



FREMONT PLANNING BOARD

June 19, 2012

Meeting Minutes

Approved July 10, 2013

Present: Chairman Roger Barham, Vice-Chairman John (Jack) Karcz, Members John (Jack) Downing, Andrew Kohlhofer, Building Official Bob Meade RPC Circuit Rider Jenn Rowden, Phillip Coombs, and Land Use AA/Recording Secretary Meredith Bolduc.

Mr. Barham opened the meeting at 7:00 pm.

MINUTES

Mr. Karcz made the motion to approve the minutes of the June 5, 2013 meeting as written. Motion seconded by Mr. Downing with unanimous favorable vote.

VISION CHAPTER OF THE MASTER PLAN

The Board reviewed the draft of the update of the Vision Chapter of the Master Plan submitted by Mrs. Rowden with particular discussions relative to several of the community goals.

Mr. Downing made the motion to send this to Public Hearing on a date to be determined with the agreed changes. Motion seconded by Mr. Karcz with unanimous favorable vote.

MERRILL/FREMONT PARK EXCAVATION

Map 4 Lot 015, Beede Hill Road

Merrill/Fremont Park (Beede Hill Road, Map 4 Lot 015)

On May 30, 2013 Town Engineer Dan Tatem conducted the annual site visit of the Merrill gravel excavation pit. Also in attendance were Planning Board Members Jack Downing and Jack Karcz, Building/Code Enforcement Officer Bob Meade and Owner John Merrill were in attendance at the site visit and walked the perimeter of the site. Mr. Meade took a number of pictures.

Mr. Tatem's report in *italics*: (see file)

- 1. A substantial amount of crushed fill has recently been imported to the subject excavation site. The approved excavation plan does not address the importation of fill to the site. This should be discussed with the Board. See Photo #1.*

Mr. Merrill submitted recent pictures of the site. He agreed that crushed fill has been imported into the site and they hope to eventually sell it back out. He reported that before they started the job he came to the Land Use Office, Police and Fire departments as to advise the Town, as a courtesy for traffic issues, that they were going to be actively trucking. In answer to more

questions by the Board Mr. Merrill said they made a big long ramp, compacted the material in and established (stabilized) it to State specifications. It is considered storage of material.

2. *The Owner of the site informed Stantec that the amount of fill was estimated to be 70,000 cubic yards. After discussing this with the Town representatives, it was agreed that the amount of fill may exceed the estimate provided by the Owner. We recommend the Owner provide the numbered load tickets for the trucks that delivered the fill to the Town to verify the number or cubic yards of fill that has been hauled into the site. If no tickets are available, the Owner should provide a detailed survey and supporting calculations, to verify the amount of fill imported into the site.*

There was a discussion relative to how many cubic yards of material was hauled in to the site. In answer to questions by Mr. Downing Mr. Merrill estimated less than 70,000 cu yds. Mr. Downing questioned this estimate and Mr. Merrill offered to submit the load tickets for proof of amount of material.

Mr. Barham said the material that was brought in eventually becomes dormant and part of the land.

3. *It appeared that the excavated land area exceeded the 5 acre maximum. According to the Owner, the area of fill had been sprayed with hydro seed two weeks ago; however, no loam had been placed over the fill and the vegetation was sparse and did not appear to adequately stabilized the fill per RSA 155-E:5. The Owner verbally agreed to place loam and reseed the area if required. Per 155-E: 5, loam, strippings, or "other soil capable of sustaining vegetation" must be applied to the areas of fill and stabilized with adequate vegetation. See Photos #2 and #3.*

Mr. Merrill said that statement was because he did not have full establishment when the site visit was done. He submitted a picture that he said showed that when you minus out stockpiles of material and the road he is below the 5 acres open disturbed area because the grass has come up. Mr. Downing said he believes there is probably closer to 15 acres open. He asked Mr. Merrill if he put loam down before he seeded. Mr. Merrill said he did rebuff the area, there is loam in the fill and the pictures show that the seeding has taken at that time. Mr. Merrill said he seeded the area just before the site visit and that is why it did not seem to have taken. He added that it is just taking root now. Mr. Meade said according to the pictures the site looks better this year than it did last year. Mr. Barham said that it appeared to be more than 5 acres open because the seed had not been established, but based on the pictures everything seems now to be within the 5-acre limit.

Mr. Karcz asked what will happen to the material that has been brought in if they did not sell it. Mr. Merrill said they would spread it and use it to level off the land.

Mr. Downing said he is concerned that the borders have not been sprayed and loamed for reclamation. He voiced concern about the area of excavation, stock piles of material and added that every year they throw seed down without loam and the seed does not take. There was further discussion relative to whether the seed took. Mrs. Rowden consulted the RSA 155:e5 for reclamation rules.

