

**TOWN OF FARMINGTON  
PLANNING BOARD MEETING  
Tuesday, November 19, 2013  
356 Main Street, Farmington, NH**

**Board Members Present:** Paul Parker, Charles Doke, David Kestner, Glen Demers, Martin Laferte

**Selectmen's Representative:** Charlie King

**Board Members Absent/Excused:** Joshua Carlsen

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

**Public Present:** Dave Connelly, Randy Orvis, Barry Elliott, Jack Mettee, Ashlee Iber,  
Gary Shannon

**BUSINESS BEFORE THE BOARD:**

- **Pledge of Allegiance**

At 6:03 pm Chairman Parker called the meeting to order and all present stood for the Pledge of Allegiance.

- **Review and approve Meeting Minutes of November 5, 2013**

*Charlie King motioned to approve the minutes of November 5, 2013 as written; 2<sup>nd</sup> Martin Laferte. Motion carried with all in favor.*

- **Continued discussion of High Density Development Node**

*Paul Parker motioned to continue the discussion of the High Density Development Node to the end of the meeting; 2<sup>nd</sup> Charles Doke. Motion carried with all in favor.*

- **Any other business to come before the Board**

Planner Menici said it is the time of year to start thinking about any zoning ordinance amendments. She said that because the Board is working on TIF and high density she didn't want to bring in anything significant at this point. However, there were a few minor items to discuss.

On page 111 of the Zoning Ordinances in Section 4.04 Floodplain Protection Overlay District paragraph A states it was adopted September 1988, amended March 8, 1994, amended March 14, 2001. The Planner said there have actually been subsequent amendments that have not been added to the Zoning Ordinance and said she recommends that it read "adopted September 1988 and as amended". That way every amendment previously and in the future will be addressed by the change. She added that right now the Town cannot enforce amendments subsequent to 2001. This can be accomplished through a zoning ordinance amendment as a scrivener's error.

The members were polled and felt the change was reasonable.

Planner Menici said on page 45 in Section 3.03 Driveway Permits there are a couple of typographical errors and formatting errors. She was not sure if an amendment is needed to correct those and will check with Town Counsel to verify if she can simply correct them without formal action.

On page 68 paragraph 4 references the Farmington Housing Maintenance and Occupancy Code that was a stand alone document. Since the Code is now part of the Zoning Ordinances as Section 1.08, the Planner said paragraph 4 should probably be deleted. After a brief discussion it was recommended that since deleting the paragraph would require renumbering, the paragraph could be either reserved or reference could be made to Section 1.08.

The members were polled and all agreed to make reference to Section 1.08.

The Planner said there were no other changes except for the Zoning Ordinances for the proposed High Density Development Node.

*At 6:17 pm Charlie King motioned for a 10-minute recess until 6:30 pm; 2<sup>nd</sup> David Kestner. Motion carried with all in favor. Meeting reconvened at 6:29 pm.*

### **PUBLIC HEARING - 6:30 pm**

**Application for Minor Subdivision by: A. J. Camerons Sod Farm, Inc. through Geometres Blue Hills, LLC, Agent (Tax Map R50 Lot 45) for property located on River Road. The applicant proposes to subdivide the 15.75 acre existing parcel into two lots consisting of 3.58 acres and 12.17 acres. The parcel is located in the Agricultural Residential (AR) Zoning District.**

Chairman Parker recognized Randy Orvis as agent. He said Mr. Orvis would present the application first and then the Board would hear from Planner Menici for any issues and an explanation of the waivers requested.

Mr. Orvis said last March the Town voters approved a warrant article for the land swap of an area on Flagstone Avenue for an area on River Road. He said the first sheet in the packet shows all of the Camerons holdings and one of the things he discovered during this process is that the tax map delineations of the Camerons properties don't match the deeds. Basically the first sheet shows the parcel configurations and sheet 2 is a more detailed metes and bounds description of the Flagstone Avenue piece. Mr. Orvis said sheet 3 shows the metes and bounds of the River Road piece.

He said this application has been submitted as a subdivision rather than a lot line adjustment to make this become part of the abutting town piece because Fish and Game would have to agree to a lot line adjustment. The section within 100 feet of the Mad River is already protected and this will give the Town more control over the area along the river as it will be added to the two parcels currently Town owned. The parcel will not become part of the Fish and Game easement but will be public property. One benefit is that more fish will be stocked in that area of the river since stocking depends upon how much area is accessible by the public and another is that there will be additional protection through Town ownership of all three parcels.

