

**TOWN OF FARMINGTON
PLANNING BOARD
Tuesday, September 20, 2011
356 Main Street, Farmington, NH**

Board Members Present: Paul Parker, David Kestner, Glen Demers, Cindy Snowdon

Board Members Absent: Charlie Doke

Selectmen's Representative: Charlie King

Town Staff Present: Director of Planning and Community Development Kathy Menici and Department Secretary Bette Anne Gallagher

Public Present: Kyle Pimenthal, Cynthia Copeland, Dick Fraser, Ryan Crosbie, Robert Dietel, Randy Orvis, Dave Connelly, Neil Johnson, Ray Thibodeau, Cindy Arcidy, Norman Russell

At 6:02 pm Chairman Paul Parker called the meeting to order and all present stood for the Pledge of Allegiance.

BUSINESS BEFORE THE BOARD:

- **Review and approve Meeting Minutes of August 2, 2011, August 16, 2011 and September 6, 2011**

Charlie King motioned to approve the August 2, 2011 minutes as written; 2nd Glen Demers. Motion carried with four in favor and Dave Kestner abstaining.

David Kestner made two minor changes on page 5 of the August 16th minutes.

Charlie King motioned to approve the August 16, 2011 minutes as amended; 2nd David Kestner. Motion carried with four in favor and Cindy Snowdon abstaining.

Charlie King motioned to approve the September 6, 2011 minutes as written; 2nd David Kestner. Due to lack of a quorum of the Board members in attendance at that meeting, Charlie King withdrew his motion and the Board agreed to revisit approval of these minutes at the end of the meeting to allow additional time for Charlie Doke to arrive.

Charlie King motioned to table approval of the September 6, 2011 minutes until the end of the meeting; 2nd David Kestner. Motion carried.

- **Presentation by Kyle Pimenthal, Strafford Regional Planning Commission, regarding fluvial erosion study of the Cocheco River.**

Mr. Pimenthal provided a handout to Board members to accompany his Power Point presentation on fluvial erosion which he defined as the natural process of the wearing away of river beds and banks by the action of water. Erosion that occurs during storms or floods can accelerate the process and cause collapse of river banks and even relocation of a river channel causing destruction of infrastructure and buildings. The potential for damage increases with land development, undersized culverts and poorly maintained dams.

The damages from storms in 2005 and 2007 cost New Hampshire \$75.6 million. New Hampshire recognizes the vulnerability of the rivers and considers this program a high priority. Vermont is in the forefront having started their program in 2008 and is generous in sharing their information.

In 2011 the Cocheco River Watershed was studied. The Departments of Safety and Environmental Services partnered with the Cocheco River Local Advisory Committee and the Cocheco River Watershed Coalition to conduct the study and part of this includes major tributaries. Other rivers throughout the state are also being studied.

The fluvial geomorphic assessment involves field work in taking measurements, determining sediment capacity, flow volume and evaluating vegetative growth. SRPC is also assessing culverts and tributaries. The information is compiled into a 12-page report used to determine sensitivity zones for potential erosion and which can be delineated on maps showing fluvial erosion hazard zones.

All information will be made available to towns as a tool in developing a Watershed Management Plan to protect infrastructure, personal property, public health and safety. There are some grant funds available to towns.

As a result of Hurricane Irene, Vermont has approximately \$500,000,000 in damages with a projection of a five to ten year recovery period. New Hampshire sustained approximately \$10,000,000 in damages.

The purpose of these studies is guidance in identifying where the potential for disaster is located and helping to limit costs and risks. Towns can develop ordinances, evaluate culverts and monitor timber cutting.

Planner Menici commented that as important as this information is to the towns, the information must also flow up to state government for issues such as timber cutting and wetlands. Executive Director Copeland suggested that another presentation with an expert in this field SRPC can recommend and someone from the Wetlands Bureau could be beneficial.

Chairman Parker suggested anyone interested in further information should contact Planner Menici. The Chairman thanked Cynthia Copeland and Kyle Pimenthal for an excellent and informative presentation.

Motion made and seconded to continue the remaining items under Board Business to the end of the meeting. Motion carried.

Planner Menici asked the Board to hold the discussion on Richard's Way at this point and not to wait until after the public hearings because the developer and the contractor were present. The Board members had not been aware of their attendance and motioned to bring back the discussion on Richard's Way.

