

**Town of Auburn
Planning Board
PUBLIC HEARING
September 3, 2014**

Present: Ron Poltak, Chairman, Alan Côté, Vice-Chairman, Karen Woods and Paula Marzloff, Members, Jim Tillery and Steve Grillo, Alternates. Richard Eaton, Selectmen's Representative. Minutes recorded by Denise Royce.

Also Present: Carrie Rouleau-Côté, Building Inspector. Chuck Joy, Jeff Porter and Alan Villeneuve, Conservation Commission. Elizabeth Robidoux, Kevin Stuart and Bob Beaurivage, Zoning Board of Adjustment.

Absent: Russell Sullivan, Selectmen's Representative.

Mr. Poltak called the meeting to order at 7:01 p.m. Mr. Poltak explained the procedure for tonight's meeting and noted the emergency exists. Mr. Poltak had the Board members introduce themselves to everyone present.

MINUTES

Mrs. Marzloff moved to accept the minutes of August 6, 2014 as written, Mr. Côté seconded the motion. A vote was taken; all were in favor, the motion passed.

Mrs. Marzloff moved to accept the minutes of August 20, 2014 as written, Mr. Côté seconded the motion. A vote was taken; all were in favor, the motion passed.

ANNOUNCEMENTS/CORRESPONDENCE

➤ None were reviewed at this time.

GENERAL BUSINESS

**Informal – Eric Mitchell
On Behalf of Strategic Contracting Company, LLC
77 Pingree Hill Road, Tax Map 5, Lot 19
Discuss Potential Cluster Subdivision**

**Informal – Eric Mitchell
On Behalf of Maverick Development (Steve Febonio)
Pingree Hill Road, Tax Map 5, Lots 29 & 36
Discuss Potential Cluster Subdivision**

Mr. Mitchell stated that he would discuss both the above potential cluster subdivisions at the same time. Mr. Mitchell began by presenting on behalf of Strategic Contracting Company, LLC for a potential cluster subdivision located at 77 Pingree Hill Road. Mr. Mitchell stated that the project is an open space development that was before the Board for discussion at the last Planning Board meeting. This project is before the ZBA for a Special Exception to allow a cluster subdivision in the Residential One zone which was Tabled so that he could come before the Planning Board for another discussion. Mr. Mitchell realized that the Boards would be

talking about cluster subdivisions tonight and wanted to include these two projects in the discussion. Mr. Mitchell passed out copies of the plan for the Board members to review. Mr. Poltak asked where the two proposals stood at this point in time. Mr. Mitchell stated that they are both located in the Residential One district and both were before the ZBA of which the 77 Pingree Hill Road proposal and was Tabled at the last meeting. The Maverick Development proposed cluster subdivision on Pingree Hill Road was before the ZBA for a Special Exception to allow cluster subdivision in the Residential One zone and was granted at the August 26th meeting. Both were before the Conservation Commission of which the Conservation Commission was receptive with having a cluster subdivision on the 77 Pingree Hill Road property but was against the cluster subdivision on the Maverick Development property also located on Pingree Hill Road. Mr. Mitchell also pointed out that there was also an application before the ZBA for a Special Exception to allow a duplex on a lot less than 2 acres in a cluster subdivision.

