

Town of Farmington
Planning Board Meeting Minutes
Wednesday, August 17, 2022
356 Main Street-Farmington, NH 03835

Board Members Present:

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

Others Present:

Kyle Pimental, Planning Director
Paulie Kenyan, Debbie Romaniak,
John Cardinal, Donna Gorney

BUSINESS BEFORE THE BOARD:

Call to Order:

Chairman Pelkey called the meeting to order at 6:06 p.m.

Pledge of Allegiance:

All present stood for the Pledge of Allegiance.

Chairman Pelkey seated Mr. Mains as a member of the board.

Review of Minutes:

August 3, 2022-Public Meeting- No errors or omissions

Motion: (Henry, second Squires) to approve the minutes as written passed 4-0-3 (Fisher, Day, Mains-abstained).

PUBLIC HEARINGS:

NEW CASES

Public Hearing to Conduct a Design Review for Patricia Torr Aiken and Franklin Torr, Tax Map R32, Lot 6. The applicant is proposing to excavate approximately 194,400 cubic yards of material from the site. The proposal includes earth removal of topsoil and sandy materials as well as stormwater mitigation to treat and attenuate stormwater generated from site changes. In addition, erosion and sediment control measures will be installed to protect existing wetlands and the Cocheco River. Upon completion exposed slopes and finish grades will be reclaimed with loam and seed. The proposed project is located on Chestnut Hill Road and within the Rural Residential District.

Chairman Pelkey said the applicant has asked them to continue the hearing to their next meeting which would be 2 meetings from now to the Sept. 21 meeting.

He said they could not open up the public hearing but the board has a period at the beginning of each meeting for public comment so if anybody would like to speak to that they can but they won't be able to have a discussion between the board members and the public but if they have some issues they'd like to speak to feel free to come forward and speak.

He said one of the conditions of allowing that is to get contact information from them so they can make sure they get either a phone call or an e-mail to let them know it's going to be coming back up for a public meeting so they will know when to come back.

He asked anyone wishing to comment to come to the microphone during the public comment section and identify themselves. He said the next order of business concerning this case would be to continue it to a date certain which would be Sept. 21.

Mr. Henry asked if it was fair for them to ask questions understanding they can't answer them but they can make sure those questions get asked at the hearing.

Mr. Pelkey said it was fair for them to say pretty much anything they'd like to they just can't have a real back and forth with them because they can't open it up.

Mr. Pimental said they can share the minutes with the applicant so they can be prepared to respond to those at the 9/21/22 meeting.

Mr. Pelkey said the plans the board has are available in the Planning Dept. and if they would like to get a copy of them they can come into the Planning Dept. and they would give them a copy of the plan so they can look at them and see what they are proposing. He said this is a design review and is not the final application. It's a discussion with them involving plans that we are going to go over with them so we're going to say what we don't like or it could be better if they did this or that or we would like to see this or that associated with the drawings you've given us he said.

Mr. Henry asked if the plans could be e-mailed to them as well.

Mr. Pimental said he was going to suggest if folks want the plans he can give them his contact information and e-mail them an electronic copy in the meantime.

Mr. Pelkey said if he would give the board new copies for the next meeting he would give his copy to someone who wanted it. Board members then offered their copies of the plans to the audience members.

Mr. Pimental clarified that even if the applicants were here tonight it was never going to be an approval it's a discussion for the abutters and the board to have with the applicants prior to them submitting a full application.

Mr. Pelkey said when they have their first meeting with the applicants it is a public meeting and the public will get a chance to comment at that time with the applicant here. He said this first meeting is to just look at the design, see what they think of it and make suggestions about what they think works better or doesn't work. It's non-binding and they have to come back with a

final proposal. That's what tonight's meeting was supposed to be about he said.

Mr. Pimental said the continuance request came because the principal surveyor that is working on this had a scheduling conflict and he was worried about sending another staff member because he knew that there would be a lot of questions and he would rather be here to answer questions as opposed to someone that may not be as familiar with the project.

Paulie Kenyan of 509 Chestnut Hill Road said one of her major concerns is if they are going to be hauling out that much gravel what it would do to the road in front of her house. She said she travels that road every single day and she knows that heavy trucks can really make a mess out of a road. She said when you are talking about adding that much more traffic to what you already have-they already have huge bark and mulch trucks going through there all the time and in the winter time it can be a real mess. She said if you are going to add all those heavy trucks carrying gravel they're just going to tear up the road even more and asked who is going to pay for that. It's going to come out of my pocket as a taxpayer and I'm not making any money with this deal she said.

Mr. Pelkey said that is a very legitimate concern and he looks forward to discussing it with the applicant.

A resident asked if there are questions they can answer in their capacity as a Planning Board.

Mr. Pelkey said he can answer questions concerning the process but he can't get into discussing the specifics of the application because if they open that up for discussion without the applicant being here they could cause problems for the Town.

Mr. Henry said if they want to get their question on the record it might not be a bad idea.

Mr. Pelkey said if there is a question she would like answered by the applicant in the future it would be good if she came up and asked it, they'll be prepared for it and hopefully they'll know to come with a response.

Mr. King said it will be reflected in the meeting minutes they will be given and they'll have an opportunity to know that this question was asked once and probably will be asked again.

Donna Gorney of 500 Chestnut Hill Road said she is concerned about blasting and asked if there was going to be any blasting done because she has horses and they don't go together.

Debbie Romaniak of 122 Cocheco Road asked how much time it would take to do this and that some people have said it will take a couple of months to take that much but then a lot people said it's going to take a couple of years to get that much material out of there.

She asked what route the trucks would take and how deep they are actually allowed to go if it's going to be a big pit in there or not. She said she was also concerned about the blasting and that hopefully they are not going to do that.

Mr. Pelkey said if they are interested in the state laws that control excavations its RSA 155-E. He said there is a section on excavations in the Town's zoning as well.

Mr. Pimental asked everyone to make sure they signed the sign-in sheet and if they supply their e-mail address when he sends them the reminder about the Sept. 21 meeting he will provide a

link to RSA 155-E and to the guidebook that breaks down reclamation plans, grandfathering, etc so they can take a look at them.

Mr. Henry explained that reclamation means setting slopes so they're not steep and so nature can take back over and prevent erosion.

John Cardinal asked if the state really has control over the digging and if it has to be permitted by the state.

Mr. Pelkey said there are some state rules and the Town is responsible to make sure that some of it is followed.

Motion: (Pelkey, second Henry) to continue the public hearing to conduct the design review for Patricia Torr Aiken and Franklin Torr Tax Map R32, Lot 6 to September 21;

Discussion: Mr. Henry asked if they have to open the hearing to continue it.

Mr. Pelkey said no and if they open it then it's a different ball of wax.

Mr. Pimental advised the board not to open the hearing at all.

Vote: The motion passed 7-0.

Motion: (Pelkey, second King) to take a 5 minute recess to allow the folks to fill in their contact information passed 7-0 at 6:13 p.m. The meeting reconvened at 6:18 p.m.

Proposed Bylaw Revisions:

Chairman Pelkey said this is the second reading of the proposed bylaws changes. He asked if they needed to read the changes into the record again.

Mr. Pimental advised him to read them again and that there is a copy in the Chair's folder for everybody to sign if they are okay with the changes and then they will get it to the Town Clerk's office in the morning.

He said the change was calling for a motion and a majority vote to ask somebody that is in conflict to recuse themselves and making it clear that that vote is advisory and non-binding.

Mr. Pelkey said that is a change to Section 6 Meetings, #2 Order of Business (c) which will now state "The Chairperson shall call for a motion and majority vote to ask board members in conflict to recuse themselves under RSA 673:14. Such vote shall be advisory and non-binding."

Mr. Pimental said under Section 7 General Rules, B Joint Meetings the reference in the parenthesis was changed to "RSA 676:2".

Motion: (Pelkey, second King) to approve the changes as submitted by Kyle passed 7-0.

Mr. Pelkey said they will circulate the bylaws for signatures during the meeting.

Proposed Zoning Amendments:

Mr. Pelkey said this follows up the discussions they've had already and asked Mr. Pimental to walk the board through this.

Mr. Pimental said he started to organize this by going numerically through the sections and the board gave him a few things to work on and he has a couple of other things he wanted to bring up which are as follows:

Warrant Article #2, Amendment #1, Section 1.04 Lots Split by Zoning District Boundaries- Addition and revision of several definitions to provide clarity during interpretations of allowable uses- Mr. Pimental said he looked at a couple of examples and there were several communities that had this same language even though the linear feet changed. He said the language works as a whole in terms of how they might want to handle that but he didn't think it gets to the commercial uses and read aloud the following proposed revision: "Where an existing lot of record falls into more than one zoning district the provisions set forth in the underlining zoning applicable to the larger area of such lot may also, at the option of the owner, be deemed to govern in the smaller area of the lot, but only to an extent not more than 100 linear feet in depth beyond such Zoning District..."