- **Continued discussion of Richard's Way update.**

CAC International LLC – Richard's Way

At the September 6th meeting it was discussed that Phase I had not been completed by the September 1st deadline granted in February. There was however active and substantial development and it was not the Board's intention to revoke the subdivision approval or likely that the Board of Selectmen would take enforcement action.

There was a brief discussion acknowledging the challenging weather conditions, the small size of the contractor's crew and the quality of work performed. The developer said videography of foundations has been completed on 15 of 18 homes but the remaining 3 owners have been unresponsive despite several notifications. It was agreed that if blasting is necessary one more attempt will be made to contact the homeowners. However, Charlie King pointed out that there was no requirement for notification but the developer was offering an opportunity to the homeowners.

The contractor had anticipated a completion date of September 21st, but Hurricane Irene and the tropical storm had already disrupted their schedule. At this point since most of the drainage was in and progress would be quicker, the contractor anticipated completion in about 2 ½ weeks.

Charlie King said that due to the Planning Board's February decision the Board should make a statement for the record and proposed the following motion:

Charlie King motioned to have the contractor continue work on Richard's Way and reconvene on November 15th regarding completion of Phase I; 2nd Cindy Snowdon. Motion carried with all in favor.

PUBLIC HEARING

CONTINUED CASES:

Application for Major Site Plan Approval by: David J. Haycock (Tax Map R-47, Lot 5) for property located at 96 Bunker Street to allow the operation of a logging company as a home business. The proposal includes locating storage trailers on the property, construction of a pole barn, and on-site equipment and vehicle storage. The parcel is located in the Urban Residential (UR) Zoning District. Continued from August 16, 2011.

Randy Orvis as the agent for Mr. Haycock said the plans show the deletion of the loop road as requested. Truck parking is in the same place with a turnaround instead of the loop. They are proposing to retain the culvert dating from when the area was a trailer park as part of the

drainage calculations. Both culverts allow an area in the wetland to pond and slow the flow of water into Dame Brook. Mr. Orvis said he was not able to obtain the weight of all the vehicles on the inventory he had submitted.

Discussion turned to Scott Hazelton's (Director of Public Works) concerns and recommendations expressed in his email to the Planner.

Mr. Hazelton stated that four of the seven vehicles on the inventory exceed the 8-ton loan limit that is posted on the Town's roadways each spring and Mr. Haycock will have to conform to these road bans.

Considerable discussion took place regarding concerns that the turning radii of the larger vehicles could exceed the existing turning radii of the Town's intersections along the proposed truck route. Mr. Hazelton recommended that the applicant submit a plan showing the turning radii of each of these vehicles with respect to the turning radii of each of the intersections confirming that the vehicles are capable of completing all turns without causing damage to the Town's right of way or private property and confirming that opposing traffic patterns will not be adversely impacted. Concern was voiced over how parked vehicles could affect turning and whether subcontractors would be bringing trucks to the property. Mr. Orvis said subcontractors will only be bringing pick ups to the property.

Planner Menici said that the pole barn used for maintenance has a gravel floor rather than concrete Mr. Haycock committed to. There is a concrete slab next to the barn but the barn floor must also be concrete. Also, the plan does not depict an area for the 55 gallon drum of diesel fuel and what containment measures are proposed. Mr. Orvis said based upon the prior agreement the concrete pad will be installed.

Chairman Parker asked the Board for additional comments. David Kestner spoke about drainage from the proposed parking areas. Mr. Orvis said nothing was proposed because the parking area is gravel and drains well. In his opinion swales would direct water into the wetlands instead of allowing natural drainage. Board members felt strongly that drainage should be reviewed and the Planner suggested having the Town engineer do a limited review for opinion and suggestions.

Mr. Orvis said some re-grading will be done. Charlie King addressed the steep roadside banking stating that on the west side the pitch will direct flow toward Class III wetlands.

Prior to sending the plans to the Town engineer for review, the Board requested revised plans showing the location of the 55 gallon diesel fuel drum and containment area as well as the concrete floor in the barn and the turning radii of the intersections and the vehicles. This would make the review cost effective. Additionally, the radii information is vital before the applicant can meet with the Police Chief and Public Works Director.

The hearing was opened to the public for comment.