Mr. Mitchell went through the proposed cluster subdivision and pointed out that the benefits of a cluster development with smaller lots is that you reduce the odds of anyone owning any part of the wetlands or buffer. Mr. Mitchell passed out an aerial view of the property located at 77 Pingree Hill Road that was taken from NH GRANIT and pointed out the location of the property. Mr. Mitchell believed that this property met the intent of a cluster and talked about the subdivision regulations where it talks about a cluster buffer. At this time Mr. Mitchell asked the Board for their input. Mr. Poltak turned it over to the Board members for comment. Mr. Côté wanted to read Article 7, Section 7.02(5) and 7.02(6) again for everyone present which read as follows: Article 7, Section 7.02(5) states that "The tract of land shall have a minimum of twenty (20%) percent of its area consisting of wetlands, class V and VI soils, bodies of water and/or slopes of greater than twenty (20%) percent for a residential development." and went on to read Article 7, Section 7.02(6) which further states that "The tract may be accepted for cluster development if, although not meeting the preceding paragraph 7.02(5) of this Section, in the opinion of the Planning Board, the tract contains some geological, environmental, historical, or agricultural properties or formations which would be prudent to protect from conventional grid-type development." Mr. Côté believed that the property was already protected and pointed out Lot #1, #9 and #10 as being of value as those are the areas that continue to show the historical, agricultural character of Pingree Hill Road. Mr. Côté said that he could not support this as a cluster and don't see it meeting Article 7, Section 7.02(6). Mr. Côté went on to talk about the wetland buffers and stated that his opinion last time has not changed and again could not support a cluster subdivision for this property. Mr. Mitchell explained that they were going to the Zoning Board because there have been issues where people think that since they own it that they should be able to utilize all of their property and that there have been several issues in this regard. Mr. Mitchell talked about Lot #10 where it's flat that it shouldn't be 125 foot buffer setback for this particular lot. A brief discussion ensued with regard to the buffers. Mr. Poltak also pointed out that he had major concerns and that there was no justification with regard to Section 7.02(6). Mr. Poltak informed Mr. Mitchell that what Mr. Côté had stated at the last meeting was shared with Mr. Temple that the Board was not receptive of a cluster subdivision for this particular property and asked the Board members again if they agreed with his perception of the Board. At this time, all the Board members were in agreement with Mr. Poltak. Mrs. Rouleau-Côté believed that if Mr. Mitchell did not have the approval from the Planning Board that he would have to amend his application or file a new application for a variance. Mr. Poltak reiterated the Board's position and ended this conversation and suggested that they move on to the next discussion.

Informal – Eric Mitchell

On Behalf of Maverick Development (Steve Febonio)
Pingree Hill Road, Tax Map 5, Lots 29 & 36
Discuss Potential Cluster Subdivision

Mr. Mitchell began by saying that this project was approved by the ZBA to allow a cluster subdivision on this particular piece of property. Mr. Mitchell further indicated that the Conservation Commission did not want a cluster subdivision on this property and with this in mind they wanted to bring it before the Board before they do a final plan and wanted the input of the Planning Board tonight to obtain feedback. Mr. Mitchell asked the Board about the lots and the layout of the cluster subdivision. Mr. Côté asked Mrs. Marzloff if she had any comments. Mrs. Marzloff indicated that she still had a concern regarding replacing vernal pools and that she was not convinced that it could be done and believed that on this particular parcel that there was a critical important vernal pool that needed to be protected. Mr. Côté asked Ms. Woods for her comments. Ms. Woods agreed with Mrs. Marzloff and stated that she was not a fan. Mr. Grillo asked what the concerns were from the Conservation Commission. Mr. Mitchell explained that they would be crossing a critical vernal pool and filling in a section of it and adding three other vernal pools to create them at another location which was acceptable by the State of New Hampshire. Mr. Mitchell pointed out that the Planning Board wanted a through road and that they are not filling it in completely as it would only be a portion. Mr. Mitchell stated that unfortunately it was unavoidable. Further discussion ensued with regard to the vernal pool.

Mr. Côté asked to show realistic footprints and a grading plan. Discussion ensued with regard to lot size and wetland buffers. Mr. Febonio indicated that he understands that they have to tweak it a bit and would like to work with Mrs. Rouleau-Côté and is interested in educating the prospective buyers with what they can and cannot do on the property. Mr. Febonio pointed out that this was not a final draft and that it was only to get input from the Planning Board. Discussion ensued with regard to connectivity between the abutting lots for open space.

Mr. Poltak commented that he tended to agree with Mr. Mitchell as well as Mr. Côté and thinks that the applicant is entitled to a reasonable use of their property and believed that the message from the Planning Board tonight was that it was doable and it also may be a bit unreasonable but the primary approach is to avoid the wetlands and lastly to mitigate. Mr. Poltak also understands the sensitivity of the Conservation Commission with regard to the vernal pool and did not see from a planning perspective that it made no sense to have a cul de sac and that the Board would be looking for the road to go through otherwise the project doesn't go. Mr. Joy asked if the Planning Board was okay with them going through the vernal pool. Ms. Woods stated that she was no okay with that and Mr. Poltak pointed out that the Board did not say that. Mr. Porter asked about a possible connection to Cohas Drive and Haven. Mr. Villeneuve asked the Board to walk the property before they vote on anything with regard to crossing the vernal pool. Mr. Poltak understood what Mr. Villeneuve was asking the Board to do. Mr. Côté asked Mr. Mitchell what the probability of connecting Haven to Cohas. Mr. Mitchell indicated that they could take a look at that possibility.