Mr. Pimental said that works for most of the town and where it doesn't is in the commercial district so he added another clause to that that says: "EXCEPT in cases where the lot of record falls into the Commercial Business District or Industrial Business District and any Residential Zoning District. In those cases only commercial uses may extend beyond such Zoning District Boundary and shall be approved through a Conditional Use Permit."

He said that allows the commercial to expand deeper and then they set up some standards for what the Conditional Use Permit might look at: A. the use is allowed by right; B. will not endanger the public health, safety or welfare; C. will not unreasonably impact residential neighborhoods or abutting uses; D. a 100 ft. vegetative buffer is maintained along any lot with an existing residential use; E. additional landscaping and/or green space to ensure a more natural transition to residential uses.

He said that is a first attempt for what the board was looking to do in being able to expand the commercial back into some of the residential areas in split zones but still protect some of the residential areas that are behind them.

Mr. King said in the first section, last sentence it says "In those cases only commercial uses..." but further on down it says "The use is allowed by right in either the **Commercial Business** or **Industrial Business District**" and asked if they would only allow this for commercial uses or commercial and industrial uses.

Mr. Pimental said the intent was commercial and industrial but he was correct that it doesn't specifically say that.

Mr. King said they need to add that in the sections below because in the next section it says "...may issue a Conditional Use Permit approving commercial uses for lots in split districts..."

Mr. Pelkey suggested it say "commercial/industrial".

Mr. King asked what happens if there are other uses they want to allow such as institutional or other uses.

Mr. Henry asked if it would be better to say anything permitted in those zones.

Mr. King said no because he thought Mr. Pimental's intent was not to allow residential to encroach into commercial zones.

Mr. Henry said institutional is allowed in the commercial zone.

Mr. Pimental said they could say “non-residential” and that would encompass institutional, daycares, clubs, lodges, hospitals, libraries, recreational, utilities and the commercial uses. He said or if the intent is to have it be more commercial/industrials uses that are extending off of Rt. 11 that is up to the board on what they would like to see.

Mr. Pelkey said if he put commercial/industrial zone uses that would open it up to everything that is already allowed in those zones.

Mr. King said but it doesn’t have institutional uses.

Mr. Pimental said they have institutional, recreation and utility uses that are not necessarily captured if they only say commercial and industrial uses.

Mr. King said such as daycares, cemeteries, churches, lodges, hospitals, libraries, museums, schools and colleges.

Mr. Pelkey agreed and he thought if they say the uses that are allowed in the commercial and industrial zones now it would bring all those in. He said he was also okay with listing out the remaining uses.

Mr. King said if they are uses that are allowed by a Special Use Permit or Special Exception in the Industrial or commercial zones those would be hospitals (CB/IB), libraries (CB), schools and colleges (CB).

Mr. Pimental said it gets a little challenging because last year they concentrated on the commercial and industrial and didn’t touch any of the other ones so they are not in line with being more flexible.

Mr. King said to make that work some of those may need to be reviewed and changed.

Mr. Pimental said if the idea is to allow for these to expand into those areas then yes.

Mr. King said they need to go through them and say for example hospitals which are not permitted in the IB but are permitted in the CB and if that was to change to Special Exception then it could a permitted expansion under a Special Exception. Right now it’s not even permitted so it couldn’t be in the IB and it wouldn’t be allowed for expansion into say an abutting residential zone but if it was allowed by Special Exception then that expansion would also be allowed by Special Exception. It might take some thought on some of those uses besides the strictly industrial and commercial he said.

Mr. Pimental said they would have to change A as well because the way it’s written now it’s allowed by right.

Mr. Pelkey asked when they did away with the overlay district at last year’s Town Meeting if they added words that uses in the IB and uses in CB would be allowed but the Table (of Permitted Uses) make not match that.

Mr. Pimental said the table does match that but only for the commercial and industrial uses. He said they didn’t look at the other uses so those don’t line up. He said for the commercial/industrials uses anything that’s allowed in one it mimics the other and essentially

acts as the same. It doesn't do that with the other uses he said.

Mr. Henry said he noticed that churches are a Special Exception in every zone and asked if they need to revisit that with the new state law that just passed.

Mr. Pimental said yes and that was one of the things he planned to bring up.

Mr. Henry said on D (maintain a 100 ft. vegetative buffer between a lot and a residential use) you could have a lot that's a residential use but it's a very large lot where the actual dwelling is quite far away from any development. He asked if they still want to require a 100 ft. vegetative buffer along the neighbor's 600-700 ft. of forest because the dwelling is far away.

Mr. Pelkey said he thought that 100 ft. seemed a little bit large.

Mr. King said his concern was for the other way where they have this requirement for 100 ft. vegetative is maintained and asked what happens when they come to us to say it's been removed or never existed. He said as an applicant he could interpret it as it's to be maintained but if it wasn't there at the time of application they don't need it. He asked if they need to change D to establish and maintain adequate buffers for those uses as defined by the board during site review and each case could be on a case by case basis.

Mr. Pelkey said E gives them additional landscaping or green space to ensure a more natural transition which would give them the opportunity to put something in place if there was nothing there to start with.

Mr. King asked what if it is a pond or a ravine that can't be vegetated.

Mr. Day asked if they could rid of the 100 ft. and go with a vegetative buffer is maintained along any lot with an existing residential use.

Mr. King said they may not be able to put in a vegetated buffer.

Mr. Pelkey said they are always going to look for a buffer between any industrial/commercial use and any kind of residential use.

Mr. Pimental said he thinks it is already 25 ft. as they just had this come up with the self-storage facility that they didn't have the 25 ft. He said he didn't recall the exact number and would try to find it in the site plan regulations.

Mr. Henry said they are looking at expanding a use it's not taking the existing zoning and setbacks. He said if they expand their use it's within these parameters.

Mr. King said D needs some work.

Mr. Pimental then read aloud that a buffer of at 25 ft. shall be required for portions of the development abutting existing residential properties.

Mr. Pelkey asked if it says vegetated buffer or just a buffer.

Mr. Pimental said it just says buffer but buffer is defined in the regulations as

Mr. King said having a footage number in there could be problematic for both sides.

Mr. Pelkey said he wasn't a fan of having a hard number in there and would want to have some wiggle room in cases where only 75' or 85' was available.

Mr. King suggested they remove the 100 ft. from D and it could say adequate buffers will be

required to be installed or maintained along any lot with an existing residential use and then E could say additional landscaping and green space may be utilized.

Mr. Pimental said he would make it a little stronger than that and if the landscaping regulations already require 25 ft. he would go a little bit higher than that and suggested going to 40 or 50 ft. because they are expanding a commercial use closer to residential that is not zoned for commercial uses. He said he would rather see the buffer go from 25' to 50' as part of a Conditional Use Permit and the board can always waive it.

Mr. King said they could put a footage number in there but if they just had vegetated what happens if they can't put in a vegetated buffer.

Mr. Pimental said they would have to request a waiver and they would have to have some sort of screening like they did with the self-storage facility.

Mr. Squires asked if it could say an adequate buffer no less than 25 ft.

Mr. Pimental said that is already there and with a Conditional Use Permit you are allowing for something that's not already allowed so he would make it more restrictive than what already is in their base zoning. He said 100 ft. may not be reasonable but it should be more than 25 ft.

Mr. Pelkey said these are expansions on existing requirements so he would say in addition to the existing governing requirements for that use and add these 2 things. He said if you have a commercial use expanding into a residential area the existing requirements for commercial are going to have to be followed and the addition of we're expanding the requirements because you are going into this residential area. He said if they are to have a commercial use in what was originally zoned residential they're going to have to do these additional things.

Mr. Henry said they are expanding property rights not restricting them.

Mr. Pelkey said they are also bringing restrictions to protect the people in the residential areas.

Mr. Henry said some of these lots go from Rt. 11 out to Chestnut Hill Rd and the residential use is way out on Chestnut Hill and asked if they still needed to be 100 ft. from the property line.

Mr. Squires said there could be a rear lot subdivision and things could change with the use of the residential property.

Mr. Pelkey and Mr. Henry said they liked Mr. King's idea to leave it to the reasonable requirements of the board at site plan review. Mr. Pelkey asked Mr. Pimental if he captured Mr. King's wording but he said he did not.

Mr. King said it should say an adequate buffer will be installed/constructed and maintained along any lot with an existing residential use. He said if they wanted to put in that it would be a 50 ft. buffer that is fine.