Mr. Orvis said the 12.17 acre remainder piece would have no frontage and that is one of the issues. Another is that Tax Map 45 combined two parcels that Camerons owns separately without their knowledge or agreement. His opinion was that they should be treated as separate parcels.

The Chairman asked what difference having two separate parcels would make. Mr. Orvis said the difference is that if separate when the remainder piece is combined with the railroad bed parcel that piece would have frontage and would be less non-conforming than it now is. Some alternate suggestions were made as to how the frontage issue could be improved so as to meet Town requirements.

Mr. Orvis said that the parcel with the railroad bed was purchased by separate deed and should be treated as a pre-existing, non-conforming lot. However, that parcel has no tax number because it has been mistakenly combined with the other parcel. Since the owners are allowed by law to separate lots that were involuntarily merged these parcels should be considered separate.

Mr. Orvis said the warrant article approved last year was incomplete and that will need to be rectified. He said that at Town meeting in March he realized that there should have been an additional part and almost made a motion to amend the article but he wasn't sure if it was proper to do that at Town meeting. However, the Town does need to discontinue Flagstone Avenue. Mr. Orvis said he understood that another warrant article was necessary and when the Planner confirmed that a public hearing was required for that portion, he pointed out that the warrant article could not have been changed at Town meeting. Mr. King said only discontinuance of the road will be on the new warrant article not the whole transfer.

Mr. Orvis said he is of the belief that since the railroad bed is a separate parcel and should not have been combined with the other parcel the applicant conforms with the Zoning Ordinance in that this was a pre-existing, non-conforming parcel and now it will be larger and less non-conforming. He added that there are structures on the parcel. Planner Menici said one of the reasons there is a merger situation is that the buildings straddle separate parcels. She has asked Town Counsel for clarity on this issue.

Planner Menici said the proposed subdivision is the matter at issue and is all the Board should be focusing on because that is where their jurisdiction lies. As proposed, she said the subdivision does not comply with State statute. The Planner said she spoke with both Town Counsel and an attorney from the Municipal Association because the Town's assigned attorney is on maternity leave until January and her temporary replacement, although from the same firm, is experienced primarily in Maine law. Both attorneys, however, are in agreement that this subdivision does not comply with State law because RSA 674.41 requires road frontage in order to obtain a building permit.

The suggestion from the Municipal Association attorney was to add the following note to sheet 3:

*Lot (number) has no street frontage and is a non-buildable lot in accordance with RSA 674:41. No building permits will be issued for this parcel unless the applicant is able to obtain appropriate street frontage through purchase or merger. An easement is not sufficient for the purpose of issuing a building permit.*

This way if the parcel is sold separately in the future, a buyer would be on notice that a building permit cannot be obtained. The only way to obtain frontage would be to work with an abutter.

Planner Menici pointed out that a voluntary merger does not require any notice and if the Board wanted to continue this hearing to the end of the meeting, the applicant could complete the necessary paperwork, present it to the Board, the Board can act on it and once complete can reopen the hearing. However, although Barry Elliott said he had authority to sign on the owners' behalf, he did not have a copy of the document with him.

Planner Menici said the cleanest way is to merge the two lots and since the matter cannot be finalized until March no one will be held up if this gets continued until the next meeting.

The Board members, Planner Menici and Mr. Orvis discussed the best way to subdivide the property without creating a parcel having no road frontage and without having to go to the ZBA for a variance.

Mr. King suggested that the merger be a condition of approval and if not completed then the subdivision does not go through. Mr. Kestner said that the terminology recommended by Town Counsel cannot be included because there is an existing building. Although Mr. King said it was not a residential structure, the Planner said the restriction on a building permit applied to any structure.

Planner Menici said she understood Mr. Orvis's argument that merging the remainder lot with the railroad bed lot would make the lot less non-conforming and that the building would meet setbacks. However, Mr. King said it would make sense to combine other little lots to provide frontage and achieve conforming lots.

Mr. Orvis said he has had that discussion with the owners but the owners do not want to do that now. He said that this plan made them aware of where the buildings fall in comparison with the tax map lines.

Planner Menici said she felt the best way to proceed is a two-step process that would involve going forward with the plan as presented with the recommended note from Town Counsel.

Chairman Parker polled the members and the following comments were made by them as well as the Planner and Mr. Orvis:

- Address the lot merger first and then the subdivision. Town Counsel's recommended wording cannot be added because it would be a contradiction as there is an existing building across the parcels. The only way to resolve is to get the parent parcel frontage.
- If the merger is done first, a variance will be needed but doing the lot line adjustment first will make it less non-conforming and no variance will be necessary.
- Clean up the plan to make more conforming and then come back for the subdivision.
- Do the voluntary merger at the same time as the subdivision and consider both pieces together
- Go forward with the note on the plan as recommended by Town Counsel to get the subdivision done and then do the merger with the railroad bed parcel. Once merged the note can be taken off the plan.
- Do a lot line adjustment with the 22-acre parcel.

