

Town of Farmington
Planning Board Meeting Minutes
Tuesday, February 16, 2021

Board Members Present:

Charlie King, Chairman
Rick Pelkey, Vice Chairman
Bill Fisher, Secretary
Gerry Vachon, Selectmen's Rep.
Stephen Henry
Ann Titus

Board Members Absent:

Bruce Bridges, excused
Jeremy Squires, excused

Others Present:

Kyle Pimental, Interim Planner
Augustus Rainone
Ryan Fowler, S & H Land Services, LLC
Chris Berry, Berry Surveying & Engineering

BUSINESS BEFORE THE BOARD:

Call to Order:

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

Pledge of Allegiance:

All present stood for the Pledge of Allegiance.

Review of Minutes:

January 19, 2021- No errors or omissions

Motion: (Titus, second Pelkey) to accept the minutes as written passed 6-0

December 1, 2020 – No errors or omissions

Motion: (Titus, second Pelkey) to accept the minutes as written passed 5-0-1 (Henry abstained).

January 5, 2021 – No errors or omissions

Motion: (Titus, second Pelkey) to accept the minutes as written passed 6-0.

Preliminary Conceptual Consultation:

Augustus Rainone told the board that a plumber expressed interest in becoming a tenant in the building he is constructing on Charles Street and he couldn't remember from the previous discussion if it was zoned commercial so it was allowed or if he had to come to another meeting to get permission to do that.

Mr. Pimental said the board received copies of the Notice of Decision from July when they approved this application for the demolition of the former convenience store/pizza shop and the construction of professional office space to operate the electric business. He asked if Mr. Rainone needed to come in for an amended site plan because it wasn't approved for a second business or if it could be handled internally.

He said the building footprint can handle that but he wanted the board's thoughts about whether there would be any changes to the parking due to the second use or anything else they

want to see on the plan or if they want the staff to work with the applicant to receive the information and review it.

Mr. King asked what he felt might trigger a site plan review and if it was the additional parking needed.

Mr. Pimental said yes because it wasn't approved for a secondary use.

Mr. King asked if he submitted enough information to figure out if there is adequate parking on the site as it was approved.

Mr. Pimental said he had adequate parking as it was approved for the number of employees and vehicles for the electrical business but they haven't done an analysis on how many employees there would be for the plumbing business and if additional parking is needed.

Mr. King said it looks like there would be 4 spaces in the back and 6-7 other spaces on the site.

Mr. Rainone said it was approved for 12 spaces but he wasn't sure if that includes the bays in the garage.

Mr. Henry counted the spaces shown on the plan and said there are 12 space without the bays.

Mr. Pelkey said the note on the drawing says a total of 12 spaces (11 regular with 2 in the garage and 1 handicapped space).

Mr. King said per the zoning the use with multiple tenants in the building would be permitted and the threshold would come down to the parking. He said depending on the number of vehicles the tenant has he was okay with this if it meets the requirement but if it doesn't he has to return to get a waiver or an amended site plan to add more parking. I don't know the answer because you haven't given that information to the Planner he said.

Mr. Rainone said he was making this first step to see how to handle it.

Mr. Pelkey asked if their requirements take into account the number of employees per business in order to determine what the parking requirements are.

Mr. King said it's not just the no. of employee vehicles but there also may be company vehicles.

Mr. Pelkey asked if the whole lot currently is paved and striped.

Mr. Rainone said some of the front lot was demoed to get the building in so he will have to re-do the front section.

Mr. Pelkey said he didn't want to put limitations on what he can do with the building but they have to see that it will be capable of dealing with the businesses that will be in there.

Mr. King said if he has adequate on-site parking to meet the needs of the additional business it doesn't need to come back to the board but if he doesn't then he's going to have to get an amended site plan review or ask for a waiver of that requirement and propose how they should consider that whether it's with the site or how the businesses are going to operate.

Mr. Rainone said he would get more information from the potential tenant.