Mr. Pelkey said he would be okay with 50 ft. at a minimum and the 100 ft. seemed expanded to him.

Mr. Fisher said 100 ft. is a little bit excessive.

Mr. Pimental said only adding 25 ft. along the border in addition to what is already required is reasonable and if they couldn't do it for some reason they could waive that requirement if the

site doesn't lend itself to where that makes sense.

He said if they want to keep it at a 50 ft. adequate buffer that's installed or maintained he could message the language a little more and maybe parenthetically add this may include existing vegetation, fencing, screening or other landscaping techniques that the board would have approval over. He said the good thing about the Special Use Permit is they have the flexibility to say yes, no, do this or do that instead of just a no or yes using the innovative land use controls. He asked if the idea was for A, B and C to come off and focus more on the buffer side of things. Consensus of the board was to keep conditions A, B and C.

Mr. Pimental asked as part of the zoning amendments if the board is planning on looking at the other uses outside of industrial and commercial or if they should only be allowing the commercial/industrial uses to expand and they are going to have to work on that.

Mr. Pelkey said there are uses that are allowed in the IB and CB zones that are not commercial or industrial uses and are not currently listed as allowed in both zones and they need to take a look at that. That would make us whole with what we did last year he said.

Mr. Pimental said if they are looking at it as the commercial and industrial are merged then it would be relatively easy and they would just have to determine where one is allowed.

Mr. Pelkey said that is probably the direction they are going and they took a step in that direction last year.

Mr. Pimental said he would start to go through the rest of the tables and see if they can make any adjustments.

Warrant Article #3: Amendment #2: Section 1.08 Housing Maintenance and Occupancy Code-
Remove this entire section from the Zoning Ordinance and create a separate ordinance.

Warrant Article #4: Amendment # 3: Sections 1.08 and 1.10-Revise section of the housing maintenance and occupancy code and enforcement regulations to address challenges with enforcement issues.

Mr. Pimental said they may have to put this section on the warrant with everything deleted and he would have to ask legal counsel if that is necessary. He said the attorney said they need to make Section 1.08 two separate articles-one article asks the voters if they want to remove this from zoning and make it its own land use ordinance and the second article is the actual amendments to the ordinance itself.

He said Mr. King had asked moving forward how this would play out for amendments in the future and it would operate the same way they do zoning and if there are changes to be made they would be put on the ballot. He said it doesn't change anything other than a Housing Maintenance and Occupancy Code doesn't typically fall under zoning and is usually its own separate ordinance.

Mr. Pimental said they should talk about the changes the Code Enforcement Officer is proposing but he is reluctant to make any changes without him being here and he knows he will need to be here to justify some of the changes he wants. He said if there are comments the

board wants to make he can pass them along to him and whenever they think it makes the most sense for him to attend he will ask the CEO to attend that meeting.

Mr. Pelkey asked by taking Section 1.08 out of the zoning ordinance and putting it into a separate ordinance if that would still fall under the Planning Board's purview or if it would become a function of the Selectmen.

Mr. Pimental said the changes themselves would be more geared towards staff but they would still have to be approved by the voters.

Mr. Pelkey said he didn't know how other sections of the Town work and asked if there is going to be a proposed change to an ordinance if there would be public hearings prior to it going to the legislative body and who would be holding those meetings.

Mr. Henry asked how the community would comment on it.

Mr. Pimental said he didn't know.

Mr. King said he thought it would need to follow the same procedure it does now but he didn't know who would hold the public hearings and who would provide the input from volunteers in the community with staff to come up with something that makes sense. He said if the staff just comes up with this is what they want to change and it goes to the voters without being vetted by somebody it may crash and burn.

Mr. Henry said there is a high likelihood that if the public hearings do occur they will occur during the day while staff is at work as well as many of the residents. He said he did not like taking this out of zoning if that's what it means.

Mr. Pimental then read aloud the following from legal counsel: "Taking it out of the zoning ordinance and making any substantial amendments now or in the future must be proposed and voted on in exactly the same manner as any changes to the Zoning Ordinance so the Planning Board, Selectmen or voter petition are the only way to get proposed amendments going in the process. The Planning Board must hold the public hearings and Town Meeting must vote on them. The Selectmen would not be able to amend it on their own and the Building Inspector cannot unilaterally place amendments on the ballot."

Mr. King asked if they are splitting it out and it has to follow the same process what the benefit would be to splitting it out.

Mr. Pelkey said it still stays under the Planning Board's purview.

Mr. Mains said when he was a member of another Planning Board the Chair held a public meeting and the members make the laws and that is what they are presenting to the people and the Chair would give the explanations to the people if they need the explanations.

Mr. Pelkey said from what Mr. Pimental read it sounds like the Planning Board would own it.

Mr. Pimental said the only real benefit of removing it is more organization and that if someone was looking for the Housing Maintenance and Occupancy Code they may not know to go to zoning to look for it. He said if it was a separate Housing Maintenance and Occupancy Code that was on the Town website as a stand-alone on the CEO it may make it easier for someone to find

it because it's more in line with his work.

He said all the definitions have to do with codes and not necessarily with what we do. None of this has a big impact on site plans or subdivisions it's his work but the board would still operate the same as they would with any amendments. You can keep it- it's just organization he said.

Mr. Pelkey said it sounds more like they can't give it away according to legal counsel and he would say the whole encyclopedia isn't in one book and to feel free to take this section and print it out as a separate section and stick it on a website for people to get to. We could put out a separate printing of just this if we have to have a paper copy for somebody but we don't have to separate it out to make it available to the public. We can just put it up on the website and say here is where it resides if someone wants to see the parent document he said.

Mr. Henry said it's a weak argument because if it's not where people look for it, go where people look for it and put a link to it. You could do that tomorrow. That's the beauty of computers and the internet-just put a link there. I'm skeptical of the need to remove it he said.

Mr. Fisher asked if they could take it out of Section 1.08 and make it an appendix to the zoning code. He said if they list it in the table of contents and stick it in the back then they could also attach it anywhere on the website instead of having it buried within the zoning codes and it would be easier to find.

Mr. Pimental said they could do that.

Mr. King said he has no problem with splitting it out into a separate section with a separate header but he didn't think that requires a zoning amendment warrant article to do that. He then said maybe they do if they have to re-number it and put it in as an appendix or in a different section that is more appropriate and he didn't have a problem with that.

Mr. Pelkey said even when they want to do administrative changes they have to bring it to the voters. He said if they can re-number it and move it around any way they want to without voter approval then he would take a proposal that puts it at the end of the ordinance and they could vote on it as a board but he didn't know if they can do that.

Mr. Pimental said he would have to get clarification on whether or not the board could do that.

Mr. King said for some of the suggested changes the discussion could get lengthy so he didn't want to start it such as the definition of a weed and joked that his lawn qualifies in its entirety.

Mr. Pimental asked if the board is not comfortable with entirely removing it if they would rather move this to an appendix so it's a stand-alone and title it something different or just leave it where it is.

Mr. King said he was open to suggestion about what makes sense and where do they put it to make it in a better place but it's still following all the same rules. He said he didn't want to just leave it when there may be a better answer that makes more sense.

Mr. Pelkey said he was in favor of making it user friendly. He said if it stays in the purview of the Planning Board they are responsible to maintain it, to have public hearings to change it, etc. he didn't know what good it does to create a separate document.

Mr. Squires said it seems to flow through where it is now and showed the board how it is set up in the zoning ordinance manual.

Mr. Pelkey said you can look in the index and find it pretty quickly if you can read a book. He said if someone feels it needs to be split out to make it more user friendly then he feels it belongs as an appendix not a separate document. It is all part of the zoning ordinance and we control it like the zoning ordinance etc. he said.

Mr. Pimental said he will come back with some suggestions at the next meeting.

Mr. Pelkey said they will need to have some discussion about the articles and he knows there will be a lot of questions so they should plan on having multiple sessions concerning this stuff just looking at them and with any other business they could probably eat up 3 or 4 nights on this stuff.

Mr. King said they need at least one meeting with CEO Ron LeMere to get his reasoning and the board can bash it out after that.

Mr. Pimental suggested asking Mr. LeMere to come to the Sept. 7 meeting especially if the excavation is going to be on Sept. 21 which could be a lengthy discussion. He said they do not have any applications scheduled for the Sept. 7 meeting so they could make that a workshop for concentrating on his edits.

Mr. Pelkey said because this is their first time through this proposed section that perhaps at the next meeting they could have some questions that they could give him up front rather than waiting for him to get here. He said whatever the answers are he is sure there will be more questions and that would be a good place to start with questions he is prepared to answer.