4. *In several locations berms of imported fill were constructed to direct the stormwater runoff into*

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the site rather than allowing it to runoff toward the abutting wetlands. However, the back slopes of these berms were not stabilized with loam and vegetation. The back slopes must be stabilized with loam and seed and silt fence must be installed to protect the adjacent wetland. See Photo 4.

Mr. Meade said there was concern about the area on the back side of the site that contained a double swale. Mr. Merrill said they were planning to stabilize that area. It was agreed that the silt cannot leave the property.

5. *It was noted that the access roadway has been widened and stabilized with crushed ledge. The areas outside of the crushed ledge were stabilized with loam and seed; however no vegetation was established as of the date of the site walk. See Photo #5.*
6. *A non-motorized screening plant was noted during the site walk. The Board should discuss the use of the screening plant and decide if it is allowed as part of the previous court ruling. See Photo #6.*

Mr. Meade said there was a question of whether screening is allowed on the site. Mr. Barham read the Court Order to say “restrict to permit gravel excavation only and to exclude such additional activity as road or gravel crushing, screening, or washing.” Mr. Downing said the Court Order said screening was not allowed and he felt that Mr. Merrill should have at least come to the Board for permission to screen material. Mr. Barham noted that the Court Order went into effect in 1989 because of a dispute between the then- owner and the planning Board. He does not have a problem with reviewing the order for what is being done at the site today. Mr. Barham noted Mr. Downing’s point that screening is a restricted activity and it would probably have been prudent for the owner to have come in to see the Board prior to hauling material in and setting up a screening plant.

Mr. Merrill said he thought it was a motorized screener that was not allowed. In answer to questions by Mr. Downing Mr. Merrill said he was aware that there is a Court Order for the property that was issued to a previous owner, but he was not very familiar with it.

The Owner agreed to complete the work to address the deficiencies noted within 30 days. As done in the past, the owner will submit photographic documentation of the work to the Planning Board for the project file.

The following are restrictions as per the 1989 Court Order:

- Hours of operation = 7:30 am to 4:30 pm Monday – Friday.
- Trucks turn left when leaving the site
- Construct a suitable fence along the abutting property.
- Restrict to permit gravel excavation only and to exclude such additional activity as road or gravel crushing, screening, or washing.
- \$20,000 bond in place.
- Depth of excavation = four (4) feet.
- Distance to wetlands = forty (40) feet.
- Monitoring be done by appropriate officials.

Mr. Barham asked the Board if they want to make screening and importing of material permitted uses for the Merrill excavation operation.

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Mr. Downing said he would go along with anything as long as the owners came in and asked for permission instead of going ahead and doing things that are not permitted by the Court Order or by the current Excavation Permit.

Mr. Meade reported that Mr. Olson asked if he could bring in material to the PJP excavation operation on Rt 107 from the same Walmart job so he (Meade) consulted Town Counsel who advised that as long as it was the same material going out that was taken in it would not be a problem.

The Board discussed the \$20,000 letter of credit. Mrs. Bolduc said she has found that there was such a letter with Pawtucket Bank in Haverhill, Massachusetts, but the last expiration was 2002 and there is no record that it had been renewed since that time. Mr. Merrill agreed to re-submit a \$20,000 letter of credit to the Town.

The original excavation permit was discussed and it was noted that one of the conditions is that no material is to be brought into the site.

There was some conversation and questions relative to whether the Planning Board has the right to permit activities prohibited by the Court Order.

Mr. Karcz made the motion to have the Town Counsel look at the 1989 Court Order to find out if the Planning Board can make changes to the terms of the Order specifically page 5 "the court also finds that the planning boards decision to restrict the plaintiff permit to gravel excavation only and to specifically exclude such additional activities as road or gravel crushing, screening, or washing is reasonable." It is the intention of the Board to permit reasonable onsite screening. Mr. Downing seconded the motion with unanimous favorable vote.

Following some discussion, Mr. Downing made the motion to extend the existing Excavation Permit for the Merrill Excavation operation from July 1, 2013 to September 1, 2013 to allow time for Town Counsel to respond and the Board to decide how to proceed. Mr. Karcz seconded the motion with unanimous favorable vote.

In answer to a consensus request by Mr. Barham, it was the consensus of the Board to temporarily allow screening, similar material that is found on the site can be brought onto the site, and suitable clean materials to establish and loam for the purpose of restoration. Mr. Merrill asked if it is ok to continue to screen and bring in material during the 2-month extension and the Board agreed that it is.

At 9:15 Mr. Merrill left the meeting.