Norm Russell spoke about the maneuverability of these large vehicles in a congested neighborhood stating that the applicant does reasonably well and that even Town fire trucks and

public works vehicles could have trouble. He stated that large trucks often are in the opposing right of way when turning due to conditions. He said he would like to emphasize that the Planning Board should put in place conditions to ensure harmonious development. He said although the ZBA granted approval and felt the business would work his concerns remain the same as he addressed in the letter he previously submitted. Mr. Russell said the truck traffic is slow now due to the economy but the increased volume of traffic that an improved economy would bring must be addressed now.

The right of way was discussed. Planner Menici said there is a difference between the right of way and the travel way – right of way is a defined area and travel way can cut into private property. Cindy Snowdon stated that the Board must be careful with wording to make sure they do not give permission to use private property.

Mr. Russell said he is sensitive to big vehicles stating that it is difficult if not impossible to negotiate in a residential area without occupying the opposing right of way. He emphasized how serious this use is and that even though the ZBA approved the use, the Planning Board can make it tolerable through conditions that keep impact to a minimum. Mr. Russell commended the Planning Board for their work saying theirs is a tough job.

David Kestner asked Dave Connelly of the Conservation Commission about their review. Mr. Connelly said at this time they had no concerns, but the Commission had not yet seen the plans and if the Planning Board requested, they could certainly review them.

Charlie King motioned to request peer review from the Town engineer of drainage for containment control of flow into the wetlands from the upper and lower parking areas; 2nd David Kestner.

Chairman Parker asked whether the location of the 55 gallon drum should also be reviewed but the Planner said once the containment area is shown on the plans the Board can review it.

Motion carried with all in favor.

Based upon discussions, the Board decided that the applicant should meet with the Police Chief and Public Works Director to discuss the turning radii of both vehicles and intersections. Mr. Orvis said the information would be provided.

Charlie King motioned that the applicant would meet with both the Police Chief and the Public Works Director to resolve concerns regarding turning radii, propose a revised route, if necessary, and address bonding concerns. Recommendations are to come from the Public Works Director. 2nd Cindy Snowdon. Motion carried with all in favor.

Charlie King motioned to continue the Haycock application to November 15, 2001; 2nd David Kestner. Motion carried with all in favor.

At 8:15 pm Charlie King motion for a five minute recess; 2nd Cindy Snowdon. Motion carried with all in favor. At 8:24 the Board reconvened.

Application for Excavation Permit by: Pike Industries, Applicant, and Thomas and Michelle Huckins, Owners, (Tax Map R15, Lot 14) for property located off NH Route 11. The parcel is located in Rural Residential (RR) Zoning District. Continued from August 16, 2011.

Dick Fraser said based upon the Board's recommendation he met with the Planner on August 24th to review the Bradsher plan set and discuss the items to be changed. Those items included:

1. Spot elevations within the five foot contour lines
2. More spot elevations as requested by David Kestner
3. Test pits on Huckins and results in application booklet
4. Reserve summary on each
5. Berm on lower end of Paulson
6. Profiles on quarry and sand/gravel sites
7. Belmont corrected to Farmington
8. Renewal references on application deleted

All changes were sent to Planner Menici on September 1st for review.

Planner Menici said that for the Huckins application, all the information requirements had been addressed and she had no further concerns. This parcel was accessed through Pike owned property on Route 11.

Charlie King asked for clarification on the test pit information submitted by the applicant questioning the estimated height of the seasonal high water table (SHWT). Dick Fraser said it was at 238 feet. Mr. King said based upon that figure the adjacent area needs to come back up. It was agreed that fill would be needed to bring up the elevation.

Charlie King motioned to accept the application as complete; 2nd Glen Demers. Motion carried with all in favor.

Paul Parker questioned why the original application submitted for informational purposes did not have a date. The Planner said that was what she had found in the file but to the best of her knowledge the first application submitted on the site was in 2002 and 2005 for the Paulson Road site.

The Planner said the applicant was seeking a seven to ten year permit on this site with approximately 160,000 cubic yards of total material to be removed. If a ten year permit is granted, it could be subject to annual inspections by the CEO for general compliance with the plans. She stated that although the Board's enforcement ability is limited on grandfathered sites, there is more latitude here.

The plan did not depict a schedule of what the applicant proposed to excavate and the Planner asked how much they would be removing and from which areas. Mr. Fraser answered that if this was a large area a schedule would have been submitted, but for this site it could be determined by the Board. The Planner said Pike was in a better position to determine this based upon their

knowledge of demand and the economic predictions for activity. Mr. Fraser said that would be on the Intent to Excavate and there were different demands for sand/bank run/materials for asphalt but is difficult to determine on a small site. The Planner reiterated that Pike is in a better position than the Planning Board to make that determination.