Mr. Pimental asked if the board has questions they want him to pass along to Mr. LeMere now or if they wanted to e-mail them to him by Wednesday, Aug. 24 and he will compile them, forward them to the CEO and ask him prepare himself and to attend the Sept. 7 meeting.

Consensus of the board was to e-mail their questions to Mr. Pimental.

Warrant Article #5: Amendment #4: Section 2.01 Agricultural Residential District-Revise parts of Section 2.01 to clarify how minimum lot size calculations can be met.

Mr. Pimental said in the **Agricultural Residential District** the maximum heights for wind generators and telecommunications towers are already in other sections and they could keep it here but it's already broken out.

Mr. Henry asked if that is because they have something that speaks specifically to wind generators and telecommunication towers. He asked if they have some limits on how much they can regulate those towers.

Mr. Pimental said that small wind turbines are in Section 3.08 but it doesn't specifically call out big wind turbines.

Mr. Fisher asked about solar panel towers and that it is beginning to get ridiculous in some parts of town where they are popping up all over the place. He said it is beginning to look like a forest in some areas and asked if they have anything governing where you can and cannot put

solar towers, how high they can be or the square footage.

Mr. Pimental said no and if the board wants to take that on it should be its own article and it would be some form of a solar ordinance that would need to be developed.

Mr. Henry said it would have to be different for different zones and he didn't think they could treat all the zones the same way if they wanted to get into restricting that.

Mr. Pimental said the Town is silent on that right now and the applications they have seen on the former Town and Cardinal landfill properties were processed as commercial uses not specified which is allowed by Special Exception and that was the only way to figure out how to handle it.

Mr. Pelkey clarified that Mr. Fisher was talking about the private use of solar panel towers.

Mr. Fisher said he was talking about even some commercial uses and that he could see a solar farm with all the solar panels, etc. as that is nationwide and in all kinds of towns. He said he was talking about some of the industrial parks such as the Sarah Greenfield Business Park where there is nothing to prevent each building from putting in multiple solar towers around their buildings to where it looks a forest of solar towers around each building.

He said he was not trying to be spiteful against any business but if you look at Staples off of Rt. 16 it now has 5 or 6 towers around it, PIP Rental has towers popping up and all of a sudden there are a dozen or more towers in there and it's beginning to look like a crowded tower farm and you can't see the building for the trees. There's nothing we can do about changing it now but if we don't control solar towers there is nothing preventing me from putting up 20 towers on a half acre lot he said.

Mr. Pelkey asked if that would be for a commercial use or a private use.

Mr. Fisher said he could watch a lot of TV and have super air conditioners, etc. and he could give power to his neighbors if he wanted to. There is nothing preventing me from putting up twenty 40 ft. towers around my house and if we don't get a handle on it soon it's going to be like that all over he said.

Mr. Pimental said there are examples of municipalities regulating solar power at the residential and commercial levels. He said if they would like to make that as part of this year's work load they could explore that. He said that it was not easy and there was a lot of push back but the Town of Durham did some residential solar regulations on where the stands could be located and it is up to the board if they want to regulate private property like that. He said the commercial use would have to be handled through site plan review as there is no other guidance from the Town.

Mr. King asked what happens when the site plan was approved 5 years ago and the new owner decides to put up 10 solar towers.

Mr. Henry said the towers at PIP Rental were not on the site plan when he came in for a revised site plan and it probably wasn't economically feasible and he hadn't considered it at the time.

Mr. Pelkey said the price of the towers has been coming down in the last couple of years and if

he had had that option when he put up his solar towers he would have put one up.

Mr. Fisher said he didn't blame PIP Rental for doing what they did and there is nothing restricting them from doing it but there are a whole lot more towers there now than the 5-6 towers that were there before.

Mr. Pelkey said he thinks they are great and he is happy to see them generating clean power for their business.

Mr. Fisher asked if they want to see that in residential areas because there is nothing stopping them from doing that now. He said 2 towers are going up in a residential area right now over by the goat farm and there is nothing to stop him from putting in 10 or 20 he's got the land.

Mr. Henry asked how much they want to regulate other peoples' property to please his eye.

Mr. Fisher said we already regulate what people can or can't do with their property. He said we tell them they have setbacks they have to go to.

Mr. Henry said Mr. Fisher said he doesn't like the look of them and again asked how much do they want to regulate private property.

Mr. Fisher said that is open for discussion.

Mr. King said they did it with the storage containers.

Mr. Pelkey said the people with small generators are becoming independent from the larger source of power and there is probably a pretty big group of people who would like them to not be able to do that and to make them continue to buy power from them.

Mr. Fisher said there are 2 sides to every argument and he has no problem with solar panels on the roofs.

Mr. Pelkey said if the average person now built their house and put a solar panel system in they can price their electricity and know what it is going to cost them for almost their entire life.

You're not at the whim of the market or when people go to war overseas the power in this country goes double because of the cost of fuel.

Mr. Fisher asked if on a half acre lot they would want twenty 40 ft. tall towers.

Mr. Pelkey said that would be for commercial use because nobody needs 20 towers to run their house. He said if you make 8,000 KW hours a year you don't need 2 towers. He said if you want to sell it back to the power company that's when you see 5 or 6 towers and that's no longer a residential use and why he keeps asking if it's residential or commercial.

Mr. Fisher then asked if he wanted to see 200 solar towers in the Wal Mart parking lot.

Mr. Pelkey said that would be cool and he would park his car under one and maybe keep the birds from crapping on it. He said they would like to see some examples from other towns as it sounds like they have something to talk about.

Mr. Pimental said there are not a lot of examples of communities regulating solar power at the residential level. He said there are some examples for regulating commercial solar uses beyond the site plan that he could bring in for the board to look at.

Mr. Pelkey said they have a responsibility to make sure they don't become a hazard so there

should be some setbacks to frontages, roads, etc.

Mr. Henry said those exist now.

Mr. Pimental said they would only be able to tie them to what is in the regulations now and if they wanted to treat them a little bit differently they could develop their own solar ordinance.

Mr. Pelkey said if we don't have one now in 10 years we will have to have one. He said if they put a placeholder in the ordinance now eventually it will get filled up because it's coming.

Mr. Fisher said when we went through the solar farms at the Town landfill and the adjacent property we told them they had to maintain this much setback and we had nothing in writing telling them they had to have a setback.

Mr. Pelkey said the solar farm they proposed to us is so inefficient and they could build it 10 times better now using trackers because the efficiency gained by using tracking pedestals is humungous compared to a fixed array. If you're going to put them up you might as well make it the most efficient thing you can he said.

Mr. Henry said it will probably look different now than what was originally proposed but he didn't know if you can put those towers in the landfill because of the stability of the ground underneath.

Mr. Pelkey said the design we had was for on top of the ground and nothing could be sunk into the ground.

Mr. Pimental returned to warrant article #5 and said he is proposing to get rid of the telecommunication towers and wind generators (Table 2.01 (B)) because they each have their own section and that "none" is incorrect as there is a maximum height standard in the zoning. He said there has been a lot of talk about and requests for relief from Section C Wetlands and Impact on Minimum Lot Size Calculation over the last of couple of years. He said the way that it is written it doesn't necessarily get to the wetlands having a minimum impact on the lot size. He said it is trying to get there with needing a 40,000 sq. ft. piece of contiguous buildable area but another way to phrase that or focus it more on the wetlands is what he tried to do so it would read "All land containing wetlands shall not be counted in determining the gross land area of a lot for the purposes of minimum lot size or minimum density requirements for residential uses. The minimum non-wetland portion of any newly created lot shall be contiguous. Wetland buffers shall only be allowed to count for 50% of the minimum lot size required."

He said it doesn't put a sq. footage it's really based on if you have wetlands on the site let the wetlands determine the minimum lot size and minimum density as opposed to if you have a completely dry site with no wetlands if you would still need a 40,000 sq. ft. area if the idea was wetlands impact on minimum lot size calculations. He said if that's not what the intent was then they can disregard his comments he was gearing this toward if the concern at the time was wetlands impacting minimum lot sizes and the language that is being proposed helps to get you there.

Mr. King said he read this about 6 times and a layperson has about a zero chance of understanding it. He said he could almost understand it but if you look at the end it says wetland buffers should not be allowed to count for 50% of the minimum lot size-it doesn't say wetlands it says wetland buffers. He said if that intent included wetlands and wetland buffers shall not be allowed to count for more than 50% of the minimum lot size that is actually more restrictive than what it said before because in this zone it's a 3 acre zone with a 40,000 sq. ft. minimum contiguous buildable area. He said a 3 acre lot is over 120,000 sq. ft. so if you had a 50% requirement of non-wetlands or wetland buffers that is more restrictive than the 40,000. Mr. Pimental said it would only be more restrictive if there were a lot of wetlands on the site. Mr. King said but it's still more restrictive and he was here when they did this and they didn't say 50% as that would be an acre and a half or 60,000 sq. ft. He said they said a reasonable standard is to have a minimum of 30% or 1/3 of contiguous uplands for buildable area for people to put their house, garage, barn or whatever in this zone and maybe something needs to be added there.

