

Present: Chair Brett Hunter, Vice Chair Jack Karcz, Members Jack Downing, Andy Kohlhofer, Roger Barham, and Tom O'Brien, Building Inspector Rick Foye, RPC Senior Planner Jenn Rowden, and Land Use Administrative Assistant Casey Wolfe

Also Present: John Ratigan, Martin Ferwerda, Barbara Folland, Sherry Palazzo, Brittany LaRose, Mike Rislove, and Steve Bassett

Mr. Hunter opened the meeting at 7:01 pm.

## **I. MINUTES**

Mr. Karcz made a motion to approve the minutes of September 20, 2017. Mr. Downing seconded the motion. The motion passed 6-0-0.

## **II. CONTINUED BUSINESS**

### **Public Hearing for Marty Ferwerda who seeks a site plan amendment and lot line adjustment at Governor's Forest [Map 3 Lot 2]**

Mr. Ferwerda and his representative attorney Ratigan came forward. Ms. Rowden stated that when the two variance applications, the original amended site plan application, and the subdivision application were submitted, they all had the same lot lines proposed. While Mr. Witham did sign the two variance request applications, the Board has nothing from Mr. Witham to know that he finds the more recent version of the proposed lot line adjustment application, where the lot line still does through one of the encroaching homes, acceptable. Unless Mr. Witham is here tonight to speak to this change, or if the Town receives an authorization letter from Mr. Witham, Ms. Rowden did not believe the Planning Board could move forward with this application. The Planning Board could deny the application without prejudice until the Planning Board does receive an authorization letter from Mr. Witham and then waive the fees when he reapplies.

Mr. Ratigan suggested that a condition of approval of these applications could be that Mr. Witham finds the final plan acceptable. Mr. Barham did not feel that this alternative addresses the Board's concerns. When the original plan was at the Zoning Board of Adjustment, the Zoning Board's concessions on granting the variances was under the understanding that a number of issues were going to be addressed such as the access road and the encroaching homes. However, now the Planning Board has a new plan that has been completely changed. Mr. Barham had the opinion to not only deny without prejudice, but to also not waive the fees because of the major change to the application.

Mr. Ratigan stated that unless the Board interacts with Mr. Ferwerda, we cannot get to an end result. He stated that Mr. Ferwerda has been subject to the Selectmen's cease and desist order for six months now and that the damages he has endured have been considerable. If we don't get to a swift resolution one way or the other he is going to have to take a separate action to address that. Mr. Ratigan felt that some judges would find shutting down someone's business to deal with a small matter to be unsympathetic. Mr. Ferwerda has lost four sales and has missed the paid rent

on those lots. Mr. Ratigan stated that he has lost hundreds and hundreds of thousands of dollars in lost income. Mr. Ratigan stated the Board needs to move forward with this with a reasonable solution. He pointed out that the original plan approved by the Planning Board only shows the access way up to his property line and does not show the access road going any further. The nature of plans is that they change all the time. He stated that the encroachment is a private dispute and that the differences should be settled later.

Mr. Karcz stated that Mr. Ferwerda has submitted a faulty plan. Mr. Ratigan stated that Mr. Ferwerda has some suggestions on how to address that. He stated that Mr. Ferwerda did not put those houses over the property line. He stated that those houses were built in the wrong place because the town issued a permit to Mr. Witham. Mr. Karcz felt that Mr. Ferwerda had to have known about this encroachment years ago. Mr. Ratigan felt that this was not Mr. Ferwerda's responsibility. Mr. Ferwerda stated that he first applied to the Planning Board on August 1<sup>st</sup> 2001 and all of the surveying was done before that point. The town issued the building permit for one of Mr. Witham's encroaching homes on August 18, 2001, after all of Mr. Ferwerda's survey work and engineering was done. He stated that the Town issued building permits for houses that were mistakenly put on his land.

