

Present: Vice Chair Jack Karcz, Andy Kohlhofer, Roger Barham, Jack Downing, Paul Powers, alternate member Mike Wason, Senior Planner Jenn Rowden, and Land Use Administrative Assistant Casey Wolfe

Also Present: Dennis Quintal, Leanne Miner, Mary O’Brien, Mike Rislove, Anders Ragnarsson, Bill Gregsak, and Dan Tatem

Mr. Karcz opened at 7:00 pm. He appointed alternate Mr. Wason to vote on behalf of Mr. Hunter.

## **I. OTHER BUSINESS**

### **Galloway conditionally approved crushing operation (Map 5 Lot 35)**

Mr. Quintal is present to ensure that his client John Galloway has enough time to complete his conditions of approval before the project expires. Mr. Galloway still needs to attain his State permitting before he meets the conditions of approval. The Board granted this conditional approval on January 4, 2017. The project went into litigation with the Superior Court and received a decision on December 13, 2017. Ms. Rowden stated that Fremont does not have a site plan regulation that gives a conditionally approved plan a deadline before it expires. Because there is no expiration date, there is probably no need to grant Mr. Galloway an extension. Mr. Quintal stated that he just wanted to be sure that there is nothing that he missed. There was a consensus among the Board members that there is no deadline for Mr. Galloway to meet his conditions of approval. Mr. Quintal left at 7:05.

## **II. MINUTES**

Mr. Kohlhofer made a motion to approve the November 7, 2018 minutes. Mr. Powers seconded the motion. The motion passed 6-0-0.

## **III. NEW BUSINESS**

### **Public Hearing for proposed changes to the following sections of the Fremont Zoning:**

- **Article IV Section 403 – Definitions**
- **Article VII – Zoning District Requirements and Zoning Map**
- **Article VII Section 708 – Tables of Uses & Article VIII – Conditional Use Permit**

Ms. Rowden began a brief presentation to outline the proposed changes to the zoning ordinance. She did a longer version of this presentation at the workshop meeting on October 17<sup>th</sup>. She stated that the original zoning ordinance in Fremont was established in 1947 and the zoning map and Table of Uses were established in 2007. The Table of Uses is based in the International Building Code. The current proposal includes creating a definitions section, modifying the zoning districts and the zoning map, and simplifying the Table of Uses. The purpose of the new definitions section is to provide clarity to property owners, town officials, and Boards. Ms. Rowden stated that every district will be affected by this zoning proposal to some degree. The Commercial

Highway District and the Corporate Commercial District will be changed to the Main Street District and the Shirkin Road District, respectively. Additionally, the proposal includes adding an official Residential District, which is not currently defined. In the original proposal, North Road, Chester Road, and South Road were proposed to be removed from the Flexible Use District. After getting feedback from the public, this is no longer part of the proposal. This proposal also includes expanding the Main Street District (currently known as the Commercial Highway District) further down Rt. 107.

Ms. Rowden presented the new zoning map. In the new map, parcels that are included in the Flexible Use District are indicated by being shaded. In the current zoning map, these parcels are only indicated by having frontage on a “red road.” She also showed on the zoning map how the Main Street District is proposed to expand. For the Residential District, the proposed zoning will define this district and indicate where it is on the map. Additionally, the proposed zoning will require a conditional use permit for multifamily housing in the Residential District. For the Flexible Use District, the proposed zoning will establish criteria for attaining a conditional use permit for commercial uses in this district. Additionally, the proposed zoning will require commercial uses in the Flexible Use District to be in the first 500 feet of the lot, unless there is a reason to put it in the back approved by the Planning Board. Finally, the proposed zoning will add a clause requiring commercial properties to maintain essential characteristics of the surrounding area. Ms. Rowden explained that the proposed Use Table will use better terminology than the current Use Table to demonstrate which uses are prohibited, permitted, or allowed with a conditional use permit in each district. This proposed Use Table does not change what is allowed in the districts (with the exception of airports and helicopter pads), the uses are just in better categories.

Ms. Rowden recommended to group these proposed changes into three separate warrant articles. She confirmed that each of these changes can pass on the warrant article in March independently of each other. **Mr. Kohlhofer made a motion to open the public hearing for the proposed changes to Article IV Section 403 (the definitions section). Mr. Karcz seconded the motion. The motion passed 6-0-0.** Mr. Ragnarsson asked if the zoning for his property will change. Ms. Rowden explained that the name of the district that his property is in will change. If the proposal goes through, the Commercial Highway District will become the Main Street District. Additionally, under this new proposal, residential uses will be allowed on his lot. **Mr. Kohlhofer made a motion to close the public hearing for the proposed changes to Article IV Section 403. Mr. Powers seconded the motion. The motion passed 6-0-0. Mr. Kohlhofer made a motion to move the adoption of Article IV Section 403 as proposed to the warrant article. Mr. Powers seconded the motion. The motion passed 6-0-0.**