Mr. King said they don't want there to be 9 people parking in the street and then it becomes a code enforcement issue so you have to work with what the conditions are.

Mr. Henry asked if the garage spaces would count as parking spaces.

Mr. Pimental said he would have to look at the regulations.

Mr. King said they are already part of the 12 spaces.

Mr. Pelkey said on the last page of the plan under the square that shows subject parcel it states that 11 spaces are required and he provided 11 regular spaces and 2 spaces in the garage with 1 handicapped space so he is 1 over the requirement right now.

Mr. Henry said the documents say you need 1 parking space for every 325 sq. ft. of building.

Mr. King said the parking requirements are dependent on the zone and may be based upon occupancy or sq. footage such as for a retail use where it is based on sq. ft. of the store or an industrial use which is based on the number of employees.

Mr. Pelkey said they'd have to go to the site plan review regulations to get the real number.

Mr. Henry asked where the requirement for 11 parking spaces was derived from and noted that Mr. Rainone doesn't have 11 employees.

Mr. Pimental said there are 5 employees, one space for the office space, three spaces for the company vehicles, one space for the proposed 10,000 sq. ft. warehouse and 1 extra space.

Mr. Henry asked if the warehouse exists.

Mr. Rainone said he nixed the idea and decided to focus on the main building. He said the left side of the building is 2 stories with an office space on each floor. The other contractor would use the office space on the 1st floor and the rear bump-out for storage he said.

Mr. Pimental clarified that for the office it says it one space is required per 325 sq. ft. and the proposed space was 650 sq. ft. so there is actually 2 spaces for the office and that's why it comes out to 11 spaces required not 10.

He said he is hearing from the board that so long as what was approved for the parking on the site can handle the additional use the board is okay with that being reviewed internally.

However if the new use is going to exceed the parking he is going to have to show where the additional parking would go or ask the board for a waiver which would then have to come back for an amended site plan he said.

Mr. King said it would have to be amended for the waiver for the additional parking that he doesn't have space for or a revise site plan with additional parking.

Mr. Pelkey said it's not just the parking and is also about the use remaining within the confines of the building and that the impact to neighborhood isn't going to change.

Mr. King said if the impact is more than what can be contained within his approval then it should go out to re-notice all of his abutters and address their concerns.

Mr. Henry asked if he would have to come back for a minor site plan review just for adding a couple of parking spaces if it's already flat out there.

Mr. King said this is what he is approved for and he is adding a business causing more impact needing additional parking. It would be different if his business needed additional parking 2 years down the road vs. adding businesses and more activity on the site causing other things the board may want to consider he said.

Mr. Pelkey said they are being as permissive as they can be as long as the 2 businesses can coexist within the approved site plan without any additional infrastructure requirements or impact to the neighborhood and anything other than that he'd like it to come back.

Mr. Pimental said they approved the layout for the parking and if that were to change that is not what they approved so we would want that to come back. He asked if that was a consensus from the board.

Consensus of the board was to have Mr. Rainone submit additional information in writing to the Planning Dept. and work with the staff to determine if the additional business will fit within the approved plan.

Any Other Business before the Board: None

PUBLIC HEARINGS

NEW CASES:

Public Hearing for consideration and possible vote on Minor Boundary Line Adjustment for Shirley Carlsen, Tax Map R-31, Lot 29: The applicant is proposing a lot line adjustment between Tax Map R-31, Lots 29 and 34 to correct an existing encroachment. The adjustment area would decrease Lot 29 from 137.4 acres to 136.9 acres and would increase Lot 34 from 96.3 acres to 96.8 acres. The proposed line adjustment is located within the Agricultural Residential (AR) Zoning District.

Ryan Fowler of S & H Land Services said he was representing the Carlsen family and the NH Custodial Trust in this matter. He said they are proposing a minor lot line adjustment to correct an existing encroachment onto the Carlsen property from the NH Custodial Trust property. He said the adjustment was about 20,000 sq. ft. and is minor at 75' by 275' located at the back corner of the parcel. There is an encroaching pump house and a monitoring well the trust put in on the abutting property without the owner's knowledge and he was here to correct it he said. Mr. Pelkey asked where the property is located.