He said in the first sentence it says all land containing wetlands shall not be counted in determining the gross land area so when you read that you'd say the land has wetlands so I can't count the land.

Mr. Pelkey said that is the question he has.

Mr. King said this is the same format in the next 3 sections but he didn't feel that it's readily understandable to a layperson and that some of the wording doesn't make any sense to him. He suggested it could say during buildable land area calculations a, b and c need to happen or during calculation of wetlands and uplands this is how it's to be handled.

Mr. Henry said as he reads this if there is a 1 acre pond you need a 4 acre lot to build on it.

Mr. Pelkey said if he had a 3 acre parcel with a 1 acre pond on it he couldn't make that lot work because there's only 2 acres of non-wetlands and he would have to make it a 4 acre lot.

Mr. Henry said he didn't think the intent of the 3 acre lot size was to have 3 acres of buildable land. It's to have lots of space between houses he said.

Mr. Pelkey said it has to have at least one acre of contiguous buildable area.

Mr. King said you could have a 3 acre lot that doesn't have more than 10,000 sq. ft. of contiguous land because of the way the wetlands are dispersed and the uplands are connected by a string but none of them is big enough to build a house so that's how we get into this lot size requirement for the circle, the square and the rectangle so it's contiguous and ready to be built upon. He gave the example of a lot bisected by a wetland with a half acre in the front, a wetland and 3.5 acres in the back it makes that it tough to build on.

He said the proposed wording is more restrictive and may not accomplish what they wanted to do but they need to take into account wetlands, wetlands setbacks, contiguous uplands and building envelopes and how to re-word that to make it work better.

Mr. Henry asked them to explain the problem they are trying to solve with this.

Mr. Pimental said the first problem was that it wasn't clear that the 40,000 sq. ft. of contiguous buildable area you'd have to know that was tied directly to wetlands because it doesn't mention wetlands anywhere outside of the title.

Mr. King said contiguous building area should be changed to potential buildable uplands which is the opposite definition of wetlands because right now it just says buildable area and it doesn't say wetlands or wetland buffers are excluded.

Mr. Pimental said he would just define that.

Mr. King added and in that number maybe wetland buffers would be considered or maybe not.

Mr. Pimental asked if the wetland buffers count as buildable area now.

Mr. King said he would say they would count as buildable area because they are not a wetland and if they are adjacent to the buildable area that is to prevent encroachment of structures and roads to the wetlands.

Mr. Henry questioned that you can't build in the buffer area but the buffer area could be part of the 40,000 sq. ft.

Mr. King said limited things are allowed to be in the buffer areas. He said the wetland setbacks and the wetlands themselves need to be clearly defined on how they are calculated against whatever number they use.

Mr. Pimental said they won't be able to solve every scenario but he was trying to come up with another way instead of using a hard and fast number. He said instead of it being arbitrarily 30,000-40,000 sq. ft. let the lot's conditions dictate what the lot size or buildable area is. I think you're telling me we need to figure out another way to get to that location he said.

Mr. Pelkey said the original purpose of having the 40,000 sq. ft. there was to make sure there was enough buildable space and it sounds like the applicants are saying they want less.

Mr. Squires said Mr. Pimental led off the conversation by saying they have been granting waivers allowing this.

Mr. King said not all of the board members have been for all those waivers.

Mr. Pimental said there have been some cases where because of the lot's existing conditions it was hard to fit the 40,000 sq. ft. on the lot even if there wasn't any...

Mr. King said his impression of the intent is to make sure when they see the subdivisions that they have lots that have good to high quality buildable areas that prevent future wetlands encroachments because if they don't have good quality buildable uplands there will be wetlands violations encroachments. He said a guy is going to say he built this and he was only supposed to build over here but where am I going to put my garage and will go fill in the wetland over there when nobody is looking because that's the only choice he has. Let's not let people develop things in a way that is going to cause problems in the future he said.

Mr. Pimental said this is only for the AR, SR and the RR zones and they don't have these in the more densely populated zones.

Mr. King said because they have different constraints, a lot of them have water and sewer and

they may have had wet areas at one time but those areas have since dried up.

Mr. Pimental said previously the 40,000 sq. ft. included the buffers but not the wetland itself. He said he would re-work this language and if it ultimately comes back to 1/3 of the lot has to be a buildable lot that being defined will make it clearer.

Mr. King asked if there is a subtraction for steep slopes within the contiguous building area.

Mr. Pimental said he didn't think there is and asked if they wanted to define unbuildable areas.

Mr. King said he thought they had one for slopes and that it's pretty high maybe over 30%.

Mr. Pimental said the Town doesn't have a definition for "unsuitable" land which would include things like wetlands, floodplains, steep slopes and whatever they wanted to include although it could be called something else. He said uplands is in the definitions and is defined as land not containing any wetland area so they could use that as opposed to contiguous buildable area. He said his thought was based on the feedback they were hearing is if there is a better way to come up with a calculation in which this is said and something that is indicative of letting the land dictate what that is instead of putting a hard and fast number. This is really geared for new subdivisions he said.

Mr. Henry said at one time there was a 2 acre minimum in the AR zone and asked if somebody subdivided and created a 2 acre lot that has not been built on if they can build on it now.

Mr. King said yes and it would be an existing non-conforming lot.

Mr. Pimental said they couldn't make the lot more non-conforming such as a lot line adjustment with their neighbor and move their line over that makes their lot smaller than 2 acres.

Mr. King said the definition of buildable area in the regulations says the portion of the parcel upon where a structure may be erected the following are not to be included: steep slopes, wetland soils, rock outcroppings, floodplains, proposed or existing rights-of-way or utility, state or local easements. He said rock outcroppings needs some clarification because there are rocks everywhere and the floodplain is up for discussion because we have areas that in the floodplain and that doesn't mean they're not buildable there are buildings in the floodplain.

Mr. Pimental said it does need some clarification and right now they have been concentrating on the 40,000 sq. ft. and the areas they have been marking up. He said they haven't had any projects in the floodplain or anything with steep slopes since he has been here and they have mostly been dealing with wetlands.

He asked the board if they were more geared toward the unbuildable areas or more towards just concentrating on wetlands or if they really want the wetlands, floodplains and steep slopes areas taken out to subtract them from what the contiguous area is.

Mr. King said he wanted what should be taken out so they end up with a good quality buildable area however they define that so we don't have encroachments into areas where they shouldn't be. He said if they don't take out utility easements there could be a lot that has 40,000 contiguous feet but 30,000 ft. could be in a Public Service easement that they can't build

on and we say he's got the land and then he goes and builds a house and a garage in the wetland. He said there could be a huge ledge face that's not buildable that's in the calculation of the 30,000 sq. ft. and it's 10,000 in the AR zone so he has 40,000 sq. ft. but 30,000 of it is straight up. They can't get rid of the rock, they can't get rid of the utility easement and they can't get rid of the road that runs through their property so they're going to build over here in the wetland he said.

Mr. Pelkey asked if they should have buildable area defined.

Mr. King said maybe they need to re-define that and some of that stuff may need to come out and some of it needs to be clarified.

Mr. Pimental said they already deal with setbacks, he would just say wetlands instead of wetland soils and he would define steep slopes as over a certain percentage.

Mr. Squires read aloud that steep slopes for the purpose of calculating buildable area are those in excess of 25%.

Mr. Pimental asked the board if they want to consider a floodplain as being not buildable land.

Mr. King said that is up for discussion because the designation of floodplain except by others may be readily buildable.

Mr. Pimental said the rock outcropping and floodplain may be 2 things they want to remove and keep the steep slopes over 25%, wetlands, the existing rights-of-way and state and local setbacks which maybe what your buildable calculations are.

Mr. Squires said there is not much of a definition for uplands (land not containing wetlands) so he didn't know if they want to use that.

Mr. Henry said he liked buildable area as it in here and the definition that they have as opposed to changing it to uplands.

Mr. King said they could define buildable area as it includes wetland setbacks or not. He said if it were clearer it could be understood by applicants and administered by staff consistently.

Mr. Henry said he would read it if buildable area includes setbacks then he could put his house in the setback because it's a buildable area.

Mr. Pelkey said he would want to control the setbacks here and he wouldn't want to give them the "green light" to just build in the setbacks.