Mr. Ratigan stated that it is imperative to move forward so Mr. Ferwerda can go back to running his business. He stated that the cease and desist is piling up business loses every day. Mr. Karcz asked what is happening to the encroaching home on the west. He stated that the Zoning Board granted a variance so that the lot line can be drawn five feet around the encroaching homes. However, the plan given to the Planning Board has the line going right through the home to the west. Mr. Ferwerda explained that in space 43 (the encroaching home to the east) he has increased the setback from five feet to ten, however, on the other encroaching house he refused to do anything because there is an existing access easement there and he is not willing to go to court due to any actions on that house. He stated that the emergency access easement belongs to himself, however, it also belongs to the 74 people that live in his community. He did not want to create an event where he would be liable and get sued for damages.

Mr. Kohlhofer agreed that the certificate of occupancy should have never of been issued. Mr. Barham asked if the building inspector would know where the lot lines are. Mr. Kohlhofer felt that the building inspector should notice something like this. Mr. Ferwerda stated that what the building inspector at the time approved showed the home closer than 30 feet to the lot line – a clear violation of the zoning ordinance. He stated that he is willing to leave the lot line running through the house because he does not want to enter legal jeopardy. Ms. Rowden stated that she is still concerned about the lack of an authorization letter from Mr. Witham, however, if the Board wants to discuss having this letter be a conditional approval we can go back to that later. She also stated that while the encroachment is a civil matter, if the Planning Board were to approve this plan it would be like saying that the Board thought the plan was acceptable. She recommended that the Board seek advice from town counsel.

Mr. Ratigan asked the Board where they stand so far with what Mr. Ferwerda has proposed. He felt that having the woman who lives in the encroaching home move her house is not palatable to anyone. So, the next step would be to figure how to get out of this dilemma. He felt that Mr. Ferwerda has presented a reasonable solution to the issue. Mr. Ferwerda explained that the plan addresses the encroachment on lot 43 and not the encroachment on lot 42. However, the plan does address the emergency access issue. The proposed access way has the same slope and same width as the originally approved plan with the same entry and exit points. Mr. Karcz stated that he has a problem with the lot line going through the house and could not see the Planning Board signing a plan with a violation like that. Ms. Rowden stated that perhaps the town's attorney will suggest having some kind of affidavit to allow this to happen, however, she is not the town's attorney.

Mr. Barham stated that he felt Mr. Witham is crucial to the lot line adjustment. Ms. Rowden suggested, if the applicant is okay with a continuation, that the Board contact town counsel before moving forward with this. Mr. Ratigan suggested that the Board continues this hearing to October 18<sup>th</sup> because of the financial burden on Mr. Ferwerda. Mr. Barham stated that he wants one of the conditions of the approval to be that the access way has to be paved. Mr. Kohlhofer felt that this would be a hardship on the applicant because the original approval only requires gravel. Mr. Kohlhofer made a motion to continue the hearing to October 18, 2017. Mr. Downing seconded the motion. The motion passed 6-0-0.

Mr. Hunter stated that if any members of the public would like to speak about this application they can do so at this time. Ms. Barbara Folland introduced herself to the Board. She stated that she is a potential buyer at Governor's Forest. She explained to the Board that she and her husband have already sold their home and that they currently do not have a permanent address. Ms. Folland wanted to know what the cease and desist had to do with this issue. She stated that she needs a place to go and that she needs to build her home. She stated that the decisions surrounding this easement were made years ago. She asked why the Town issued a cease and desist over this issue and why Mr. Witham is not here. She stated that the cease and desist does not just affect Mr. Ferwerda, it is affecting several families as well.

Mr. Barham stated the cease and desist was issued because Mr. Ferwerda, according to his site plan, is provided to maintain an access road. He has done what he can to avoid it and has built a house that made the access road completely inaccessible. He explained that the cease and desist has already been relaxed once. Ms. Folland felt that the Town made additional mistakes when the Town allowed Mr. Ferwerda to build that last home. Mr. Barham stated that Mr. Ferwerda needs to address this issue because it is required on his site plan. The Board cannot move forward until we get Mr. Witham's signature or opinion. The whole purpose of the cease and desist is to ensure that the access way gets constructed. Ms. Folland stated the Mr. Ferwerda has been coming to these meetings and asked why the Board has not been lenient with Mr. Ferwerda but has been with Mr. Witham. Mr. Barham stated that it was the Board's understanding that Mr. Witham would be here tonight.