Mr. Fowler said it is located at 63 Meetinghouse Hill Road and the NH Custodial Trust now owns the abutting former Davidson Rubber site and the properties are bounded by Pound Road and Davidson Drive/Route 11.

Mr. King asked how old the encroachment is.

Mr. Fowler said they weren't sure and what triggered this is the Carlsen property is looking to enter into a conservation easement through the Southeast Land Trust (SELT) and as part of that they were hired to survey the property and they disclosed that there were some encroachments on the site. He said that supposedly there was some survey work done on the Davidson Rubber site but apparently they didn't locate boundary lines in the area and were doing an existing conditions review.

Mr. King asked if this parcel bounds the Davidson property.

Mr. Fowler said yes and the Town owns some land there and there is a nearby pump house with some type of tank underneath it and a drilled well.

Mr. Fisher said Davidson Rubber jumped the boundary line and put in an underground storage tank.

Mr. King said that was part of the Town water system. He asked if the encroachment was by Davidson Rubber at the time.

Mr. Fowler said yes and they were working with the custodial trustees out of NJ.

Mr. King asked if the encroachment would now go with the Davidson property.

Mr. Fowler said they are proposing to adjust the property line around the encroachment and merge it with the Davidson property to fix the encroachment.

Mr. King asked if they have permission from the custodial trust to do that.

Mr. Fowler said yes and they have been working with Trustee Edward Moran.

Mr. King asked if they have this in writing between the two owners of the properties.

Mr. Pimental said they do not receive the permission in writing as part of the application but the documentation of the conveyance of the land would be part of the deed that would be registered as part of the adjustment.

Mr. Fowler said he has signed authorization for them present this to the board.

Mr. Fisher asked if there is any mortgage on the Carlsen property.

Mr. Fowler said no.

Mr. Fisher asked if NH Custodial Trust is going to purchase the land from the Carlsen's or if they were giving the land to the trust.

Mr. Fowler said the trust is paying the fees for the survey work, the application process and negotiated a deal with the attorneys involved. He said the Clyde Farm is renting the Carlsen property and plans to purchase it once this issue is resolved and it goes into an easement.

Motion: (King, second Henry) to accept the application as substantially complete;

Discussion: Mr. King said the only issue he has with this which could be a condition of approval is having written statements from both landowners that they want this to happen. He said the Davidson property is in a trust under the charge of the state and it is a Superfund site so they need to be sure they consent to this.

Mr. Pimental said he would look into this and typically the requirement to provide mortgage information is done for mergers and not for lot line adjustments. He said the lot line adjustment is not creating any new lot.

Mr. King said with a mortgage the property is an asset that is borrowed against so you can't change that asset without permission of the bank.

Mr. Pelkey said he had the same concerns because they are conveying a piece of property to someone else that has a monitoring well and a pump house that may have some liability that comes with it to somebody else. I would like to know that that somebody else is okay with taking that he said.

Mr. King said the other problem with this is that is part of the current Farmington water system so that is a storage tank which provides a pressure head on the system and the Town maintains that tank and makes sure it's in working order.

Mr. Pelkey asked if there is also an easement that goes to the Town that goes with this piece.

Mr. Henry asked if the pump house is for a monitoring well or a water supply pump house.

Mr. Vachon said it is both.

Mr. Fisher said the pump house is in the upper left corner and they don't use water from there anymore because Davidson Rubber contaminated the groundwater there. He said it is used for a pressure source on the pipe for the Town's water system but the water doesn't enter into it.

Mr. King asked if the tank is in that area.

Mr. Fowler said the tank is in the cleared area on the plan and is on the Carlsen property.

Mr. King said there is not a well there it's just a storage tank.

Mr. Vachon said it is correct that there is no active well there because that well is contaminated so it was decommissioned with a monitoring well because of the groundwater.