Planner Menici said that if a ten-year permit was granted, in addition to the CEO's annual compliance inspection, conditions would require a copy of the updated five-year plans and the same information submitted in the annual DRA report could be put into a more user friendly annual report to the Board. If there are still materials to be removed after ten years, the applicant could reapply. She said the site could be depleted in seven years or it could be twelve years and that is the reason for the annual compliance inspections. If the Board sees in the annual reports that the material is being removed quickly, the reclamation schedule could be moved ahead.

Paul Parker asked for a motion to extend the meeting.

Charlie King motioned to extend the meeting to 10:00 pm; 2nd David Kestner. Motion carried with all in favor.

The hearing was opened to the public.

Randy Orvis said he had reviewed the plans and had no comments on this application.

Charlie King said he agreed with a five year review for reclamation.

Planner Menici said she had discussed reclamation bonds with Town Counsel. Bonds have been posted on other excavations but there has been inconsistent follow up. Additionally, these bonds are under the control of the operator and once the excavation is completed the operator does not renew the bond. As a result there are sites that have not been reclaimed. Town Counsel recommends that the applicant be required to secure a letter of credit with calling features. At the time of expiration, the bank calls the Town to see if the Town wants to call the letter for non-compliance. If not, the letter remains in place and the Town must act to release. Town Counsel recommends that the Town should only be accepting this type of letter of credit and that it should be drawn on a New Hampshire bank.

The Board agreed with Town Counsel's recommendation. Ryan Crosbie said this was not a problem but clarified that the letter could be drawn on a bank doing business in New Hampshire. The Planner said that was acceptable. The amount will be determined by FST, the Town's review engineer and will be reviewed with Pike.

Charlie King motioned to approve the Excavation Permit with the following conditions:

- a. Ten (10) year permit***
- b. Code Enforcement Officer to perform annual inspections for compliance***
- c. Reclamation review in five (5) years for compliance and reclamation schedule***
- d. Line of Credit with self-calling features from a bank licensed to do business in New Hampshire with the amount to be determined by the Town engineer***
- e. Issuance of Alteration of Terrain Permit by NH DES with a copy to the Town prior to***

commencement of any work

- f. Annual report to show type of materials removed, volume and locations***
- g. All applicable federal, state and local permits to be obtained by the applicant***

2nd Cindy Snowdon. Motion carried with all in favor.

Application for Excavation Permit by Pike Industries (Tax Map R35 Lot 7) for property located on Paulson Road. The parcel is located in the Suburban Residential (SR) Zoning District. Continued from August 16, 2011.

Mr. Fraser said the concerns raised at the August 16th meeting were the same as the Huckins application with the additional request for a berm on the northwest corner. The changes are:

1. Spot elevations within the five foot contour lines
2. More spot elevations as requested by David Kestner
3. Test pits on Huckins and results in application booklet
4. Reserve summary on each
5. Berm on lower end of Paulson
6. Profiles on quarry and sand/gravel sites
7. Belmont corrected to Farmington
8. Renewal references on application deleted

The Planner said the information had been provided, but a signature was missing on the application and the wetlands scientist had not stamped the plans. Ryan Crosbie signed where required and Mr. Fraser provided the stamped plan for the Huckins parcel.

Chairman Parker read from the email submitted by Scott Hazelton, Director of Public Works, requesting that Pike be required to:

- submit a proposed traffic signage package for review and approval by the Public Works Dept;
- post a road maintenance bond to cover the cost of roadway maintenance that may be required due to damage to the roadway resulting from the excavation operations;
- submit a pre-gravel extraction video survey of existing conditions of the roadway, a copy of which to be submitted to the Planning Dept.
- take all necessary measures to prevent the discharge or tracking of silt, sediment or gravel onto the Town's roadway or onto adjoining properties; and
- take all necessary precautions to prevent migration of airborne sediment/dust from the gravel pit into the Town's rights-of-way or onto adjacent properties.

In his e-mail, Mr. Hazelton identifies his concerns regarding the proposed entrance/exit to the Paulson Road site and his recommendations to address those concerns. In summary, Mr. Hazelton refers to site distance to the northeast of the proposed driveway location as impaired both for vehicles approaching the site from the northeast and for trucks leaving the site.