The members discussed with Mr. Orvis ways to achieve conforming lots without the necessity of a variance. Planner Menici said the existing building that straddles two lots is an issue. Mr. King said the suggested wording from Town Counsel is silent about structures already on the land.

The Chairman asked Planner Menici for direction.

The Planner asked Mr. Orvis and Mr. Elliott if they intended to record the plan prior to the road being discontinued. They were not sure and she asked if for some reason the warrant article to discontinue the road were to fail would they want the parcel subdivided. Mr. Elliott said they would not.

Planner Menici suggested that since the applicant has the time, the discussion should be continued to the next meeting and she would ask Town Counsel to consider the scenarios discussed tonight in order to determine which would be the best way to accomplish the subdivision and obtain frontage for the remainder parcel thus keeping the Town within the limits of State law. She added that she did not want down the road for someone to be able to say the subdivision was illegal and take the Town and the Camerons to court.

Chairman Parker agreed that there was no rush to complete this tonight. The Planner said the application could be continued to December 3<sup>rd</sup> and that would provide the necessary time to get a recommendation from Town Counsel.

Mr. King said it would give the applicant time to change the application as necessary. He said that the applicant could move lines as needed to create conforming lots and resolve some of the other issues at the same time. If the hearing is continued there is time to do that and consider Town Counsel's advice.

Mr. Elliott said that the applicant is between the second and third generations as a company and are deciding what comes next. They do not want to be forced into something not necessary and not what they want to do. Mr. King said the Board did not want to force anything but the changes suggested would be to the applicant's benefit.

The Chairman commented that the two week continuance will allow the Board to be more confident in their decision.

Planner Menici advised the applicant that a voluntary merger has no notice requirements but a lot line adjustment will require the same notice as the subdivision. She will speak to Town Counsel about all the issues.

All members were in agreement about continuing the hearing. Mr. Laferte commented that Camerons is a good corporate citizen of the Town but the Board's hands are tied by State requirements.

Chairman Parker told the abutter present for the hearing that he could not open the hearing to public comment until further into the process.

***Charlie King motioned to continue the Application for Minor Subdivision by A. J. Camerons Sod Farm, Inc. through Geometres Blue Hills, LLC, Agent, for Tax Map R50 Lot 45 to December 3, 2013; 2<sup>nd</sup> Martin Laferte. Motion carried with all in favor.***

***At 7:23 pm Charlie King motioned for a 5 minute recess until 7:30 pm; 2<sup>nd</sup> Martin Laferte. Motion carried with all in favor. Meeting reconvened at 7:32 pm.***

- **Continued discussion of High Density Development Node**

Ashlee Iber spoke first about the Survey results. She said that 227 surveys were completed and felt that was a good result. She said many of those were from the Transfer Station activity with the rest from Hay Day, the Library and the Town Offices.

Chairman Parker thanked everyone who participated in the survey.

Ms. Iber said most residents were in support of downtown revitalization with improvements such as trees, sidewalks, benches and repairing and/or replacing blighted or dilapidated buildings. When asked where they shopped, many residents responded they shopped in Farmington and Rochester with fewer supporting Seacoast or Lakes Region businesses.

The businesses residents would like to see on Route 11 include:

- Manufacturing
- Industrial
- Grocery store
- Restaurants but no more pizza restaurants

The businesses residents would like to see Downtown include:

- Bakery
- Cafe and restaurants

Ms. Iber said her report contained more specifics including percentages, age ranges, and the sex of participants. She said the highest age range percentage fell with the 41 to 55 age group and the lowest two were 18 to 25 and under 18. Most participants were homeowners not renters and male. Most (119) worked in another community and 31 were retired.

The general response was that residents would like to see the tax base increased with new businesses but wanted to keep the small town feel.

Also mentioned were recreational activities for the whole family and for teens through businesses such as a movie theater, bowling alley or mini golf and town organized activities through the Recreation Department.

Chairman Parker polled the members for comments:

Mr. Kestner said that 227 responses from about 6500 residents represented about 3 percent participation and based upon the suggestions for restaurants, cafe and bakery downtown not a lot of jobs would be created. However the suggestions for manufacturing, industrial and grocery on Route 11 will generate jobs.

Many of the results were generated from the Transfer Station and were from a group that was most likely homeowners rather than renters and largely male from the 41 to 55 age group. The community meetings and focus groups that have been held have been attended by mostly female residents who are homeowners.