Mr. Henry said there are no Town assets on the piece being adjusted.

Mr. King asked if the monitoring well is currently being tested by the Town.

Mr. Vachon said he didn't believe so and that it is done through the Superfund program.

Mr. Fowler pointed out the back well on the map and noted there is a trail to the well that is not overgrown and they are not sure when that was put in.

Mr. Fisher said the former rubber plant site is up for sale so someone may have gone in there to conduct testing.

Mr. Pimental asked when they make the written consent from the trust to take the piece of land as a condition of approval if it could be the conveyance transfer deed that has to be registered at the Registry of Deeds or if there is something else they are specifically looking for. He said in his memo to the board he provided some information about lot line adjustments that comes from state law and the NH Planning Board Guidebook and read aloud from the memo as follows: "the Planning Board approval of a lot line adjustment is limited to the review of the configuration of proposed new lots and lines to determine whether they are in conformance with subdivision regulations and any local zoning ordinance and acts as any other subdivision approval. It is recognition that the new lot line constitutes a use of the land that is consistent with local land use regulations and the overall land use plan of the municipality. The approval of the Planning Board does not create the new line. Lines dividing parcels of land do not move or disappear without a conveyance or a merger. In the case of a lot line adjustment we typically see a lot line move to create more favorable dimensions for one or both lots. To complete this move a conveyance must occur. The owners of the respective lots must transfer by deed parts of their respective parcels to each other (in some situations only one transfers to the other). The documents reflecting the conveyance should then be recorded in the Registry of Deeds along with the plan approved by the Planning Board. This portion of the lot line adjustment

process is a private matter and the Planning Board need not be involved in the negotiation of the location of the line, the cost of the transaction, or other private terms of agreement". He asked if the conveyance part of the deed that is going to go with the plan signed off on by the board is enough for what the board is looking for.

Mr. King asked if they approve the revision to the plan if they can make it contingent upon that conveyance so that if it is never conveyed then this plan would be void.

Mr. Pimental said they can make the conveyance part of what they have to submit to the registry and without that in hand the Chair won't sign the plan to be registered. He said if the board wants to make that a condition of approval for the plan they can get that from the applicant or their representatives and that will go with the signed plan.

Mr. King opened the hearing to public comments/questions at 6:37 p.m.

Motion: (King, second Titus) to approve the lot line adjustment between Tax Map R-31, Lot 29 and Lot 34 with the condition that they provide to the Town the conveyance of the two parcels by the two property owners;

Discussion: Mr. Pimental recommended that a note be added to the **Notice of Decision** stating that *"This approval in and of itself does not effectuate a change in lot line locations. Such approval merely constitutes recognition by the municipality that the lot configurations as proposed are in conformance with local land use regulations or otherwise accepted with non-conformances"*.

He said that language has come from other lot line adjustments to ensure that the applicant knows that board is only approving the adjustment of the line and this does not create a new lot.

Friendly Amendment: by Mr. Pelkey - that the language suggested by Mr. Pimental be added to the NOD.

Mr. King and Mrs. Titus accepted the amendment to the motion.

Mr. Henry asked if there is no Town easement across that land to get to the Town well.

Mr. King said no and that the access to it is from Pound Road.

Chairman King closed the public hearing at 6:39 p.m.

Vote: The motion passed 6-0.

Mr. Pimental said according to RSA 676:4 II (a) (c) minor lot line adjustments or any boundary agreement which does not create any buildable lots does not require a public hearing prior to approval unless the subdivision regulations say otherwise locally. He said section 7: A (2) of the Town's subdivision regulations states that changes in lot line locations require subdivision application or a boundary line adjustment application and approval in the same manner as ordinary subdivisions as defined in these regulations.

Mr. Pelkey said he is saying they need to change the regulations to create an exception saying if it doesn't create a buildable lot it doesn't need to do that.