Mr. Henry said or to create anything confusing in the language. He asked about having it say 40,000 sq. ft. of buildable area or wetland setback and maybe put a cap on the amount of setback that can be in that 40,000 ft.

Mr. King said he would be interested to see what Mr. Pimental comes up with next after this discussion.

Mr. Henry said he didn't think the status quo has been a huge problem.

Mr. Pelkey said he was willing to be a little more flexible but he still likes the concept of having a minimum amount of buildable area.

Mr. Squires said Mr. Pimental said they've been counting the wetland buffer and that is pretty

flexible already.

Mr. Pimental said they have been counting it and if they wanted to the board could put some restriction on the amount that could be calculated using the buffers.

Mr. Henry said in theory the entire buildable area could be wetland buffer.

Mr. King said if they applied the minimum quality standards they have of area with a rectangle, circle or a square that would not pass.

Mr. Pimental said he could message this so long as the board is comfortable with trying to come with something that will advise developers that they have to subtract all of this information to come up with what can actually be used for their density as opposed to just a hard number.

Mr. King said those subtractions are already in the subdivision regulations.

Mr. Pimental said if they change this they will have to change the subdivision regulations too.

Warrant Article #6: Amendment #5: Section 2.02 Suburban Residential District- Revise parts of Section 2.02 to increase residential density, address existing lot size non-conformities and amend other space and bulk standards to create additional flexibility for property owners and to encourage the development of more affordable housing.

Mr. Pimental said these are some thoughts on increasing the density in some the more densely packed areas based off of the map he created at the last meeting that showed that a lot of these are non-conforming already. He said looking at what they did with the Village Center District and moving outward he came up with some numbers to consider in terms of going out from the VC which is one unit per 850 sq. ft. of living area out towards 9,000 sq. ft. for Urban Residential and then 15,000 sq. ft. for Suburban Residential.

He said the density would come down from 1 acre to 15,000 sq. ft. and coming down a minimum lot size of a full acre to a half acre and then adjusting the minimum street frontage a little bit from 150 ft. to 125 ft. The rest stays the same he said.

Mr. Squires said the median in the SR was already less than an acre anyway on his map.

Mr. Henry noted this is a big change for the minimum lot size.

Mr. King asked looking at the SR how much land is left that could be subdivided into the higher density.

Mr. Pelkey asked Mr. King if he knew how much of the SR district has water and sewer service.

Mr. King said not much.

Mr. Pelkey said the reason he asked that is because if you give them the density bonus listed below the minimum lot size would go to ¼ acre based on water and sewer hookups.

Mr. Henry asked if a developer would be able to put the lines in and connect (to those services).

Mr. King said it has been done.

Mr. Henry asked if the Town would allow it or say they can't do that.

Mr. King said the Town has connected them in the past and Campbell Commons is a perfect example of extending Town water and sewer into a subdivision.

Mr. Henry said they could end up with a pretty densely packed subdivision in that zone if the

developer felt it was feasible to run water and sewer.

Mr. King said if the Town allowed them to connect.

Mr. Pimental said he was looking at this more as not necessarily being able to subdivide the land but allowing for duplexes and multi-units on existing lots that would not be allowed to because of the current density. He said if someone has an acre and it's one dwelling unit per acre and you allow duplexes by right they would not be able to put a duplex on that lot because they don't have the density. He said by reducing that you're potentially allowing for more units where he doesn't see those lots being subdivided 3 and 4 times because they wouldn't have the frontage unless they built a road.

Mr. Henry said there are some big lots in that zone.

Mr. Pimental said it would be a big investment to build a road to subdivide it out and you could do that in some of those areas. He said he didn't know if that is likely to happen and the largest subdivision we've seen in 3 years was the 7 lot subdivision.

Mr. Henry said that's in the last 3 years but we have had large subdivisions come in.

Mr. Pimental said that is a suburban area and if you're moving closer to downtown these are the types of areas where you want to allow it and not in Rural Residential and AR zones. He asked if this is too big of a change or if they wanted to push it back a little bit to a $\frac{3}{4}$ acre minimum lot size.

Mr. Henry asked if they have to change the lot size to address the duplex issue. He said they seem like 2 different things, allowing people to put duplexes on the existing lots and changing the lot size.

Mr. King said it's because of the dwellings per sq. ft. and if you lifted the one acre zone and reduced it to one dwelling unit per 20,000 sq. ft. that would allow a duplex on a 1 acre lot.

Mr. Pimental said they could do it that way.

Mr. Henry said but not on a $\frac{3}{4}$ acre lot.

Mr. Pelkey said you are not allowed more than 2 residences on the lot anyway.

Mr. Pimental said if they had a multi-family dwelling they could put 3 or 4 as long as the density allows for it but you wouldn't be able to have 2 single family homes unless you subdivided.

Mr. Pelkey said so you could put in more than a duplex but you'd have to come before the board first and couldn't just do it by right.

Mr. Pimental said the board wouldn't see the duplexes but anything over 3 or more they would have to come in for site plan review.

Mr. Henry asked if that was according to state law.

Mr. Pimental said by local regulations 3 or more units require site plan approval. He said anyone that's going to build a multi-family would come under the same regulations they have for 3 or more units. So parking, storm water and all of that would have to be met and even though the zoning may allow for it the rest of the Town's regulations might not actually allow for it.

Mr. Pelkey said so it's not like they are just going to kick it off and then next thing you know you have a bunch of multi-family homes come in.

Mr. Pimental said no and it would have to meet all of the site plan regulations.

Mr. Pelkey said but they could easily have a bunch of duplexes come in.

Mr. Henry said not necessarily ones going in but existing structures may convert or get an addition.

Mr. King asked what the requirement is for an in-law or **Accessory Dwelling Unit**.

Mr. Pimental said they are allowed in all zoning districts that allows single family homes and it's capped at 750 sq. ft.

Mr. King asked if there is any additional land area required for an ADU.

Mr. Pimental said no but they have to meet the setbacks.

Mr. King said so someone can do an ADU with no additional land area requirement and a duplex which would be the next step would require double the land area.

Mr. Pimental said you couldn't put an ADU on a duplex though.

Mr. Pelkey said you can put a duplex on any lot that holds a single family unit as long as you have the sq. footage.

Mr. Pimental said the way it reads now to put a duplex in even though the minimum lot size is one acre you would need 2 acres because it's one dwelling unit per acre. He said they are allowing for duplexes by right in some of these areas but because of the zoning you're not allowing it to take place.

Mr. Henry said one of the differences between a duplex and an ADU other than the maximum sq. footage for the ADU is the property owner has to live in one of the 2 units they both can't be rentals. He said but the impact on traffic, people in the area is the same population wise whether it's a house with an ADU or a duplex.

Mr. King said it can be but typically it may not be. He said it's possible to have a couple with 5 kids in an ADU but it's not as likely as it would be in a duplex.

Mr. Pelkey asked about any other specifications about who can be in an ADU.

Mr. Henry said the property owner can be in the smaller ADU and rent out the bigger portion.

Mr. Pimental said he would have to look it up but he didn't think an ADU can have more than 2 bedrooms.

Mr. Mains said the grandparents can live upstairs in their own unit and the kids can live downstairs because they don't have 2 acres but they were approved before so now they're going to go up instead of going out.

Mr. King said they don't differentiate between up or out.

Mr. Pelkey or for attached and there's a sq. footage requirement and requirements for...

Mr. Mains asked if they have to have to 2 acres to go up too.

Mr. King said not for an ADU but with a duplex you do.

Mr. Henry said he was not sure on how he feels on changing the lot size but he is comfortable

changing the density.

Mr. King suggested leaving the lot size alone and lowering the density to allow more units-say a duplex on 1 acre.

Mr. Pelkey said it was one unit per one acre and this would go to 15,000 sq. ft. which would allow them to have a duplex on one acre lots. He said the lot size wouldn't change but the potential density would double.

Mr. Henry asked if they want to consider changing that number so that one acre would allow 3 units.

Mr. King said 15,000 sq. ft. would allow 3 units because an acre is 45,360 ft.

Mr. Pimental said an acre is 43,560 sq. ft.

Mr. King said 43,560 divided by 3 is 14,520 so if you say 15,000 sq. ft. you might as well say you're going to have 5 applications to the Zoning Board because they want to get zoning relief for 480 sq. ft. per unit.

Mr. Pimental said that is assuming the lot is exactly one acre and there are a lot of non-conforming lots. He said that he was looking to use a round number to ensure that at least you would get a duplex on the density and they are very close.

Mr. King said 20,000 sq. ft. would give you the duplex.