Mr. Kestner said the issue of small town feel surprised him a little bit and Chairman Parker said people move to a small for a reason.

Mr. Doke said he appreciated the time people took to answer the survey. He said he was surprised about the interest in a restaurant or café downtown but then he thought about the Town in the 1970's. At that time the population was about 4,600 and there were several social gathering places. Political groups met there and there was no big government. The culture of the old Farmington was that residents would go downtown to the bakery or coffee shop, meet with friends and do some shopping.

Mr. Doke added that he was disappointed about the number of those who responded considering the number of voters but it was about the same as the Town meeting. He said that if there are people who want to see movement in Town then they need to get on the Boards. In order to keep the old feel and at the same time modernize residents have to give more to the Town then just spending money on Police, Fire and Public Works.

Charlie King said he agreed with Mr. Doke. The 227 responses represented the people working to make the Town better and was a reflection of the involvement at Town meeting and on the Boards. He commented that those that complain should participate.

Planner Menici said when she has attended workshops for grant programs one of the ideas discussed extensively about outreach is the need for extra effort to reach the rental population and asked what else can be done here to get better representation. She said that there are different groups among renters. There are those that move on when their lease is done, but there are a significant number of those renting who have been in Town awhile and will stay as renters either because they cannot purchase a home or prefer to rent. Her question was how they can be reached.

Ms. Iber said their outreach efforts have reached more owners than renters because the groups they have met with including Women's Club, Historical Society, Bingo are basically the same people and are homeowners. She asked for suggestions of other groups. The Planner asked if she had met with the 500 Club. Ms. Iber said she had been trying but was not getting a response to the email address or phone number she had been give. Mr. King said he had a phone number that he would provide to her.

Ms. Iber said that during the discussions at community meetings she has heard the mix of emotions between small town feel and the need for development. Residents would like to see the vacant storefronts occupied but not any new buildings downtown. New development should be on Route 11.

Chairman Parker said that the Town is unique in that with intelligent development we can encourage both new businesses on Route 11 while revitalizing downtown to maintain its New England character.

Mr. Mettee said the 2010 census would have the split between ownership and rental and although he did not have Farmington's exact figures it was usually a split of 70/30. Based upon that the response from renters was about 13 percent and that was not insignificant.

Ms. Iber was asked for her plans regarding continued outreach activities. She said she planned on involving the schools and the 500 Club although she had no luck so far through the Superintendent's office. She also would like to meet with the youth in Town and thought high school students might be appropriate. Ms. Iber asked for suggestions on additional groups to contact.

Chairman Parker made a request over the air that if there was anyone listening that was involved with the schools and wanted to be part of this process to contact Planner Menici so she could forward their information to Mr. Mettee and Ms. Iber.

Chairman Parker asked if the survey results would be available to the residents and Planner Menici said they could be posted on the website and a copy would be available in the Planning office for review.

Mr. Mettee said he would go through the Route 11 Business Nodal District draft piece by piece. As background information he said that this grant has a number of pieces: outreach, downtown in terms of tools for revitalization, 79-e area identification and then the Route 11 and Route 153 intersection.

The area consists of a couple of hundred acres. Nodal development would be encouraged at the Route 11 interchange through land use regulations and a TIF district. Mr. Mettee said the purpose was to identify the types of uses and architectural standards and to encourage business development in a way that was consistent with the vision of preserving a New England character and landscape. An overlay would be created to go over the industrial and business use that is already in place. If approved by Town vote in March, property owners and developers will be encouraged to use these regulations as guidelines.

Mr. Mettee read each of the eight sections in the draft with input from the Board members.

#### **Section 1 – Authority**

#### **Section 2 – Purpose**

#### **Section 3 – Applicability**

The area will be circumscribed as an area on the tax map and also defined by map and lot.

#### **Section 4 – Permitted Uses with Site Plan Review**

Mr. Mettee said in drafting this section he looked at the current Zoning Ordinances on pages 33 through 36 at the Permitted Use Table. He took the uses and vetted them to come up with the list on the draft and the Table will be amended to add this district as a new column.

He emphasized that the draft covered the overlay but the underlying zoning was not being changed and would still be in effect. Planner Menici reminded the members that all uses must still come before the Planning Board for Site Plan Review.

Drive through access for businesses was discussed briefly.

#### **Section 5 – Conditional Uses**

Mr. Mettee said these are uses that could be appropriate but because of their nature require an extra level of scrutiny.