Mr. Pimental said later in the subdivision regulations it states the Planning Board may allow for

an expedited review of applications for lot line adjustments or minor subdivisions as defined in these regulations. He said because where they were in terms of the timing it didn't make sense for this application for him to ask the board if this makes sense for an expedited review and then go back to the applicant. It would have been faster for him to just come here he said.

Mr. King asked what mechanism would be used for an expedited review regarding a lot line adjustment as they don't have a process for it.

Mr. Pimental said they don't have a process and it seems it was intended to allow for something a little bit quicker and if the board doesn't want to see minor lot line revisions they need to rewrite this or to strike section 7: H (1) that says the Planning Board would allow for expedited review because there's no process for it right now.

Mr. King recalled another requirement regarding the sq. footage of a lot line adjustment and there is wording somewhere regarding it being over a certain size.

Mr. Pimental said by RSA if it doesn't create a buildable lot then the municipality doesn't have to have a public hearing. He suggested they could put this on the list of things to look at.

Mr. Henry asked these regulations are the board's and doesn't have to go to a ballot vote.

Mr. Pimental said that is correct and all they have to do is hold a public hearing on it.

Mr. King said a lot line adjustment could turn a 150 acre parcel into 3 acres and could be for multiple parcels with multiple owners. There are a lot of scenarios the board may want to see he said.

Mr. Henry said this says it allows for expedited review and in the 150 acre scenario the staff would probably deny the expedited review and send it to the board but there's no guarantee.

Mr. King said there is no process to even consider it. He said it has been in the regulations since about 2000 but its use was never developed and we define the process.

Public Hearing for consideration and possible vote on Minor Subdivision for Pike Industries,

Tax Map R-20, Lot 8: The applicant is proposing to utilize the frontage density bonus to subdivide the property into two (2) lots. The parcel is located within the Commercial Business Zoning District. (383 Route 11)

Christopher Berry told the board that he was representing Pike Industries and pointed out the location of the parcel off of Rte. 11, the existing building and the 140 acres of open area behind the building which has been mined over the years and has a small batch plant. There is a roadway to the rear of the site with a bridge over the Cocheco River he said.

He said the parcel abuts the location of the approved future solar farm site off of Cocheco Road and that Pike has an easement over the Town land out to Cocheco Road.

Mr. Berry said they propose to subdivide off the front section utilizing the frontage density bonus that allows you to reduce the street frontage from 275 ft. down to 150 ft. so you can gain access to other buildable industrial lots. He said they propose to come out 150' and angle back to one of the landscape islands and then draw a straight line back to just off one of the headwalls of the bridge which would remain with the remaining land. He said they propose a

4.5 acre lot around the existing building and paved surfaces which would be sold and Pike would keep the remaining approx. 135 acres at the rear of the site.

He said they conducted a survey of the front portion of the site and pointed out the location of the flood zone near the Cocheco River and itemized the cross sections in the area and depicted the flood zone and noted it's located in the shoreline protection zone but they are not proposing any revisions or construction. We are showing all the existing structures and paved areas so the board can see the proposed the lot line in relation to those areas as well he said. He said because they are creating a new lot they also depicted the site of the proposed well and leaching area on the rear site.

Mr. Berry said the regulations require them to provide an access easement and one caveat to the frontage density bonus is they can't add any additional curb cuts and they have to use the existing curb cuts and there is a curb cut on site that is perfect for any use given the history of the site. They provided an access easement over the roadway so the proposed 4.5 acre lot gains it access from that location also and the remaining area keeps it access in that area.

Mr. Berry turned to Mr. Pimental's comments on the potential for a Dept. of Transportation permit and they agree a DOT permit would be needed when another user comes into the vacant building. He said they discussed a threshold for a change of use or a site plan review that would trigger a DOT permit and he did not think a DOT permit is required for this purpose. He said they will need a NH Dept. of Environmental Services Subsurface Permit because they are creating a lot less than 5 acres in size.

He added that there is a utility line that comes across the river to the new site and an easement would have to be maintained for that as well.

Mr. Berry said Mr. Pimental commented the site is located in the Shoreline Protection Zone and in the local overlay district and reiterated that they are not proposing any changes to the site or any new buildings/structures or impervious surfaces.