At this time, Mr. Mitchell thanked the Board for their time and the discussion ended.

OTHER BUSINESS

**Planning Board Discussion with
ZBA & Conservation Commission**

RE: Cluster Subdivision

Mr. Côté explained what the Board would be discussing tonight between the Planning Board, Zoning Board and Conservation Commission with regard to cluster subdivisions and wetlands. Mr. Poltak explained that at the last meeting they had a short discussion and the whole cluster concept. Mr. Poltak stated that Mr. Villeneuve approached the Board members and asked to meet with the different Boards to make sure that what they have put in the regulations is being applied the way we anticipated it would be applied. At this time, Mr. Poltak turned the meeting over to Mr. Villeneuve.

Mr. Villeneuve began by saying that this was something that was discussed by the Conservation Commission and suggested that they have a round table discussion. Mr. Villeneuve stated that in March we vote on different changes and believed that this would be a good time to have a discussion on what we might want to change. Mr. Villeneuve thought the last two clusters were a little bit different than what they would consider to have. Mr. Villeneuve talked about footprints and house sizes and they had talked about affordable homes. At this point in time, Mr. Villeneuve asked what an affordable home would be considered in Auburn. Mr. Villeneuve wanted to talk about what a cluster should look like in Auburn and are there ways that we can provide either more regulation or less regulation. Is it the preservation or conservation of land. Mr. Villeneuve also wanted to know if 20 acres was big enough for a cluster. Mr. Villeneuve wanted the Board members to chime in.

Mr. Beaurivage started by saying as you begin to look at each parcel and try to figure out if each parcel is conducive to a cluster development and believed that it was an important aspect to look at which would make you look at each individual parcel. Mr. Villeneuve asked if he believed that they should dictate a size or specific features that would best fit into a regulation. Mr. Beaurivage stated that it was a good question and believed that by looking at each parcel is particularly important and some will be conducive to clusters where other parcels are not. He believes there was a lot of discussion around those issues and public safety as protecting the environment. Mr. Villeneuve asked how they can make it so it's more readily identifiable to see if it works. Mr. Poltak talked about Conservation Commission comments setting the table for the Planning Board for the Planning Board to make their decision. Mr. Poltak pointed out that the regulations says what needs to be said and covers what needs to be covered and gives the Boards the tools to make the decisions. Mr. Poltak believes what they've done as a community is maybe infringed upon the integrity of the cluster ordinance in allowing waivers and variances and making concessions that otherwise weren't intended to be made. We understand that the developer is going to maximize to the maximum extent possible allowable under the ordinance for what they can do because they are making a huge investment to get to the point of selling a lot and putting people in a home and to get a certificate of occupancy. Mr. Poltak believed that within the cluster ordinance itself that Mr. Villeneuve should begin there and look at if it's working or if it's not working. Mr. Poltak personally believed that it was not working to everybody's satisfaction and believed it was their own fault. Mr. Côté asked Mr. Poltak if it was because of the waivers they were granting. Mr. Poltak said that it was because of the liberties that they were taking with the ordinance.

Mr. Stuart of the ZBA commented that his experience of being on other boards in other towns believed that the Zoning Ordinance in the Town of Auburn was working very well. Mr. Stuart believed that the Boards were doing a pretty good job. Mr. Stuart believed cluster was a good idea and preserving open space and believed if people owned it that it would be a problem.

Mrs. Robidoux wanted to answer Mr. Poltak's question and that people have different ideas of what is a cluster and when we're looking at plans were looking at it from our own perspective. Mrs. Robidoux believes that a cluster should preserve something and that it doesn't always have to be a wetland as all wetlands are not the same as we've heard tonight.

Mr. Côté believed that the cluster was not intended to be a mechanism by which developers can maximize how many lots they can get on their tract. Mrs. Robidoux believed that both sides should get a little. Mr. Côté gave an example of a subdivision next to Mrs. Robidoux that was a cluster that should have been developed in the woods and preserved the hay field and we should be looking at the character of Auburn and protecting that.