PJP, INC. EXCAVATION
Map 2 Lot 151.2, Rt 107

The Board reviewed Mr. Tatem's report: (see file)

- 1. The active excavation area appears to be self-contained and therefore should not direct stormwater runoff from the site.*
- 2. The excavation and grading of the site appears appear to be similar to the approved excavation plan.*

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3. *The operation appeared to be in compliance with the 5 acre maximum of allowable disturbed land area.*
4. *Very little blasting and/or crushing had been completed since our 2012 site walk.*
5. *According to the Owner, due to the passing of Danny Olson, the property was for sale and the blasting/crushing operations had been inactive since December of 2012.*

We discussed the potential sale of the property and the inactivity of the excavation operations with the Owner, regarding the current excavation permit. According to RSA 155-E:5-a if the site is inactive for a period of two years, the site must be reclaimed per RSA 155-E:5. According to the information provided by the Owner, the end of the two-year period of inactivity will occur in December of 2014. We recommend the Board revisit this issue prior to December 2014 regarding its inactivity. If the site is to be reclaimed, the Owner should provide a reclamation plan for review and approval so the reclamation can commence immediately after the 2-year period passes.

Mr. Meade said that the pit was being worked in March 2013 so that is when the inactivity should begin. It was agreed that this will be conveyed to Mrs. Olson in the cover letter for the excavation permit renewal.

Mr. Karcz made the motion to approve the Excavation Permit Renewal for PJP, Inc, Map 2 Lot 151.2, with an expiration date of July 1, 2014 with the following conditions.

1. Prior to July 1, 2013 payment in the sum of \$589.00 is received by the Town of Fremont for the replacement of escrow withdrawal relative to the Town Engineer annual inspection and a separate payment of \$40.00 to the Town of Fremont for associated administrative fees.

Motion seconded by Mr. Downing with unanimous favorable vote.

BEEDE SPAULDING, LLC,
(Formerly Stratham Acquisitions, LLC)
Map 3 Lot 56

The Board discussed the conservation easement for the open space portion of the Beede Spaulding open space subdivision development. There was a discussion relative to Conservation Easement vs Restriction Deed and the cost of an outside agency to accept the monitoring. Mrs. Rowland offered that deed restriction is not as strong as a Conservation Easement under State laws. After some conversation and review of advice from Town Council Diane Gorrow the Board agreed that the open space could be preserved by deed restriction with agreement of the Selectmen and the Conservation Commission.

As an administrative change, Mr. Downing made the motion to change the verbiage of condition # 1 of the April 17, 2013 Subdivision approval for Beede Spaulding, Inc. from “conservation easement” to “Conservation Deed Restriction” so the condition reads:

1. Execution and conveyance of the completed *Conservation Deed Restriction* to the satisfaction of the Town of Fremont with all associated costs the responsibility of the applicant.

All other conditions remain as approved on April 17, 2013.

Motion seconded by Mr. Kohlhofer with unanimous favorable vote.

An amended notice of decision will be drafted and recorded.

SEACOAST FARMS

Map 5 Lot 035

Mr. Meade reported that he has sent a correspondence to Mr. Kelly relative to removing the pile of tailings that is encroaching on the Galloway excavation operation and the height of the windrows. He received a June 17, 2013 return correspondence from Mr. Kelly saying that he should have that pile removed by the end of next week (end of June), then *“chip away at the newer poke, most of which we will screen out a second time.”*

SEACOAST UNITED SOCCER CLUB

Map 6 Lot 020-001

The Town Attorney has sent a correspondence to the Town of Epping, copied to SUSC, advising them of the abutters concerns as well as violations to their approved site plan.

The Board received a copy of a June 17, 2013 correspondence from Eben Lewis of DES to Paul Willis of SUSC advising that DES has received the first monitoring report by Jones & Beach Engineers, Inc. which is a requirement of the Restoration Plan Approval. The letter stated that “at this time DES finds the site is in satisfactory condition and no remedial measures are necessary to be carried out.” Subsequent monitoring reports are to be submitted to DES by September 1, 2013 and September 1, 2014.

The Board received a copy of a June 18, 2013 correspondence from the Town of Epping to Paul Willis directing:

1. That the tree buffer on field 3 was not planted when the site was being constructed and stating that “the entire buffer shown on the plan in the Town of Epping needs to be planted” and further directing that an additional eight trees, preferably some type of evergreen and at least 6 feet tall, need to be planted by August 18, 2013.
2. Suggested timers for the lights.
3. Prohibit the use of loud noise makers such as bull horns and air horns.

Mr. Barham suggested the Board conduct a site walk to determine the extent of the disturbance to abutting properties by the lack of an established planting of hardwood and softwood trees that were to be put in place for noise and visual barrier between field 3 and those abutting properties as per condition 4 of the February 11, 2004 site plan approval.