He said Mr. Pimental suggested that the board discuss the existing structures within the current setbacks and he noted they have existed since well before the ordinance and they are not proposing to remove them as part of this application.

Mr. Berry said they have several waiver requests and they all revolve around not wanting to conduct an intensive survey for the remaining property and relate to providing information on topographical features, natural features, wetlands, etc. He said if necessary they could provide geo-reference data but he didn't think it prudent for a project of this size.

He said they did provide the topographical features for the area on the other side of the river to show there's ample buildable area there because technically they are creating an additional lot.

Motion: (King, second Titus) to accept the application as substantially complete passed 6-0.

Chairman King opened the public hearing at 6:55 p.m.

He asked if the density bonus is permitted by right or by a waiver.

Mr. Pimental said it is in the zoning ordinance as part of the standards and read aloud from

Section 2.07 (D) that states the Commercial Business District has a street frontage bonus where abutting lots make provisions for a single shared driveway access to a class I or II highway that meets the approval of the Planning Board, the Planning Board may approve a reduction in street frontage from 275' to 150'. He said this is up to the discretion of the board on whether to grant the density bonus. He said the applicant would not be able to do this without the density bonus as they don't have the minimum 275' of street frontage otherwise required.

Mr. King said the intent was to allow increased development without additional curb cuts.

Mr. Pimental said both Commercial and Industrial Districts have street frontage bonuses and go from 275' to 150'.

Mr. Pelkey asked if a specific motion was needed for this or if it's part of the subdivision approval.

Mr. King said it would be part of the subdivision approval.

Mr. Pimental said that on Sheet 1 of the plan, Note #5 says the Planning Board may approve a reduction and if approved the NOD should say the Farmington Planning Board approved the subdivision utilizing the street frontage density bonus to allow a reduction from 275 ft. to 150 ft. with a single shared driveway on a class I or class II highway following a Public Hearing held on February 16, 2021.

Mr. Henry asked how much frontage would be left and his concern was being able to access the back lot with something more than a driveway in the future.

Mr. Berry said the 4.5 acre lot being created would have 255 ft. of frontage and the remaining lot would have 155 ft. of frontage.

Mr. King asked for the width of the access driveway.

Mr. Berry said it is approx. 30 ft. wide at the entrance and then "necks down" at the bridge.

Mr. Henry asked which lot the existing driveway will go with.

Mr. Berry said it will service both lots and exists completely on the rear lot.

Mr. King asked if there would be an agreement for that between the 2 parcels.

Mr. Berry said Pike is working on a shared access agreement between the 2 parcels for maintenance purposes and for right of passage.

Mr. King asked if there is any area outside that needs to be maintained as part of the infrastructure or if the access is totally on the left side parcel.

Mr. Berry said the access is totally on the one parcel including the ditching.

Mr. King said there wouldn't be a need for a maintenance agreement on the new parcel owner.

Mr. Berry said that is correct and the agreement would be for costs such as plowing or paving in the future. He said they were also careful to make sure the access is outside the head wall of the bridge so it doesn't inadvertently end up with the new lot and so there is enough room to get around it.

Mr. Henry asked if there is enough land there to build a road acceptable to Town standards.

Mr. King said it probably already is and based on the vehicles that have gone in and out of there

over the years and the materials there it is probably better quality than most of our roads.

Mr. Pelkey said the new lot has a bunch of provisions that came with the site plan review that approved the business that was there to begin with and asked if all of that remains in force once it is subdivided off of the original lot.

Mr. King said that's if there is site plan and depending on the age of original lot it may never have come before a board for site plan review.

Mr. Berry said their office has the records back to 1986 and they don't have site plans or applications prior to that date. He noted that any business that wants to come to the new lot will have to come before the board.

Mr. Pimental said depending on the use the owners of the new parcel will have to get an amended DOT driveway permit and an amended site plan review.