Mr. Ratigan stated that Mr. Ferwerda has eighteen more units that still need to be constructed and suggested that the cease and desist order could simply be limited to five units. Mr. Barham stated that he feels that the Town is being as lenient as it can. The cease and desist was originally for all construction and has since then been relaxed. Mr. Kohlhofer stated that this is really a conversation for the Selectmen. The applicant and abutters left at 7:37 pm.

**Public Hearing for a site plan review submitted by Altaeros Energies who seeks to construct a Research and Development Center at 662 Main Street [Map 2 Lot 151-2]**

Mr. Lavelle and Mr. Gregsak introduced themselves to the Board as the surveyor and engineer for the project. Mr. Lavelle stated that the most recent review letter (attached) from Stantec had 27 comments, however, 15 of these comments relate to the Alteration of Terrain application. Mr. Lavelle explained that at the last meeting the Board agreed that the applicant does not need to address comments made by Stantec related to the Alteration of Terrain application. Two comments in the letter had to do with Federal Aviation Administrative permits that need to be referenced on the plan. Mr. Lavelle also stated that any required Federal Aviation Administration permits cannot exist until the aerostat exists. The Board agreed to this at the last meeting. Another comment in the letter asks for a letter from the Fire Chief. Mr. Lavelle has already met with the Fire Chief this past Monday. Mr. Lavelle stated that the rest of the items in the letter have already been addressed at this point. There was a discussion about setting monuments and Mr. Gregsak stated that he did not want to set monuments in the middle of swampland. Another comment from Stantec is that they need to get a report from the Natural Heritage Bureau. They have applied to them already and are waiting for their last letter. There was also a discussion about lighting requirements. Ms. Rowden had a question about the lighting on the launch pad and Mr. Lavelle stated it would only need to be lit when necessary.

Mr. Lavelle stated that the rest of the comments on the review letter are about the Alteration of Terrain application and that a portion of these comments are not correct. He did already get a letter back from Alteration of Terrain with their review comments and he felt that they should get their approval very shortly. He stated that the State's rules are stricter than the Town's and that the Alteration of Terrain permit could be a condition of approval. Ms. Rowden agreed that currently the Town does not have stricter drainage regulations than the State. She also stated that the Town's regulations are a minimum, not a maximum, and that the Board could choose to require more storm water and drainage control. Mr. Gregsak explained that Stantec engineer Dan Tatem was going under a different interpretation. Mr. Gregsak asked Alteration of Terrain questions about what they were looking for in the pre-development and post-development calculations. He was told to go back ten years before the gravel pit permit was issued – it was grass back then. Mr. Gregsak did the pre-development calculations based off the grass under instruction from the folks at Alteration of Terrain. Mr. Barham and Mr. Karcz both expressed that they felt good about the Alteration of Terrain application.

Ms. Rowden listed her three suggested conditions of approval: 1) A note be added to the plan stating that "Lighting for the mooring pad to be compliant with Fremont Lighting Requirements (Site Plan Regulation 1.15-2)" 2) All required federal, state, and local permits received and permit numbers noted on the cover sheet with the exception of FAA permits 3) A recordable Mylar, four paper sets, and an electronic file of the final plans shall be submitted. Mr. Kohlhofer

made a motion to approve this proposed site plan with these conditions. Mr. Barham seconded the motion. The motion passed 6-0-0. Ms. Palazzo thanked the Board for conditionally approving their project and stated that she looks forward to building here in Fremont. The applicants and abutters left at 7:59 pm.

Mr. Gregsak and Mr. Lavelle stayed behind to discuss another matter with the Board. Mr. Lavelle stated that normally when construction begins there is a review done by the town engineer. Mr. Lavelle stated that Dan Tatem left the folks at the Alteration of Terrain the impression that this gravel pit did not have a gravel pit permit, which turned out to not be the case. Mr. Tatem is tasked with monitoring this pit, so he should know better. Mr. Lavelle stated that Mr. Tatem will hold this project up when they start construction. Mr. Barham felt that this was a little premature and that Mr. Tatem should get the chance to defend himself. Ms. Rowden felt that at another meeting the Board should go into nonpublic session with Mr. Tatem and discuss what the Town expects out of their town engineer. Mr. Lavelle stated that he can suggest other engineering firms. He is not trying to avoid picky engineers, he just felt that Mr. Tatem went over and above. He stated that if Mr. Tatem held a professional license, he would be up for a review. Mr. Kohlhofer stated that the Board will take this into consideration. Mr. Lavelle and Mr. Gregsak left the room.