Paragraph 5-2(b) was Recreational uses not specified. Mr. Mettee used as an example a business such as “Monkey Trunks” that is not permitted but might work on Route 11. Mr. Kestner said a developer seeking approval for a use that was not permitted could apply for a variance.

Planner Menici said the Town might not want to have any type of recreational uses in nodal development district except those that are fully enclosed. She said the climbing type of facility would not generate taxable value since

there are not a lot of structures. She explained that the purpose is to generate taxable value to offset the costs of infrastructure.

The members discussed the square footage suggestions on the draft and if these could potentially limit the possibility of larger development. The Planner reminded them that a developer could come in under the underlying zoning. Mr. Mettee said what he had heard from most of the members was that the idea is to encourage nodal development which would be clusters of small businesses around a parking lot. However, he said it would be the Board's call if they wanted to change that. The members discussed this further and came to the decision for now to leave the standards as Mr. Mettee had drafted them.

## **Section 6 – Standards for Conditional Use Permit**

### **Section 7 – Dimensional Standards**

Mr. Mettee said he tried to draft these to allow for a little flexibility. The minimum lot size suggested was one acre and the members discussed whether this should be two acres which is already the standard. It was felt that 1 acre with 65 percent lot coverage was not workable although development techniques such as LID and impervious pavement could be utilized. The needs of a larger box type development were discussed and it was pointed out that a business of that size would most likely opt for a parcel larger than one acre.

Mr. King said there has not been a lot of success with the current two acre standard and these proposed standards will create an overlay in the hope of attracting new business. Mr. Kestner said this is a way to improve and if a two or three acre parcel were developed with separate buildings and a shared driveway it could create jobs and add to the tax base.

Mr. Mettee said that the next piece under Section 8 provides for lots of four acres or more to create a PUD (Planned Unit Development) allowing a variety of uses and buildings. He said that Holy Rosary Credit Union is maybe 12,000 square feet and a pharmacy would be 12,000 or 13,000 square feet and either type of business would not even need an acre if part of a bigger development. If the business wanted a bigger single lot this could be achieved by acquiring several smaller lots in the PUD.

Mr. King expressed his concern that if the standards allow one acre lots there could be multiple one acre subdivisions along Route 11 as opposed to a PUD with common access which works but the separate lots would not work. Chairman Parker suggested two acres and reducing that to one acre under a PUD.

Planner Menici returned to Mr. King's concern about one acre lots. She said that someone cannot do one-acre subdivisions but must come in with a plan that complies with the Zoning Ordinance standards by submitting a proposal that meets the requirements or else comply with the underlying zoning district. She suggested returning to this discussion after the entire draft has been gone through so the members have the whole picture.

Mr. Mettee said that the members had asked for a business nodal development, a fairly innovative concept, that must satisfy two masters: big businesses on large lots and small businesses on smaller lots within a larger PUD to get away from strip development. He added that this is difficult to create.

He said that a large parcel could be subdivided but would accomplish nothing without a plan. The members briefly touched on a multi unit business site that was approved five or six years ago and was not developed. The Planner said the market unfortunately changed. Mr. King said it was possible to put contingencies into an approval so a project must be built.

Mr. Mettee explained that Table 2 built in some flexibility and quality by tying setbacks to building height but he still needed to consider the side and back setbacks. He said that to encourage shared driveways a bonus of reduced frontage is offered.



*At 8:55 pm David Kestner motioned to extend the meeting to 9:30 pm; 2<sup>nd</sup> Charlie King. Motion carried with all in favor.*

**Section 8 – Planned Business Development (PBD) Conditional Use Permit**

Mr. Mettee said this is designed to allow a developer with a lot greater than four acres to come to the Planning Board with a development plan. The plan cannot be hand drawn but does not have to be fully engineered as the first step is conceptual and would then proceed to full review. Mr. Mettee read the remaining paragraphs of this Section.

Board members agreed that the draft was good for the most part and that some changes such as lot size and coverage percentages could be made. The Planner said the front setback for one or one and one-half story buildings of 15 feet from the right of way was awfully close and particularly concerned her. She said the setbacks for some of the existing buildings could be determined and used for reference. Mr. King said he liked the idea of tiered setbacks tied to the height of a structure.

Mr. Mettee said he will make what changes he can and try to have answers for next time.

*Charlie King motioned to continue the discussion on proposed Zoning Amendments to December 3rd; 2<sup>nd</sup> Glen Demers. Motion carried with all in favor.*

*At 9:19 pm Martin Laferte motioned to adjourn the meeting; 2<sup>nd</sup> Charlie King. Motion carried with all in favor.*

Respectfully submitted,  
Bette Anne Gallagher, Department Secretary

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Chairman, Paul Parker