**Mr. Kohlhofer made a motion to open the public hearing for the proposed changes to Article VII (zoning districts requirements and zoning map). Mr. Powers seconded the motion. The motion passed 6-0-0.** Ms. O’Brien asked if this proposal affected her property on Main Street. Ms. Rowden explained that this will expand that kinds of uses that are allowed on her property. She emphasized that the parcels that are proposed to be a part of the Main Street District are already allowed to have some commercial uses being in the Flexible Use District currently. **Mr. Kohlhofer made a motion to close the public hearing. Mr. Powers seconded the motion. The motion passed 6-0-0. Mr. Kohlhofer made a motion to move the proposed**

**changes to Article VII to the warrant article. Mr. Powers seconded the motion. The motion passed 6-0-0. Mr. Kohlhofer made a motion to open the public hearing for the proposed changes to Article VII Section 708 (Table of Uses). Mr. Powers seconded the motion. The motion passed 6-0-0. There were no comments from the public. Mr. Kohlhofer made a motion to close the public hearing. Mr. Powers seconded the motion. The motion passed 6-0-0. Mr. Kohlhofer made a motion to move the proposed changes to Article VII Section 708 to the warrant article. Mr. Powers seconded the motion. The motion passed 6-0-0.**

#### **IV. CONTINUED BUSINESS**

**Public Hearing for a site plan application for two proposed manufacturing and assembly buildings for Ragnar Original Innovations, Inc. to be located at 662 Main Street (Map 2 Lot 151-2). Application submitted by Fremont Land, LLC.**

As an abutter to the project, Mr. Powers recused himself from being a voting member for this part of the meeting. At the last meeting on November 21<sup>st</sup>, the Board went through and voted on each of the waiver requests. At this meeting, the Planning Board denied the applicant's request for a waiver from the landscaping requirements. Mr. Gregsak stated that he has added some landscaping to the plan. He showed the Board where he has some proposed bushes. Ms. Rowden felt that this was certainly a step in the right direction, however, she wanted to know why there was not any proposed landscaping for the first building. Mr. Gregsak stated that the front of this building in phase one is all pavement and that there is not any place to put landscaping. There will be an area with picnic tables. Mr. Barham stated that he would like to see some landscaping for phase one. Mr. Ragnarsson stated that he will make the site look nice, he just doesn't exactly know how that area will look yet. Mr. Rowden reminded the Board that if they want something on the plan, they need to ask for it. Mr. Barham suggested altering the pavement to allow for landscaping in front of building one. Mr. Ragnarsson reminded the Board that this site cannot be seen from the road. Mr. Gregsak stated that he will add some more landscaping to the plan. He drew in some more shrubs. There was a brief discussion about avoiding the area over the septic system. Mr. Barham would like to see these changes on the plans at the next meeting.

Ms. Rowden stated that Stantec has updated their surety estimate with the adjusted phasing plan. There are only three phases proposed now as opposed to four phases. Mr. Ragnarsson asked why this site has different surety rates for each project. Mr. Barham stated in the case for the Altaeros project, the Board gave them a major break after they cried poverty as a start-up company. Mr. Barham explained that the number Stantec calculated for this project was calculated the same way as it was for a cell tower project elsewhere in town. The calculation is a "middle ground" and only includes bonding items that need to be bonded rather than the entire construction project. This new calculation method has become the Board's new standard. Ms. Rowden reminded the Board that the "middle ground" that they are referring to makes sense because the Town is not in the business of completing a manufacturing facility. The Town only needs the funds to make sure that the site is safe and stable. Mr. Ragnarsson asked if the Town would accept an insurance bond. Mr. Barham stated that it has been difficult for the Town to pull insurance bonds to do restoration work in the past and the Town no longer accepts them. The Town does not want to deal with an insurance company. There was a discussion about

combining the surety for this project with the \$24,000 that is already in place for the gravel pit operation. Ms. Rowden stated that surety cannot be combined for the two separate projects. Stantec engineer Mr. Tatem, who works as the Town's consulting engineer, arrived at the meeting. Mr. Gregsak stated that the town engineer should not be commenting on State permits. Ms. Rowden stated that the applicant does need an Alteration of Terrain (AoT) permit from NHDES and a driveway permit from NHDOT. The Town has no say in the application process for these State permits. However, the Town has its own drainage and driveway regulations that need to be met. Mr. Gregsak stated that the regulations for the AoT permit are much stricter than the Town drainage regulations. Mr. Gregsak expressed frustration with the town engineer's comments on the pending driveway permit. Mr. Barham stated that if the town engineer's comments are about the town regulations, then they need to be addressed. Mr. Gregsak felt that the comments are overboard. He stated that they brought to the Board this evening a finished hydrogeological report. Ms. Rowden stated that she is not qualified to review a report like this. She recommended that the Board address this at the next meet. Mr. Barham stated that the Board will have Stantec review this document. Mr. Tatem confirmed that his firm can do this review.