Mr. Barham stated that this conversation is a little premature for now. When Lewis Builders complained about Stantec, Mr. Tatem was able to satisfactorily combat all of their complaints. Mr. Kohlhofer stated that the Board should invite him in and talk to him in nonpublic.

### **III. BUILDING INSPECTORS REPORT**

The building inspector did not have any updates or items of discussion for the Planning Board.

### **IV. CIRCUIT RIDER BUSINESS**

Ms. Rowden updated the Board about their missed road inventory report. She explained that the DOT's analytical algorithm has not been finalized and DOT more or less gave up on this portion of the project. However, the assessment that RPC provided two years ago is perfectly valid and the RPC provided some maps to the road agent that showed which roads were in better or worse condition. Additionally, a spreadsheet of a variety of data was sent to Stantec. The RPC has proposed to do another complete inventory of all of the roads in town for comparison (either this fall or spring). This effort would be to see if the roads are deteriorating faster than anticipated. Mr. Barham stated that all he saw was the map and no data. Ms. Rowden stated that the data was indeed sent over to Stantec. Mr. Barham was not sure it would make sense to go out and do the survey again because the measures are each a judgment call. He felt that comparing data from two years ago to new data would not be comparing apples to apples. He suggested talking to Mr. Tatem and to the Road Agent about the data that the Town already has. Ms. Rowden stated that there is a protocol for each of the metrics that the survey measures. She explained that the benefit to doing the survey again would be to see if certain roads are deteriorating faster than expected. Mr. Barham was not ready to accept the offer. Ms. Rowden will talk this over with the folks at her office who were working on this project about what can be done with the data. Mr. Hunter felt that the existing data was still useful data. Ms. Rowden agreed and stated that the data was

probably not presented in the most useful format. Mr. Barham would like to use the data that already exists to create a useful product.

Ms. Rowden asked the Board if any of the Board members attended the presentation on the Mill Road Dam that was earlier in the week. She explained that it was a factual based meeting to inform the community what it would mean to keep the dam, take out the dam, or repair the dam. All of the information from the meeting will be posted online. There should be a follow-up meeting as the issue progresses.

After some discussion, Mr. Kohlhofer made a motion to schedule a public hearing for a change to the Village District ordinance and the table of uses for the November 1<sup>st</sup> Planning Board meeting. Mr. Karcz seconded the motion. The motion passed 6-0-0. Ms. Rowden asked the Board about re-doing the table of uses table and creating a definitions section in ordinance. After some discussion about the importance of having a definitions section, she explained to the Board that this work would probably cost somewhere between \$6,000 and \$7,000. She could also do a shorter definitions section for less money. Ms. Rowden stated that she would want to create a sub-committee for this process. There was some discussion about funding this project. Ms. Rowden suggested that the Board members look at the use tables in the ordinances of other towns. Mr. Barham felt that the Board could easily accommodate the price and that the current use table is badly written. Mr. Hunter stated that the Board would like a proposal in writing. Mr. Karcz would like to know the scope of the project. Ms. Rowden will put together a proposal with two payments, one for the end of this year and one for next year.

Mr. Kohlhofer wanted to know from the town's attorney what the town's liability is concerning the encroaching homes at Governor's Forest. Ms. Rowden explained that the remedy for a building that was built in the wrong spot due to the Town's error would be an equitable waiver. She was unsure how an equitable waiver would apply in an encroachment issue, like in this situation, which is one of the reasons why she wanted the Board to contact town counsel. Mr. Foye commented that he agreed that the road should be paved because there are currently erosion issues down there. Ms. Rowden suggested that he put that comment in writing.

Ms. Wolfe asked the Board if they were ready to move the sign ordinance change to public hearing. The Board stated that they were not ready at this time.

## **V. ADJOURNMENT**

Mr. Kohlhofer made a motion to adjourn the meeting at 8:38 pm. Mr. Karcz seconded the motion. The motion passed 6-0-0.