Mr. Pelkey said for 480 sq. ft. if they want to go with 3 they are going to come see us because it's not a duplex.

Mr. Henry said they would need a variance first if they don't change that number.

Mr. Pimental said they would unless, and they can do this he hasn't drafted it yet, for the more densely zoned districts in town they could have it come before the Planning Board. He said the innovative land use controls allow you to, for dimensional requirements for certain zones that it would be done by a conditional use permit and you take that out of the hands of the ZBA. You don't want to do this in every district but for the ones you are changing to increase the density you could control the dimensions he said.

Mr. Pelkey said they are going to come see us for 3 anyway so if they are 400 sq. ft. shy of what they need to put in 3 it would just be part of the proposal.

Mr. Henry said it sounds like they need to change some wording so they could grant the waiver.

Mr. Pelkey said they don't have to change the density number to below the 15,000 sq. ft. it sits at now but it's close enough that if they want 3 units they have to come see us anyway and they could come in and we could relax the dimensional requirements.

Mr. Pimental said if the idea for making these changes is to encourage or allow for more units or density in these areas and if they want to control that they can do that.

Mr. King said if they go to 15,000 sq. ft. and it's a one acre zone then he is going to propose doing 3 houses on one lot all detached.

Mr. Pimental said if they are single family homes he can't do that because single family homes are treated differently and you can't have more than one single family home on a lot unless you

can show that it can be subdivided.

Mr. King then said it's going to be a multi-unit with detached dwellings all condo with common area.

Mr. Pimental asked if condos are allowed in this zone.

Mr. King said you can't discriminate against ownership so it doesn't matter. He said he was going to build 3 apartments all detached and asked where it says he can't. I've got the land, I've got 1.1 acres, I want to do 3 tiny homes that are all detached and a rental he said.

Mr. Pelkey said they are not attached to each other so it's a single family home.

Mr. Pimental said he thought the board would have grounds to not accept that.

Mr. King said it's not a home it's a rental unit.

Mr. Pelkey said he could call it a tent but if it's not attached to anything else then it is a single family dwelling unit but if it's 2 or 3 together then it's a multi-family dwelling unit.

Mr. Henry asked if they could put 2 duplexes on the lot instead of 2 single family units.

Mr. King said density is density.

Mr. Pimental said if someone said they were going to put 3 different houses on a lot and we're going to call them rental units but they're detached apartments they would say that's not allowed.

Mr. King said if he has 100 acres of land he is going to put on 33 tiny homes.

Mr. Pelkey asked if he could show him that he would be able to subdivide it into 33 lots.

Mr. King said no they're rentals.

Mr. Pelkey said he was not going to discriminate based on ownership.

Mr. Squires asked the board to remember that people already own property that's grandfathered that wouldn't get this benefit because the average lot size is .68 acres. He said some are smaller and some are bigger but the average size is just over ½ an acre and 15,000 sq. ft. is too much and they wouldn't be able to do anything with that if it was .68 acres.

Mr. Henry asked for the sq. footage of .68 acres.

Mr. Pimental said that is 29,620 sq. ft.

Mr. Henry said if they use that number for allowing 3 units on an acre it would allow 2 on it.

Mr. Pelkey asked if they were looking to increase the density to the point where the non-conforming lots would be able to do it.

Mr. Squires said there are only so many lots left that could be subdivided and asked if they want to increase the density or not want to increase it. He said if they want to increase it then they have to cater to the existing lots.

Mr. Pelkey said they have to be careful not to go too far too fast with this stuff because they could get unintended consequences and you don't know what you are going to get sometimes. He said a former Planning Board Chairman used to say you might want to take baby steps and increase the density to 15,000 sq. ft. the first year and then wait a couple of years and see what you get out of that and then if you're not getting inundated you might want to think about

dialing it down.

Mr. Squires said he didn't think they'd be doing much for many people with this move.

Mr. Pelkey asked how many lots it would affect if they made the change to 15,000 sq. ft.

Mr. Pimental said he didn't know and he would have to do an analysis. He said he put in the average lot size at 29,000 sq. ft. and came up with 15,000 sq. ft. which is pretty close to what allow someone that's the median average in that zoning district to have a duplex. He said anything higher than this really isn't going to help anybody. It's at least a step in the direction of it's a big difference between 15,000 sq. ft. and an acre and at the very least is progress he said. He said if they decide they want to use the innovative land use controls where the Planning Board would have jurisdiction over dimensional standards in some of these more urbanized areas the only ones that he would recommend would be the VC, UR and SR.

Mr. Pelkey asked if the map they received that showed the non-conforming lots was from the Stafford Regional Planning Commission and if they have the underlying data tables they used to generate that.

Mr. Pimental said SRPC did the map and they have the Excel spreadsheets used for the map.

Mr. Pelkey said they can take a look at the Excel sheets and count the number of non-conforming lots and it's easy to write a formula to determine how many of the cells are under 29,000 sq. ft. He suggested take a look at it and try to find a number where they would be doing some good for some people and they know what kind of impact it will have.

Mr. Squires said if they were just a hair under the average you're not causing the person with the average size to have to come in and pay more fees to get waivers or special permits or anything because they went just over it with the rule.

Mr. Pelkey said he would like to put a number on how many places they would affect by going to 15,000 and they would need to do that pretty fast.

Mr. Henry said he would lean towards a number that allowed a duplex on the average lot size.

Warrant Article #8: Amendment #7: Section 2.04 Urban Residential District- Revise parts of Section 2.04 to increase residential density, address existing lot size non-conformities and amend other space and bulk standards to create additional flexibility for property owners and to encourage the development of more affordable housing.

Mr. Pimental said the same could probably be said for the UR as well. He said the changes are not really big changes in terms of going from one dwelling unit per 10,000 SF to 9,000 SF but he got rid of the caveat where right now it's 10,000 SF but if they're not connected to water and sewer they automatically go back to 1 acre. He said he thought one acre zones in the UR was really high for non-conforming lots and he didn't think there were a lot of areas that were over 1 acre. He said they could keep the density at 10,000 SF and lower the minimum lot size even smaller than the 15,000 SF in the proposed amendment because the median is .29 acres.

He said the bigger issue is the requirement right now of it's not connected to water and sewer that number goes to an acre. He asked if that really makes sense for the Urban Residential area.

Mr. King said they need to keep in mind the state requirements for lot size that require their own well and septic and there's a minimum lot size for that at the state level based upon the soil type.

Mr. Pimental said the minimum lot size for residential for a 1 to 4 bedroom is the loading factor based on the soil group so the soil group dictates what the minimum lot size can be.

Mr. Henry said they don't look at soil types when they do a subdivision (site plan review).

Mr. King said that's because the Town's minimums are higher than that most of time.

Mr. Henry said if they reduce the lot size and somebody subdivides and they just built 3 lots that are big enough but don't have the soils for septic now you've got 3 vacant lots.

Mr. Pelkey asked Mr. Pimental to back-peddle and make sure the density levels are supportive for soil types.

Mr. Pimental said it's not the density necessarily it's the lot size they would have to pay more attention to because the state code is minimum lot size. He said he would look into this and see if there's a better way to phrase this and this might be a question for legal counsel. He said even if you did lower the minimum lot size to something else they would still have to comply with the state rules anyway. Even if you allow it but their site doesn't meet it they wouldn't be able to do it because they wouldn't be able to get their septic system approved he said.

Mr. Henry said he is curious to know how many lots in the UR district don't have access to water and sewer.

Mr. Squires said it's probably 90% of it.

Mr. King said water and sewer service is based upon elevation and the Town doesn't have any pumping stations so it's all gravity feed to the sewer and the water doesn't even go to the top of the Main Street hill.

Mr. Squires noted the sewer goes up Bay Road and up to the water tower behind the schools.

Mr. King said access to water service up the hill is about as far as the old general store that's now the electrical guy.

Mr. Henry asked Mr. Pimental if the system he derived this information from contains information on water and sewer hookups for properties.

Mr. Pimental said no. He said if the Town gave them the data files for the asset management plan they could overlay it and highlight the locations. It's not going to be perfect but it would at least give you an idea he said.

He said they may not be able to do anything about the minimum lot size is based on what the NH code is for residential and that he didn't think it was in compliance as it is depending on the soil type.

Mr. Henry asked if you need an approved septic plan to subdivide a property.

Mr. Pimental said they would need an approved septic plan.

Mr. Pelkey said they are not talking about subdivisions but about increasing the amount of units per lot.

Mr. Henry said the proposed amendment also talks about changing the lot size.

Mr. Pimental said now he is pulling back on that one and getting rid of the density for needing it to be connected to water and sewer. He then said he has to give this more thought and clarify if it would put the Town in jeopardy if they lower the lot size and it goes against the state rules.

