they have the ability to go to the board for a non-binding design review and say you feel that is not necessary and then ask the board whether or not...

Mr. Pimental said they could and that would be a public hearing.

Mr. Henry said that would require abutter notification, etc. and that's an expensive way to come ask the board what they think. He said conceptual does not require those things but it's still non-binding.

Mr. King said that discussion is past conceptual.

Mr. Pelkey said he could just say there is a possibility the board will require it.

Mr. Pimental said that is what he has been doing.

Mr. Pelkey said if the applicants were told it was going to be recommended they could have a second company review it and make comments on it to the board. He said it would be at their expense and they would get here and know they're not going to have to deal with that.

Mr. Pimental said the other way would be to change the language and give that to staff but he didn't know if the board would want to do that because if there is going to be storm water management involved he would prefer to not do that.

Mr. King said the roads are a little bit easier to deal with and the Town has road standards and if they apply that consistently they are solid most of the time.

He said for the drainage everybody is using a program called Hydro-cad and it calculates all that but the one they sent for review had more to do with inputting the correct data and that's where the interpretation comes in where one may be a little more liberal than the other and they may not be putting in as much input as they could be. He said where they saw the differences had to do with the inputs because one didn't fully capture everything they should have whether that was intentional or not. It didn't change the outcome but it could have. It's really the inputs somebody has to make based on them being a licensed engineer he said.

Mr. Pimental said as long as the board is comfortable with that and he didn't see a work around for that. He said for the larger projects it's at the board's discretion and they will have to make a decision.

Mr. Henry said he thought the fairest thing to do is to tell the applicant what his recommendation would be and how often they take his recommendation. He said they have the option to do a design review ahead of time and they will have to pay for the noticing and things that go along with that by statute not our regulations.

Mr. King said when they changed the requirements for design review recently they changed it from it could be a public hearing to it must be a public hearing.

Mr. Pimental said that has been in place since he has been here and design review by definition has to be a public hearing by statute.

Mr. King said we made the decision that the abutters would be notified.

Mr. Pimental said that is a local decision. He said there was something they might have changed but he would have to look into it.

Mr. Henry asked if they wanted to create a different level of design review that doesn't require abutter notification.

Mr. King said the Town Planner is putting them on notice whether they may recommend outside engineering and this is not uncommon and if they hire a professional they know what they are walking into. He said it behooves Mr. Pimental to put them on notice that if the board recommends that it goes out to design review they'll be paying the bill and this is what the rough timeline will be. If you said to the applicant I'm going to recommend it for outside review and he was put on notice that it could add 4-6 weeks lead time he might say he was willing to have that done now and accept whatever those fees are if we have somebody in place he said. Mr. Pimental said he thought it should stay as the board's decision on what they want-yes or no for the third party review and if they want to get into the specific details of what they are asking them to look at.

Mr. King said they should ask what they are concerned with on the plan and identify the area(s) they want reviewed and if they did their job properly up here then the board could feel at ease that they've done a satisfactory job down there.

Any Other Business Before the Board:

Changes to Planning & Zoning Laws- Mr. Pimental encouraged the board to read the municipal law memo he provided in their packets as there are some interesting changes in the law that have taken place. He said the big one is House Bill 1661 and the changes include the publication of fees and the Planning Board time line. He said when the 65 days for acting on a completed application was up before this board could ask the Selectmen for an extension if they couldn't come to an agreement with the applicant to extend for another "x" amount of days and that provision has now been taken away. He said if they can't make a decision or they can't agree with the applicant to continue past the 65 days they have to approve or deny the application and there is no more relief valve with the Board of Selectmen.

He said the written findings they haven't had many contentious cases and the board has been pretty good with its **Notices of Decision** providing why the board has felt they don't need to do something or why they're approving a waiver and his staff memos usually take care of that. He said written findings are going to be more important if there's ever a case where the board denies something. My goal is to never bring anything to the board where you would deny the entire application. You may deny the waiver or deny a certain aspect but I'm never going to bring something to you where you're going to deny the whole thing he said.

He advised the board that going forward even for a waiver if they decide to deny it to be ready

to justify it and very carefully. He said it is going to get more complicated when an applicant appeals your decision and we really need to make sure the findings of fact are stated and get put into the NOD.

Mr. Pimental said there are some things that go into effect in August regarding the Tax Increment Finance District and religious facilities and suggested the board read up on them as well. He said the new law relative to religious facilities is an interesting one and they will see how that shakes out in terms of how that will be interpreted in the future and his guess is some of that will be litigated.

InvestNH Municipal Grant Programs- Mr. Pimental said this is the first in a series of webinars they are doing about this funding and the pre-applications opened up last Friday. He said there are 3 components to the municipal grants program-the per unit grant program, the demolition grant program and the planning and zoning grant program. He said the Town would be wise to put together an application and there's \$40 million available.

He said there will be a rolling schedule and they will start announcing some of the awards in the fall and the money has to be spent by September 30, 2024 and for something like this that's really not a long time. He said he has some ideas about looking at the site plan and subdivision regulations and the zoning to reduce some of the redundancies there and encouraged the board to read through this and if they have thoughts and direction for staff on where they should concentrate their efforts or have ideas for proposals to let him know.

Mr. King asked if the Town has Town owned properties that were taken by tax deed and some of them come with pretty big messes sometimes if they have any parcels that would qualify for the demolition grant program. He said for example if they have taken a 1970's mobile home on its own land that had also been a junkyard if they could apply under this program.

Mr. Pimental said if they go to page 11 in the program overview they will see that they will have to make that case because these are housing dollars. He said they would have to make the case that the demolition was part of some sort of revitalization or greening plan or must positively impact housing availability.