He recommends that the proposed driveway is utilized as a one-way entrance only for vehicles and equipment entering the site. He further recommends that the abandoned driveway be re-

opened and used as an “exit only” driveway. Mr. Hazelton further recommends that all gravel trucks enter and leave the site from the Route 11 end of Paulson Road.

Cindy Snowden raised the issue of reclamation on other Pike properties. Planner Menici said that was also brought up by Marty Gilman but does not affect this application. She said that it would be a compliance issue that she will research and bring up later if necessary.

The Planner said there were environmental issues with impact on the wetlands. The minutes from 2005 were reviewed and contained a statement from Larry Major that they would avoid touching the wetlands. However at the September 6th site walk there was some indication of impact and the Planner asked Randy Orvis to share his observations.

Mr. Orvis said that there were newly formed wetlands in one spot. It appeared that an excavator had dug a channel about the width of a bucket, allowing water to flow away from the existing wetlands into the newly formed area. He said the wetlands are not perched and the water table is mounded underneath.

He said the existing wetlands did not appear to have been touched, but the channel must be filled back in with fill, seeded and perhaps a tree should be planted for stabilization. The original wetlands did not appear to be vernal now, but might have been without the trench.

Charlie King had questions concerning the test pits and the SHWT. Mr. Orvis said that water doesn't seek a level and that at the wetlands water is closer to the surface and further away it is deeper. The water table had been intercepted by the excavator and now there were new wetlands. Planner Menici reviewed the test pit data for the Board.

The Planner asked the Board if they wanted to incorporate the recommendations from the Director of Public Works. Ryan Crosbie asked to address the concerns.

- submit a proposed traffic signage package for review and approval by the Public Works Dept – **this is okay and Pike will discuss with Mr. Hazelton;**
- post a road maintenance bond to cover the cost of roadway maintenance that may be required due to damage to the roadway resulting from the excavation operations - **this is acceptable but will get guidance from Mr. Hazelton;**
- submit a pre-gravel extraction video survey of existing conditions of the roadway, a copy of which to be submitted to the Planning Dept – **acceptable to Pike;**
- take all necessary measures to prevent the discharge or tracking of silt, sediment or gravel onto the Town's roadway or onto adjoining properties – **acceptable to Pike;** and
- take all necessary precautions to prevent migration of airborne sediment/dust from the gravel pit into the Town's rights-of-way or onto adjacent properties – **acceptable to Pike.**

The recommendation for a separate entrance and exit was discussed. Mr. Crosbie said if the Board requires this Pike will do it, but there could be drainage issues and it may need a storm water permit. The Board emphasized that this is a safety issue. Mr. Crosbie said he will work with the Public Works Director to find an amenable solution. Planner Menici recommended Mr. Crosbie set up an appointment to meet with Scott Hazelton, Director of Public Works.

David Kestner was concerned that the existing berm had substantial growth that appeared to limit access. Mr. Fraser felt there was sufficient room for one way operation without impacting the wetlands.

Charlie King motioned to extend the meeting to 10:15 pm; 2nd Cindy Snowdon. Motion carried with all in favor.

Mr. Fraser asked if he could be provided with a list of the Board's requirements to work on.

The Chairman said that in addition to Pike's agreement to Scott Hazelton's points and their commitment to working with him, there were the following:

- restoring the cut in the wetlands;
- interior road layout (Mr. Frasier said a memo will be submitted to the Board with his plan);
- letter of credit;
- annual inspections

Chairman Parker said the conditions would be essentially the same as those for the Huckins site. Planner Menici said the draft minutes would be provided to Pike as a guideline.

David Kestner motioned to continue until October 18, 2011 the review of the Application for Excavation Permit by Pike Industries (Tax Map R35 Lot 7) for property located on Paulson Road; 2nd Cindy Snowdon. Motion carried with all in favor.

- Any other business to come before the Board.

Charlie King motioned to table approval of the September 6th minutes until the October 4th meeting, 2nd Glen Demers. Motion carried with all in favor.

At 10:10 pm Glen Demers motioned to adjourn; 2nd Cindy Snowdon. Motion carried with all in favor.

Respectfully Submitted,
Bette Anne Gallagher
Department Secretary

Chairman, Paul Parker