Mr. Henry said he can make his house a duplex now and asked if they know the approvals of other septic systems that are in those zones to say it's okay to build a duplex but you don't have any more bedrooms left.

Mr. Pelkey said they have to get a building permit and that's part of the permitting process.

Mr. Pimental agreed and as part of that the requirement would be they either need to get a new septic design or prove that it can handle that. He said or it might be if there's water or sewer available they either upgrade their system or we force them to tie in if they're going to expand.

Mr. Squires asked if they go from 55 ft. to 35 ft. (proposed max. height for residential & non-residential buildings & structures) if that would not allow people in the UR to have the solar towers Mr. Fisher doesn't like as they are close to 35 ft. when they are standing up straight.

Mr. Henry asked why they are proposing to change the height.

Mr. Pimental said in the AR, SR, RR zones the maximum residential building height is 35 ft.

Mr. Squires said the other structures are 55 ft. in those zones.

Mr. Pimental said he wanted to break out residential and non-residential here but he didn't write it correctly to make it similar to what all the other zones are unless they want to view this one differently. He said in every other zoning district it is 35 ft. for residential and 55 ft. for non-residential and for whatever reason in the UR it reads 55 ft. for both.

Mr. Henry said if they are looking to increase density triple-deckers would do that and he didn't think you could build a triple-decker in 35 ft.

Mr. Pimental said height is the other way you can control density.

Mr. Henry said this is the UR zone which is just outside the VC where they have lots of tall buildings.

Mr. Pimental said it is written a little funny but it's 55 ft. for both in the VC. He said if the intent was for the UR and VC to be 55 ft. for both commercial and residential then he would want to spell that out and make it clear.

Mr. Squires asked Mr. King if he was in on it when this was last changed and what the intention was. .

Mr. King said he had no idea and it may have been to allow higher residential structures but splitting it out to be the same format makes sense so what the numbers are can be the same.

Mr. Pimental said it will go back to 55' for the VC and UR zones for residential and commercial. He said the only other change for this one is letter (C) Density Bonuses. He said the way it was written before was that it was reduced by 25% for each utility to which a single family was connected and instead of single family he changed it to residence. He said based on the

conversation they had at the last meeting it seemed like the intent was for the building and it didn't necessarily have to be a single family home because in a lot of these cases the density bonus is going to be for a multi-family unit. He said a residence by definition will include all of that but if you say single family home it puts the staff in a tough position to make an interpretation.

Mr. Pimental said he was glad they were doing this in August because a lot of this still needs to be messaged and there are some things that he needs to make sure we are not going to be in conflict with the state codes and he will work on revising them. He asked in general if the board is comfortable with the direction they are going in with making some attempts to make these numbers work for more residents.

Mr. Henry asked on the density bonus if the intention is if its connected to both water and sewer it's a 50% reduction.

Mr. Pimental said yes and its 25% for each.

Mr. Henry said it says "to which a residence is connected" and a duplex has 2 residences and he didn't think that's the intention here.

Mr. Pimental said his reading of it is it's the utility so it's if they have both water and sewer to the building.

Mr. Henry said it doesn't say "building" it says "residence".

Mr. Pimental said residence as defined is a duplex, a multi-family or a single family.

Mr. Henry said if they have that definition then they are fine because he would consider a duplex 2 residences.

Any Other Business Before the Board:

Professional Engineering Services RFQ- Mr. Pimental said the board asked him to start drafting a Request for Qualifications for professional engineering services and the board received copies of it in their packets today and asked the board to read through it. He said he concentrated on looking for a firm that could look at certain things in the land use regulations like traffic impact studies, storm water management, drainage, landscaping plans, architectural guidelines and design specs for new roads and any other engineering items that he or the staff can't review. He said he added a firm that has experience with performing inspections of excavation sites to determine if the operations are in conformance with the earth removal regulations. He gave the example of the Yacoub site that is going to need yearly inspections and right now we don't have anybody who can do that. We're hopeful the person we hire or put on retainer will handle those types of issues which will help to streamline the process because we won't have to try to find somebody every time these issues come up and the recommendation from the board is for a third party review he said.

He asked the board to provide him with some feedback on the draft at Sept. 7 meeting and their thoughts on if this makes sense. He said he based this off of several other RFQ's that he looked at for the state and he thought it was pretty comprehensive and seemed to have the

types of things they would be looking for from an engineering firm.

He asked Mr. King with his experience on the Board of Selectmen if this makes sense with how they have typically accepted bids before. He said it's going to have to run through the Town Administrator and asked if it makes sense to hold off on this until that position gets filled. He said he is comfortable with answering questions if engineering firms need clarification on they're looking for but the bids have to go to the Town Administrator and he has to be part of the interview process and ultimately selecting a firm. That just can't be me on my own and the Town Administrator needs to be involved with making those decisions he said.

He said he make the draft part of their packets again for the Sept. meeting because they didn't receive it electronically.

USDA World Development Grant- Mr. Pimental said he sat in on a webinar for this grant and he sent it to the Town Administrator to share it with the Selectmen. He said there is potential funding to help with community facilities and water and environmental programs. He said as he understands it the Town through its population and the median household income is eligible for their loan program and their grant program and can choose to do either of them.

He said the grants are 35% federal/65% local match up to \$50,000 and the bonds are much larger and the interest rates will lock in and could be a little bit lower. He said the challenge is going to be that they operate on a federal fiscal year which starts Oct. 1 and he is not sure when these become available. In this case Farmington is eligible for something that not all towns are because of its population and median household income and is in a better position than the cities and it might be worth exploring and taking advantage of it he said.

Invest NH Webinar- Mr. Pimental said he would highly encourage the Town to apply for the Housing Opportunity Planning (HOP) grants that are part of the Invest NH grant program. He said there are 3 categories: a needs analysis for \$25,000, a regulatory audit for \$50,000 and regulatory development where they would be creating regulations based on those other 2 factors. He said they could apply for all of that at once and the Town has already done some of the needs analysis as part of the Master Plan work.

He said they could concentrate on categories 2 and 3 and try to get creative and because we allow for mixed use development along Rt. 11 they could see if that corridor management plan could be done as part of this because you're talking about \$150,000 we could apply for. He said there is no match for this, applications are now open and the needs assessment is open until Jan. 2023, the regulatory audit is open until the end of June 2023 and the regulatory development is open through Nov. 2023 and all funds must be spent by Dec. 2024.

He said we are probably not going to see this amount of money coming from the state for planning and there is \$5 million available and this is part of the Gov.'s Housing Task Force. The money is there and I would encourage the Town to consider putting together an application for this. There's a bunch of stuff we would have to do and the UNH Cooperative Extension is involved, someone would have to participate in the Housing Academy and they are offering

stipends to volunteer participants. They want to ensure that if you apply and move forward with this that you're going to be able to get it through and implement the changes he said. He said this would provide money for an outside consultant to do a really broad look at everything and he would be happy to help with this. If there is leadership with a new TA maybe they'd willing to take some of this on once they get settled he said.

Mr. Pelkey said they're trying to give us money to help us develop housing and they need an application from the Town in order to move forward and there's no match. It sounds to me like it should be something we should explore he said.

Mr. Henry asked it's up to the Selectmen to direct Mr. Pimental to do that.

Mr. Pimental said he didn't think he should be applying for grants without the Selectmen at least acknowledging they are moving in that direction.

Mr. Pelkey asked Mr. King to take this back to the Selectmen for the Planning Board.

Mr. Pimental said he would send Mr. King the slides from the Invest NH webinar if he wanted spearhead this with the Selectmen.

Mr. King asked him to send him the information.

Members Comments:

Hay Day Reminder-Mr. Fisher said he wanted to remind everyone that Hay Day is on Sat. from 10 a.m. to 3 p.m. He said this is the first one we've had in a couple of years so let's get out and party and have a good time. He said the library is also doing their book sale during the event.

Mr. King said there will be a car show at the old fire station parking lot and a corn hole tournament.

Mr. Fisher said the fireworks display will take place Sat. night at 9:15 p.m.

Mr. King added that Gerry Vachon has volunteered to be in the dunk tank and that will be the big splash.

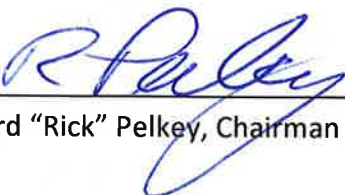
Mr. Fisher joked that will empty the tank.

Adjournment:

Motion: (Squires, second Henry) to adjourn the meeting passed 7-0 at 8:41 p.m.

Kathleen Magoon

Recording Secretary



Richard "Rick" Pelkey, Chairman