Mr. King said that would make that land available for redevelopment.

Mr. Pimental said if they were to make that case those areas would have to be ready for housing not commercial development.

Mr. King said if they have a tax deeded existing residential use that needs to be demolished and cleaned up and the intent was to clean it up and sell it and put it back on the tax rolls for residential development if that would apply to this grant.

Mr. Pimental said he thought it was worth exploring and he didn't know how many parcels are like that.

Mr. King said the Building Inspector may have that answer.

Mr. Pimental said this is a rolling grant program so if they come up with ideas like this to just keep applying to the program.

Mr. Pelkey said the Town Clerk/Tax Collector has a list of the properties the Town has taken over by tax liens.

Mr. Pimental suggested that Mr. King bring this up to the Board of Selectmen as well if they are not aware of it and he has shared some of it with the Interim Town Administrator so he is aware of it. He said there is also another whole pot of funding that's even more money and that's with the capital grants that he thinks is another \$40-\$50 million.

Mr. Henry asked if there was a house on a non-conforming lot and we demolished it and market the lot for sale when the clock would start to redevelop it within that footprint so it could be a house.

Mr. King said if it's non-conforming and an existing lot of record it can be developed.

Mr. Henry said he thought there was a time limit to develop it.

Mr. King said no and if was a non-conforming structure that was too close to the setback if it was demolished it would have to be re-built to the current standards.

Mr. Pimental said Mr. Henry was thinking of the use or the structure was non-conforming not the lot. He said if it was a commercial structure in a residential zone it's a non-conforming use and if that commercial structure is taken down they can rebuild the commercial structure but if it's after 2 years then they would have to build a residential home there and they couldn't put the commercial back.

Mr. Henry asked if they demolish it if the 2 years starts from when it's demolished or when they sell the property.

Mr. Pimental said he thinks it is when it comes down and the use is done.

Mr. King said if the Town has taken the property by tax deed the use has been stopped for a while and chances are that use has already expired. He said if it was a case of a fire there would be a certain time period to rebuild it and then asked if they tore it down if they would have to have a permit in place to put it in the exact same place.

Mr. Pimental said they would have to have a permit. He said he would have to go back and look at the difference between "use" and "structure" and he thought it was if the structure was still up even if it's not being used for that the structure is the structure and when that came down they put the owner on notice that they have "x" amount of time to rebuild it in the same footprint and they would be allowed to keep the use the same.

Mr. Henry said that may come into play when they start doing demolitions on Town owned land. He said the Town may want to have its ducks in a row to then dispose of the property quickly so there's time for someone to use it.

Mr. Pimental said they are not going to fund just demolition of Town properties if there's not some kind of plan that this will be revitalized in some way. He said they want to prioritize the areas they know want to revitalize where someone is potentially interested in it but there is this burden of a building they can't take down.

Mr. Pelkey said it sweetens the pot when we clear the land for them.

Mr. Pimental said if they are showing that there's movement in that direction they will score higher in terms of getting the money.

Mr. King asked if that money is available to municipalities and individuals.

Mr. Pimental said this is a municipal grant program and is not for private. He said the old fire station may be a good demo candidate because the Town has some plans and has been working through charrettes to show that they know they want to use it.

Mr. Henry said that lot is mixed-use eligible but it is not required that they build residential downtown. He said you can build purely commercial without any residential and we have a plan to develop that lot and hope that residential will be there.

Mr. Pimental said if course there are going to be strings and this whole program is to increase affordable housing and the more that they can make that case the more successful the Town will be in applying for funds.

Mr. Henry returned to the Changes in the Planning and Zoning Laws Guide, page 2, Section 72, Incentives and read that it gives municipalities that off increased density, etc. for senior living it will automatically apply to workforce housing unless we do something. He asked if they have any incentives for senior housing and if they need to do something so it doesn't apply to workforce housing or if they want to do something so it doesn't apply to workforce housing. He then asked what is considered workforce housing.

Mr. King said the fundamental question is if they give a density bonus or incentives to senior housing.

Mr. Pimental said not that he is aware of unless it's buried somewhere. He said the density bonuses he has seen are the frontage, attached to water/sewer and open space subdivisions.

Mr. King asked if it has an age component.

Mr. Pimental said no.

Mr. King said they have had potential applications considering coming here and looking to get some relief from some stuff based on that was what their plan was but we may not have any incentives or lower requirements for age restricted housing.

Cocheco River Management Plan-Mr. Pimental said the Strafford Regional Planning Commission would be applying for funding through NH Dept. of Environmental Services to write a management plan for the Cocheco River. He said the river is a designated river into the management protection program and they have a local advisory committee and Mr. Fisher is on that committee. He said the river was designated in 2009 and by law they have to come with a management plan and there is funding available they are seeking to have the SRPC write the plan for that.

He said it is a pretty large river so he thinks it will be a pretty heavy lift so he didn't know how well it will score. He said the applications are due in Sept. and if chosen he will keep the board up to date because he will be coming to the board for recommendations on things to put into the plan specific to Farmington on what they would like to see done, what types of uses they

would like to see along the river, what activities they already do, cleanups and what they would like to see in the future. I'll keep you posted on whether that gets funded or not he said.

Excavation Application-Mr. Pimental asked if everyone was going to be here in two weeks (August 17).


The members present said they plan to be at that meeting.

Mr. Pimental said he wanted to make sure they have a quorum of the members present at that meeting because they have a design review for an excavation application that's going to be a big one so it would be good if folks were here.

Adjournment:

Motion: (Henry, second Squires) to adjourn the meeting passed 4-0 at 7:38 p.m.

Kathleen Magoon
Recording Secretary



Richard "Rick" Pelkey, Chairman