Mr. Davis of 124 Pingree Hill Road indicated that he used to hay the fields located at 77 Pingree Hill Road when he was a kid. Ms. Doreen Remillard who lives on Haven Drive stated that she was present tonight because of what they are planning to do in the neighborhood. Ms. Remillard believed that the cluster subdivisions is not turning out to be what was the spirit of the intent for the cluster and has lived in Auburn for 16 years and would not call it rural anymore and believes it's because of the cluster development. Ms. Remillard stated that she has paddocks that two fawns are always around. Mr. Côté thought that Ms. Remillard brought up a good point and as we build we will displace wildlife. Mr. Côté believed we lost the rural character by having cluster housing and that there is a certain lifestyle with living on 3 acres and 300 feet of frontage. Mr. Côté further believed that every subdivision shouldn't be a cluster and that we need some conventional subdivisions. Mr. Tillery stated that he lives in a cluster subdivision and that he still believes that we still have the rural character in Auburn and explained that he was involved in the original writing of the cluster ordinance. Mr. Tillery agrees with Mr. Poltak and believes that it's doing its job. Mr. Snowdale of 92 Pingree Hill Road commented that he likes the rural character of Auburn and if he wanted the houses to be close that he would have moved to Manchester.

Further discussion ensued with regard to cluster subdivision and Mr. Tatem asked Mr. Eaton if anyone uses the open space and stated that people don't walk in the woods anymore. The open space is valuable if it's useable. Mr. Côté believed that people like neighborhoods and Mr. Eaton agreed. Mr. Côté did not believe that cluster housing preserves more land.

Mr. Tatem asked Mr. Eaton how big the lots were in Wethersfield. Mr. Eaton stated that they vary from one acre, two acres and that some are as much as four acres. Mr. Côté and Mr. Eaton both believed that we needed to come up with a size. Mr. Côté asked what the number of waivers from setback to wetlands did they issue in the Wethersfield subdivision. Mr. Joy and Mr. Villeneuve believed there were three waivers granted. Discussion ensued with regard to waivers being requested after the fact. Mr. Mitchell wanted everyone to keep in mind that the Wethersfield subdivision is located in the rural zone and that he was allowed much fewer houses than someone who purchased piece a property in the Residential One or Two zone and therefore the houses got to be bigger and the lots got to be bigger and everything was laid out well on that piece of property.

Mr. Eaton pointed out that the cluster regulation works very well and that one of the reasons why we are here tonight is to try to keep people out of the wetland setback and would like to talk more about accomplishing that and they have to be careful not to specifically apply it to cluster subdivisions. Mr. Poltak believed that the discussion that is occurring is not leading towards disposing of the cluster concept is a viable alternative in a conceptual building sense in this community which will not happen. Mr. Poltak believed that they have to make the cluster

concept work better and believed that the Planning Board utilized the engineering firm more so than the other boards and we need this help if we were to find a solution. Mr. Poltak stated that he was tired of giving waivers and believed there were other options.

Mr. Febonio and the Board members discussed affordable housing and workforce housing and that it starts with the land and there is no affordable land available. Mr. Febonio asked Mrs. Rouleau-Côté about the encroachments and what she sees as a problem. Mrs. Rouleau-Côté stated that its mostly accessory structures such as sheds and trying to expand on their yards and play areas and it's usually within a year after they move in. Mrs. Rouleau-Côté further stated that it's stated right on the Certificate of Occupancy that the lot is subject to a wetland buffer and there are placards that are put out and the town receives a certified plot plans at the time of foundation that is available to anyone buying the house. The information is there so they are either not understanding it or ignoring it so education can help. Mr. Poltak totally understood and pointed out that it's impossible to police. Mr. Beaurivage suggested that it may be better to put a committee together to include all three boards to discuss the issues. Mr. Tatem also thought that it was a good idea to put the lot lines out of the buffer so if they don't own the land then they are least likely to encroach upon the wetlands and they can't come in to get a variance on land they don't own. Mr. Tatem also pointed out that he sees the Board often giving waivers to the cluster buffer. When the buffer gets waived and the homeowner can clear cut right to the property line and put in lawn in the buffer so it's really not a buffer but a building setback. Mr. Tatem believed that all the comments are very valid and believed that putting a committee together was a great idea and would be willing to help out and did not believe that the ordinance was very bad at all. Mr. Tatem pointed out that if the Board thinks that 125 foot wetland setback is a bad idea then the Board should change it and stick to it or keep it and stick to it. It's hard to see all these jobs come in and every single time the 125 foot setback turns to a 75 foot setback. If you're constantly giving waivers to a particular regulation then it's not a good regulation.