Respectfully Submitted,

Casey Wolfe  
Land Use Administrative Assistant



September 27, 2017  
File: 195113272

Mr. Brett Hunter, Chairman  
Fremont Planning Board  
PO Box 120, 295 Main Street  
Fremont, NH 03044

Dear Mr. Hunter:

**Reference: Altaeros Energies Site Plan  
Tax Map 2 Lot 151-2  
Fremont, NH  
2nd Site Plan Review**

We have reviewed the following information, prepared and submitted by Gregsak Engineering, Inc. (GEI) for the subject project, received on September 20, 2017:

- Proposed Altaeros Energies Site Plans, Sheets 1 through 9, prepared by GEI, dated August 8, 2017, revised on September 15, 2017
- Drainage Report, prepared by GEI, dated August 8, 2017, revised September 15, 2017
- Response Letter, prepared by GEI, dated September 19, 2017

This submittal was reviewed in response to a request by the Town of Fremont and was reviewed for conformance with the applicable sections of the Town of Fremont Zoning Ordinance and the Site Plan Regulations as well as other relevant local and state regulations and accepted engineering practice. Our original comments from our August 31, 2017 review letter are in italics, new or supplemental comments are in bold and comments that were addressed have been removed. We have the following comments:

### **Project Description**

According to the plans prepared by Gregsak Engineering, Inc. (GEI), the applicant proposes to construct a communication balloon launching pad, along with the necessary site improvements, including an 11,385 s.f. hanger building and a 3,000 s.f. machine shop. Improvements to the existing gravel access road are also proposed, along with a 19-space paved parking area. The facility will be serviced with underground power and an on-site well and septic system. The stormwater runoff is proposed to be mitigated with an infiltration basin, a stone infiltration trench and a diversion swale to direct off-site storm water away from the propose site. In addition to the standard approval process, the application will require a variance for the balloon hanger height and a conditional use permit for the balloon height and for the proposed communications use.

### **Site Plan**

9. *The regulations require that all property corners have the appropriate monumentation. There are no monuments shown, and if they do not exist, the monuments must be proposed and installed as part of this application. **The existing monuments were added to the plans; however, it appears that between 6 and 8 of the property perimeter monuments are missing and must be proposed to be installed, per the regulations.***



**Reference: Altaeros Energies Site Plan  
Tax Map 2 Lot 151-2  
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10. *The concentrated storm water flow exiting the diversion swale should be directed under the existing gravel roadway through a combination of swales and drainage culverts. The designer added a swale on one end of the diversion swale; however, the stormwater flow exiting the other end of the diversion swale, which is approximately 50' from the road, should be directed through a culvert under the road.*
14. *The proposed relocation of the gravel access road is wider than the rest of the road, which is approximately 18' wide. The access to the site, including road width, the gravel surface, and the necessary turn-arounds must be reviewed and approved by the Fire Chief. Written correspondence from the Chief must be provided by the Board for the project file. The response letter notes that the Fire Chief is satisfied with the design. Typically, the Board requires written correspondence from the various Department Heads for the project file. We recommend that the designer request this of the Chief and the correspondence be provided to the Town and Stantec.*

#### **Outdoor Site Lighting and Landscaping Plan**

23. *A detail of the proposed light fixtures should be added to this sheet. A detail was added; however, the lighting schedule specifies the light fixtures to be 12' tall and the detail specifies 20'. This discrepancy must be corrected.*
24. *The lighting design for the launch pad must be provide as part of this submittal, rather than the note indicating that the lighting will be designed by other at a later date. We recommend that the note be revised to only specify the lighting on the balloon and the tethers are to be approved by the FFA. The lighting for the launch pad must also be approved by the Board, prior to final approval.*

#### **Sight Distance and Signage Plan**

25. *The standard used to design the sight distance plan should be noted (i.e. NHDOT, AASHTO, etc.). Comment not addressed.*

#### **Details**

26. *The Trench for Drain Lines Detail must be revised to provide a 12" thick sand (or screened on-site fill) blanket over the crown of the pipe. The sand blanket was added; however, the filter fabric should be changed to be between the top of the crushed stone and bottom of the sand blanket.*
32. *The Detention Basin Detail must be revised to specify the 3" orifice for the pipe outlet. A detail showing how the orifice is to be attached to the pipe must be added to this sheet. Due to the drainage revisions, a precast outlet basin structure was added to the plans. Anti-floatation calculations should be provided for review. In addition, the footing should extend down at least 2 feet below the interior basin grade to reduce potential frost/heaving issues.*