Mr. Fisher said the first waiver requested is relief from Section 8: H (17) of the Subdivision Regulations requiring water courses, ponds, standing water, rock ledges, stone walls, existing and proposed foliage lines, open space to be preserved and any other man-made or natural features and asked why this waiver is needed if they aren't doing any maintenance and are just splitting up the property.

Mr. King said the requirement is all of that is to be noted on the plan for the entire acreage and they delineated all of these items just for the new parcel.

Mr. Pimental said when they get to the conditions of approval they should discuss the DOT permit; the NH DES subsurface permit; the shared access easement language; the structures within the FEMA flood zone, the water protection overlay district and the 100' wetlands setback.

Mr. King asked what the structures consist of.

Mr. Pimental said there is a metal storage facility that can be seen from the road and he thought it may be worthwhile to ask if they would be willing to take it out of the setback.

Mr. Berry said the building was used for dry storage and Pike intends to continue using it as part of the batch plant operations.

Mr. Henry said there is a scale house out there too and asked what the principle structure would be for the remaining lot when the new lot is subdivided off.

Mr. King said the batch plant would be the principle structure.

Mr. Pelkey asked what will happen with the gas storage on the new lot.

Mr. Berry said nothing would happen with it right now and if it's not going to be utilized by the next tenant it would be removed. He then said one of the tanks is used for the loader and they would probably have to lease their right to use that tank from the new owner.

Mr. Pimental said regarding the street frontage so long as all the other subdivision requirements are met it meets the purpose of the district which is to provide areas for retail and commercial uses that serve the community from readily accessible locations and he would recommend that the board grant the street frontage bonus.

He said this is a very large site that has very limited access.

Mr. King said the second access to the property is by entering the Transfer Station and staying to the right and asked if they have a key to the gate at the Transfer Station.

Mr. Berry said they have an easement up through there which they are currently not using and that it skirts around the solar power site and is only 150' from the river.

Mr. Pimental said the Town may want to start thinking about the potential future uses for this site. He suggested getting a sense of if Pike has any long term reclamation plan for site and to consider a public/private partnership on what would be a good use for this land in the future.

Mr. Henry said a large portion of the 140 acres is zoned residential so there is a potential for a large residential subdivision back there.

Mr. Berry said cutting off the 4.5 acre parcel cuts off some access but it doesn't limit other future accesses.

Mr. King said further down the property there is no frontage but at any time they could acquire frontage by purchasing it.

Mr. Pimental said it is a challenging site because of the river and if you were trying to access it from Rt. 11 you'd have the river in the way. He said this doesn't have any impact on this subdivision and that it was something for the board to discuss about the long term use for the property and to say that there should not be any more subdivision of this property until there is improved access to it. He said the easement that Pike has is the same area that the Town put restrictive covenants on for the turtles' habitat and will have to be worked out with the Town.

Mr. Fisher said the same area has the diaphragm they put over the dump when they buried everything which was discussed with the solar power company on how much of the land can be disturbed. He said that access road is limited to what it is now and is never going to change.

Mr. Berry said they are not interested in limiting future subdivision of the land as part of this application and they have a 150' easement over the Town parcel and a deed that says they have access to it and it is something they probably need to work out with the Selectmen.

Mr. Pimental read that there is a Declaration of Conservation Restriction and Restrictive Covenants that was put together in Sept. 2019.

Mr. Berry said you can block someone's right of easement for a certain time period but you can't use adverse possession against somebody's right of easement. He said in regards to the covering on the landfill, the traffic on the landfill itself is restricted and not necessarily on the roads to and from the landfill.

Mr. Fisher said the roads to and from the landfill aren't on the deal and part of the easement goes across the top of landfill barrier because the solar field itself came under strict scrutiny by DES and was discussed at the time.

Chairman King asked if the board was comfortable with all 7 waivers are all for the same reason to not do a complete survey of the entire parcel.