Mr. Mitchell wanted to know if the open space developments have all the lots cannot be in the buffer, if you have a grid development does that mean that the two acre lots cannot be in the buffer either. Mr. Côté said no. Mr. Côté talked about the proposed cluster subdivision for 77 Pingree Hill Road and that if they kept the field on either side of the farm house and started the subdivision behind it then they may have something to argue about but it's not going to look like a farmhouse because you'll have houses on either side of it. Mr. Mitchell believed that they should look at the buffers and what's reasonable for the buffers.

Mr. Joy pointed out that the question was asked earlier on what was the goal and objective of cluster development. It's to maximize dwelling density and to maximize preserved space which is wetlands, uplands community activity areas you name it and we're not just about wetlands. Mr. Côté commended the Conservation Commission for the job they do because they are out on site walks on weekends and such and are very busy.

Mr. Poltak asked Mr. Grillo if he would be willing to steer a committee and asked the ZBA members that were present tonight if they would take a message back to the Board members to see if anyone would be interested in sitting on the committee and also asked the Planning Board members to sit with Mrs. Rouleau-Côté and Mr. Tatem to come up with a better solution for our cluster ordinance. Mr. Poltak also included the Conservation Commission for this committee. Mr. Côté believed that we would need something written by November. Mr. Poltak stated that it would be the goal to get something by November. Mr. Eaton asked if we could have another meeting before something is put together and the Board all agreed. Everyone

agreed that this would be a good thing.

Mr. Tatem wanted to conclude by saying that he wanted the Boards to think about the open space and that there has been discussion of people using it or not using it as walking trails then it's still there for the wildlife and explained that in other towns there is an environmental assessment done and could possibly save a resource. Something to think about is the value and it may not be walking trails and recreation for people because they're not going to use it but you're going to try to protect wildlife corridors. At this time, Mr. Poltak concluded the discussion.

Mr. Poltak asked Mrs. Rouleau-Côté about the Tenn's. Mrs. Rouleau-Côté explained that the court case that allows them to develop it residentially that her thought process at the time because of conversations with Attorney St. Hilaire about whether or not it was vested thought that they should just rezone that residential section out of the industrial zone and mimic the zoning that is around it which is Residential One. Mrs. Rouleau-Côté went on to say that they had it on to rezone it last year and at that time, the Tenn's were not in favor of it. Mrs. Rouleau-Côté pointed out that they had their own ideas and that the biggest issue was between Residential One and Residential Two. Personally, Mrs. Rouleau-Côté believed it would be spot zoning and believed that they should make it Residential One and if there needs to be changes made to allow them to do what they want to do then we can discuss it. Mrs. Rouleau-Côté informed the Board that we removed it from the ballot with the premise that they would come back and work with us. Mrs. Rouleau-Côté stated that Ms. Royce has invited them to come before the Board for discussion and they have put it off and believes that we need to move forward on this. Mr. Poltak agreed and said that he had spoken with Mr. Tenn and believes that we should not wait any further and that he would call Mr. Tenn. Mr. Eaton indicated that he had spoken with Mr. Tenn and that he explained that it would be cleaning up zoning and that if the title company sees residential housing in the industrial zone then it becomes a problem with the title company. Mr. Eaton also stated that Mr. Tenn is waiting to hear from Mr. Poltak. Mr. Eaton did not think that the Tenn's understood what the Board was trying to do so somebody has to sit down with them and explain what they are trying to do. Mrs. Marzloff agreed with Mrs. Rouleau-Côté that it would be spot zoning if they want to make it Residential Two. A brief discussion ensued with regard to the Tenn's coming before the Board for discussions and that Mr. Poltak would be notifying Mr. Tenn.

ADJOURN

Mr. Côté moved to adjourn the Hearing. Mrs. Marzloff seconded the motion. All were in favor, the motion passed unanimously and the meeting stood adjourned at 9:30 p.m.

The next Planning Board meeting will take place on Wednesday, September 17, 2014 and will be held at the Town Hall, 47 Chester Road.