Design with community in mind





**Reference: Altaeros Energies Site Plan  
Tax Map 2 Lot 151-2  
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33. *The Detention Basin Detail must be revised to indicate how and what materials the basin floor will be constructed with, resulting in an adequate infiltration rate, which is considered in the drainage calculations. **Comment not addressed. The infiltration rate specified in the calculations will not likely be achieved if the floor of the basin is constructed with 4-6" of screened loam.***

**Drainage Report**

38. *According to NHDES, the pre-excavation conditions are to be considered for the existing conditions drainage calculations. The designer must revise the existing conditions calculations to consider woods as the ground cover. **Comment not addressed.***
39. *The existing conditions Tc of 6 minutes should be revised to consider the pre-excavation ground cover. **Comment not addressed.***
40. *Because Hinkly soils are a Group 1 soil, the calculations must be revised to consider HSG A soils, rather than HSG B soils. **Comment not addressed. In addition to the soil maps, the infiltration rates noted in the drainage calculations further indicate HSG A soils.***
41. *All gravel surfaces (pre & post) must be assigned a curve number of 96, rather than 85. **Comment not addressed.***
44. *Per the NH Ksat Values publication, the Ksat value for a Hinkley soil is 6.0. NHDES requires that infiltration designs utilize 50% of the published Ksat value. Therefore, the infiltration rate for the infiltration basin and the infiltration trench must be revised from 3.8 and 5.4 to 3.0 inches per hour. **Comment not addressed.***
45. *The proposed subcatchment areas must be delineated on the proposed drainage plan. **Comment partially addressed. Subcatchment delineations were added; however, they reflect the previous design, rather than the current design.***
46. *The NHB report indicates the potential presence of Blandings and Spotted turtles. The Designer must provide written correspondence from NH Fish and Game confirming their approval of the proposed site plan design. **Comment not addressed.***
49. *To consider frozen conditions, we recommend that the 50-year analysis of the detention basin be revised to not consider the storage below the outlet invert and not consider infiltration. In addition, one foot of freeboard must be provided for this storm event. **Comment not addressed.***

**New Comments Due to Significant Plan Revisions**

53. **The infiltration basin outlet structure must be relocated outside of the forebay.**
54. **Additional proposed grades and spot grades must be added between the basin and the roadway. Considering the peak elevation of the basin is 147.91, it**



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Mr. Brett Hunter, Chairman  
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**appears that the road may flood during the larger storm events. If so, the grading in this area must be revised.**

- 55. Considering the varying seasonal high water tables, an additional test pit must be performed within the limits of the relocated infiltration basin.**
- 56. To reduce icing and erosion issues, we recommend that a driveway culvert be added for the proposed, paved access to the parking lot, where concentrated stormwater is proposed.**
- 57. The 12' x 12' box shown on the left side of the driveway should be labeled.**
- 58. The underground utility lines for the pole-mounted light fixtures should be added to the Site Plan.**
- 59. Additional wall-mounted outdoor light fixtures should be added above the proposed machine shop entry doors.**
- 60. The underground utilities appear to be incomplete and must be added to the transformer, hanger, and machine shop.**
- 61. The required FFA permit must be added to the list of permits on the coversheet.**

These comprise our comments at this time. We invite the Engineer and Applicant to meet with us to discuss these comments or other issues, which may affect the project. Based on revisions and additional submissions, we reserve the right to make future comments.

Please call if you have any questions.

Sincerely,

**STANTEC CONSULTING SERVICES INC.**

**J. Daniel Tatem**  
Project Manager  
Tel: 603-206-7539  
Fax: 603-669-7636  
[dan.tatem@stantec.com](mailto:dan.tatem@stantec.com)

- c. Heidi Carlson, Casey Wolfe, Town of Fremont  
Bill Gregsak, GEI (Email)  
Brittany Larose, Altaeros Energies  
Rene LaBranche, Stantec

Design with community in mind