There was a discussion about the obstacles that the applicant still needs to go through before they can pour concrete. Ms. Rowden explained that the applicant still need to receive conditional approval of the plans, the conditional use permits, and the State permits. The Town has no control over how quickly the State permits are turned around. Until all of this is done, they cannot pour concrete legally. The plans would also need to be signed and recorded at the Registry of Deeds. **Mr. Kohlhofer made a motion to open the public hearing. Mr. Downing seconded the motion. The motion passed 5-0-0.** Ms. Rowden asked if the Board decided to have a no-cut zone on the site at their last meeting. Ms. O'Brien wanted to know if the trees would be cut along her property line. After some discussion, there was a consensus among the Board members that there needs to be a 35 foot buffer of trees on the southern property line that abuts Ms. O'Brien's property. **Mr. Kohlhofer made a motion to close the public hearing. Mr. Downing seconded the motion. The motion passed 5-0-0. Mr. Kohlhofer made a motion to continue the application to December 19th. Mr. Downing seconded the motion. The motion passed 5-0-0.** The applicant left at 8:18 pm.

## **V. OTHER BUSINESS CONTINUED**

Mr. Powers rejoined the Board as a voting member.

Donigian Cell Tower – The Board discussed some issues with the cell tower project, which is currently under construction. Mr. Tatem reported to the Board that the original surveying was done incorrectly for this project during the design phase. The elevations were off by about five feet. Amid doing their site work, the applicant has had to completely re-design the site plan to adjust for the discrepancies in the topography. The underground infiltration systems have been completely relocated and the detention ponds on the side of the entrance are gone. They are proposing the roadway to be at a 16% slope instead of a 10% slope. Mr. Tatem has told the applicant that they cannot have a 16% slope. In order to make the 10% slope work, they will either need retaining walls or an easement from an abutting property. They have not done any work on the site for about a month and a half. Both the Road Agent and the Fire Chief are adamant against allowing a 16% slope. Mr. Tatem has told the applicant that they need to come

back to the Board to amend their site plan. These changes are way beyond simple field changes. For now, the only problem is that the work that they have done on the site is not stabilized properly. This needs to be addressed immediately. Additionally, there are pipes sitting out in the right-of-way that need to be removed from the area. Ms. Rowden stated that at worst case scenario, they could ask the Board of Selectmen to issue a cease and desist, however, if they are being compliant than that is not necessary. Mr. Tatem stated that if they are unable to get this easement that they need, they may walk away. Fortunately, the Town has reclamation surety in place for situations like this. Mr. Tatem would like an update from them soon.

Governor's Forest – Mr. Tatem reminded the Board that the retaining wall on the access road between Governor's Forest and Witham Park has been sitting partially constructed for about a year now. Every time it rains, all of the dirt and silt goes down the road into the neighbor's driveway. Mr. Tatem stated that Mr. Ferwerda is not in compliance with his project having it sit there unstabilized. He recommended that the Board does something about this. There is no surety in place for this access road. The Planning Board could recommend to the Board of Selectmen to issue a cease and desist on the project. The Board could also require Mr. Ferwerda to stabilize the site properly and then rebuild the wall in the spring. Mr. Barham suggested giving Mr. Ferwerda 14 days to stabilize the site. If Mr. Ferwerda does not comply, then the Board will recommend a cease and desist order to the Selectmen. **Mr. Barham made a motion to send this letter to Mr. Ferwerda. Mr. Powers seconded the motion. The motion passed 6-0-0.**

Altaeros Energies – Mr. Tatem referenced an email that the landowner sent out that included name-calling. Mr. Tatem stated that he and his team have been completely professional. They don't use bad language, instead they write letters backed up with reports, pictures, and invoices. In his last letter, he has requested a meeting with the Board, perhaps a non-public session. The Board needs to get the landowners in line. Ms. Rowden felt that there are some changes that can be made to the regulations to later avoid some of the problems that the Board is experiencing with this project. Mr. Tatem stated that work has been done on this site without the proper inspections. He recommended that the Board requires the landowner to post surety for all of the work that was done without inspections. The Board did the same thing for Black Rock Village. He recommended that when the landowner comes in to talk about this, the Board should state that they will not tolerate work being done without the proper inspections during the Ragnar Original Innovations project. The Town's regulations require inspections and the Board needs to enforce this requirement. Ms. Rowden suggested contacting Town Counsel about this. There was some discussion about holding a non-public session about this in January. Ms. Wolfe will call Town Counsel about this. Mr. Tatem can calculate the surety after Ms. Wolfe makes this phone call.

Mr. Kohlhofer made a motion to adjourn at 8:52 pm. Mr. Downing seconded the motion. The motion passed 6-0-0.

Respectfully submitted,

Casey Wolfe  
Land Use Administrative Assistant