Mr. Pimental said the board should discuss that a lot of these sections are a little redundant

and ask for the same information in two different places. He said Section 8 Submission Requirements and Section 9 Specific Plan Requirements are asking for the same thing so that's why they're getting so many waiver requests. He said these waiver requests all involve existing conditions and existing features that you don't need to see on the parent lot.

Motion: (Henry, second Fisher) to grant the waivers for Section 8:H (17); Section 8: H (18); Section 8:H (19); Section 9: B (4); Section 9: B (7); Section 9: B (8) and Section 9: F(1);

Discussion: Mr. King said he was in favor of granting the waivers because it would be consistent with how they have handled large parcels in the past and it doesn't violate the spirit and intent of the ordinance.

Mr. Pelkey agreed and added that they did provide that information for the parcel they are going to split off. He said there is no change in use so they're not going to affect the topography, impervious cover or any of the other things they would be concerned about if it was a new site.

Vote: The motion passed 6-0.

Motion: (Henry, second Pelkey) to take a 5 minute recess passed 5-1 (Titus-no) at 7:28 p.m. The meeting reconvened at 7:31 p.m.

Mr. Pimental said if the board is going to vote to approve the subdivision some conditions to consider are: that the applicant provide the proposed shared access and utility easement language; add and change Note #5 on Sheet 1 to state that the Farmington Planning Board approved the subdivision at the Public Hearing held on Feb. 16, 2021 reducing the street frontage from 275' to 150'; the NH DES subsurface approval is submitted; make a condition of occupancy of that building that the future occupant submit a DOT permit and to have improved access or show access before approving any other future subdivision of the parent lot.

Mr. King said the last time the board put a restriction on future subdivisions was in 2004-05.

Mr. Pelkey said if someone comes to subdivide the remaining lot they will deal with whatever the requirements are then.

Mr. King said how much access they need may depend on the proposed use or they could cease operations in there in 10 years, reclaim it and not need access to it.

Mr. Henry said he was in agreement that they don't make mention of this.

Mr. Pelkey asked about the DES Subsurface Permit.

Mr. King said it is for an approved septic design.

Mr. Pimental said because the lot is a certain size it is a requirement with the state.

Mr. Pelkey said they are not asking them to improve the lot for anybody right now and the board will have to deal with whatever it takes to make that happen when it is developed.

Mr. Pimental said the board doesn't need to require the septic system design but they need it for the state subdivision approval and it is in the Town regulations as well.

Mr. King said they would be required to meet the conditions of the state subdivision approval.

Motion: (King, second Henry) to grant the subdivision with the following conditions:

- 1). The applicant shall provide a copy of the proposed access and utility easement for the shared access to be reviewed and approved by Town Counsel;
- 2). The applicant shall provide the state subdivision approval;
- 3). Revise Sheet 1, Note #5 to state the Farmington Planning Board approved the subdivision utilizing the street frontage density bonus to allow the reduction from 275 feet to 150 feet for the single shared driveway on a Class I or II highway following a Public Hearing on Feb. 16, 2021

Discussion: Mr. King said he was opposed to putting in any requirements regarding a future subdivision or restrictions because they will deal with that at the next change of use whatever that may be.

Mr. Henry asked if Pike will lose their ability to use the building as they have in the past by doing the subdivision.

Mr. King said they can use it the way they are using it now or return to their previous level of activity after the subdivision.

Mr. Pelkey said as long as it's not a change of use.

Vote: The motion passed 6-0.

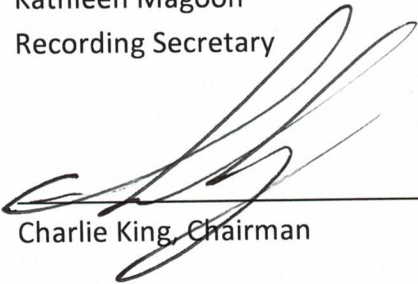
Adjournment:

Motion: (Titus, second Vachon) to adjourn the meeting passed 6-0 at 7:40 p.m.

Respectively submitted

Kathleen Magoon

Recording Secretary



Charlie King, Chairman