The Board agreed to meet at the Town Hall 6:00 pm on Friday June 28, 2013 and proceed to the SUSC for a site visit. Mr. Willis, Town of Epping and Mr. Lindahl will be so advised.

There was a conversation relative to requiring the planting of the trees per the conditions of their Site Plan approval plus planting replacement trees to restore the area that was cut off. Mr. Barham said the purpose of buffer plantings was to create a noise and visual barrier in addition to the natural woodland that surrounded the fields. Instead of increasing the buffer SUSC increased the disturbance by cutting all the trees in that area.

P/Z EXPENDITURE REPORT

The Board received the P/Z Expenditure report for January 1 – May 31, 2013.

BUILDING OFFICIAL/CODE ENFORCEMENT OFFICER

Mr. Meade submitted his end-of-month report for May which included permits for 8 single family homes, 4 duplexes, 1 quadplex, 1 deck/porch, 2 garages, 2 barns, 1 addition, 14 renovations and 119 trade permits.

- Gristmill. Mr. Meade reported that he went out to Gristmill and there has been no activity since last winter.

INCOMING CORRESPONDENCE

There was no incoming correspondence.

MEMBER

Mr. Barham asked Mr. Coombs if he is interested in become part of the Board now that he has attended meetings and become somewhat familiar with the responsibilities of the Board and its members. Mr. Coombs said that he would like to be on the Planning Board.

Mr. Downing made the motion to recommend to the Selectmen that Mr. Coombs be appointed as an Alternate on the Planning Board.

Motion seconded by Mr. Karcz with unanimous favorable vote.

RPC OPEN HOUSE

Mrs. Rowden reminded everyone of the June 24, 2013 RPC Open House beginning at 5:30 pm at the Exeter High School where you can meet the staff and learn about the Commission's work.

Mr. Karcz made the motion to adjourn at 10:25 pm.

Motion seconded by Mr. Downing with unanimous favorable vote.

Next regular meeting: July 10, 2013.

Respectfully submitted,

Meredith Bolduc, Land Use AA/Recording Secretary

LEGISLATIVE BILLS

The following bills are among those introduced for the 2013 Legislative Session. Mrs. Bolduc will follow these bills and report any results to the Board.

- Senate Bill 49: This bill provides for appeals of planning board decisions concerning a subdivision or site plan to the board of adjustment prior to appeal to the superior court.
- Senate Bill 50: relative to expiration of variances and special exceptions.

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ACTION ITEMS

From the June 5 meeting:

Rowden:

- Add the CC information to the Vision draft for the Board to review at the next meeting. Completed.

Meade:

- Contact Mr. Kelly relative to removal of tailings pile at Seacoast Farms. Completed.

Bolduc:

- Letter to Selectmen re: approval of surety recommended by Town Engineer for the Spaulding Road residential open space development. Completed.
- Process approved excavation permit renewals for Galloway and Governor’s Forest. Completed.

From the June 19 meeting:

Rowden:

- Update the Vision draft per changes agreed at tonight’s meeting.

Bolduc:

- Draft an amended notice of decision for the Beede Spaulding subdivision approval.
- Post notice of site visit for SUSC.
- Merrill: draft letter of excavation permit extension.

PROJECTS PENDING/COMPLETED WITH RPC

- CIP Annual Process - Funded with the 2010 Targeted Block Grant (TGB); completion date of June 30, 2010. Paid Towns share of **\$1,000** in December 2009. Pending as of this date.
- Provide one (1) final paper copy and one (1) electronic version of the updated MP. Provide one (1) final copy of all elements of the CIP annual update process- Funded with the 2010 Targeted Block Grant (TGB); completion date of June 30, 2010. Paid Towns share of **\$1,000** in December 2009. Pending as of this date.
- Vision Chapter of MP - Funded with the 2012 Targeted Block Grant (TGB); completion date of June 30, 2012. Paid Towns share of **2,500** in November 2011. Pending as of this date.
- Energy Chapter of MP – Funded through the Energy Technical Assistance Program (ETAP) (no Town cost-share). Completion date of April 30, 2012.

Updated project timeline table below.

RPC

Projects Non-CTAP	Status	2009 30 June	2010 30 June	2010 22 Sept	2010 27 Oct	2012	2012 April 30	2012 June 30
CIP Process Submittal Materials (2010 TBG)	Pending		Contracted Completion Date					
1 final copy of updated MP, CIP elements (2010 TBG)	Pending		Contracted Completion Date					
MP Vision Chapter update	Pending							Contract Completion date
MP Energy Chapter	Pending					Completion date		