

Board Members Present: Chair Paul Powers, Vice Chair Andy Kohlhofer, Ex Officio Neal Janvrin, Member Jack Karcz and Tim Lavelle.

Also Present: Madeleine DiIunno, Rockingham Planning Commission; Administrative Assistant Leanne Miner; Bill Gregsak of Gregsak Engineering representing Applicants Mike Rislove of Fremont Land LLC; Applicant Mike Rislove of Fremont Land LLC

I. WELCOME

Mr. Powers opened the meeting at 7:04 PM.

II. MINUTES

Mr. Karcz made a motion to approve the meeting minutes for November 2, 2022 as amended. Mr. Kohlhofer seconded the motion and the motion passed 4-0-1 (Lavelle Abstaining)

III. CONTINUED BUSINESS –

- 1. 002-151-2 and 002-151-004 Subdivision Application** Fremont Land LLC has modified their proposal for subdivision of Map 2, Lot 151-2 into 3 parcels with a new public right-of-way to include the existing private road (Phase 1). There are planning a second phase for the roadway (Phase 2) as part of their developing concept. Phase 1 proposes a temporary easement at the end of the existing roadway for a turn-around for emergency vehicles until Phase 2 of the roadway (Cul-De-Sac) is constructed. Once the roadway is complete, the easement turn-around will be rescinded.

Mr. Lavelle recused himself as a consultant to the Applicant. This public hearing was continued from November 2, 2022.

The Board is in receipt of the following:

1. Revised plan set (7 drawings) dated July 12, 2022 and last revised November 14, 2022 (received via email 11/15/22 and distributed hard copy tonight).
2. Keach-Nordstrom Associates, Inc. (KNA) letter dated November 16, 2022

The Board is also in receipt of Town Department comment sheets or letters as follows:

3. Updated comments from the Select Board dated November 10, 2022.
4. 1934 map of parcel showing old woods road and 2 articles on paper streets provided by Mr. Powers.

Regarding KNAs comment letter dated November 16, 2022 and department comments from the Fire Department and Select Board, Mr. Gregsak offered the following updates for discussion:

The Applicant is still waiting for NHDES Subdivision Approval. The NH DOT driveway permit will be amended prior to any future site plan approvals as the current permit specifies the existing operations (Ragnar and Altaeros).

Mr. Gregsak followed up with the Fire Department regarding road length waiver. Ms. Miner also spoke to Deputy Fire Chief Nichols regarding same. Mr. Lavelle spoke to the justification for accepting a road length exceeding the maximum allowable of 1500 feet under the Subdivision Regulations. He explained that 5 different entities will be served by this road which is much different than what is expected in a residential development there by not requiring as many access/egress points. Also given commercial uses along the road there will be limited access needed at night. There are existing parking areas for emergency turnaround as well.

Mr. Kohlhofer expressed his concern about residential use in the future with no secondary access/egress. Mr. Lavelle stated that if the subdivision is to expand the Applicant agrees they will need to seek secondary access. Mr. Janvrin pointed out that this is also a concern of the Select Board. Mr. Kohlhofer pointed out that the Select Board recommend the road be extended to include access to other landlocked parcels (see Select Board comments #11 and 12). Mr. Lavelle stated that the owner is looking at other options for secondary access in the future.

Regarding the proposed temporary easement for emergency vehicle turnaround, a gravel surface is ok with Leon Holmes, Road Agent, who has discussed this with KNAs field engineer. Mr. Powers reminded the Applicant that the plans will need to show location of speed limit signs.

As required per Section 10.04 of the Subdivision Regulations, boundary monuments must be installed as defined. Mr. Lavelle stated that they will be installing the monuments prior to approval and will be shown on the revised plan set. Certification will also be provided.

Ms. Miner noted that the Fire Department was concerned with expanding the subdivision without installing the cistern which was approved for Phase 2 of Ragnar Original Innovations (ROI). Mr. Lavelle stated that this requirement remains for Map 2, Lot 151-2 ROI. Future uses on new lots will need to address their own fire service needs.

Regarding the proposed road name, the Select Board had no objections to Iron Horse Drive. The Town Historian suggested Jacket Hollow. While the Select Board typically prefer to use the Town Historian's suggestions, there is a nearby development with the same name and the industrial business park is also called Iron Horse. For ease of emergency response Iron Horse Drive made more sense. The Applicant will follow up directly with the Office of the Select Board to finalize road name matters.

Regarding the roadway waiver request, Mr. Gregsak provided a revised letter dated November 2, 2022 including responses to standard waiver criteria. The request is as follows:

Article III - Section 10.02 Q - The applicant is requesting relief from this section. The proposal is to create a ROW for the existing roadway and to turn the roadway over to the Town. The existing roadway is approximately 2,100 feet long.

Mr. Powers read responses to the criteria as submitted by Mr. Gregsak as follows:

- a. The granting of this waiver would not impact public health, safety or general welfare. The existing roadway was designed and constructed in accordance with the Town of Fremont requirements and presently accesses two buildings. The proposal is to have 2 lots subdivided at the beginning of the roadway, near Route 107.
- b. The request does not conflict with the intent of the regulations because the roadway is an existing roadway that was designed and constructed in accordance with the Town of Fremont regulations.
- c. This request does not conflict with the Fremont Zoning Ordinance.

Ms. Miner informed the Board that Deputy Fire Chief Joseph Nichols verbally conveyed that he and Chief remained in favor of granting the waiver. He noted that the same turnaround and waiver was approved for the Site Plan and their opinion has not changed with the Subdivision proposal. He noted that there is lower density compared to residential and adequate space to turn around in parking lots of existing facilities.

Mr. Holmes, Road Agent, spoke previously that he was pleased with the road as constructed with the addition of speed limit signage and bar removal. The subject of snow removal was discussed. No written comments from the Road Agent were available, however Mr. Rislove stated that he and Mr. Holmes reviewed the roadway and that there was plenty of space to move and store snow. He also stated that he understood that the Town's road maintenance/snow removal responsibility was up to the (dead) end of the proposed roadway versus private snow removal. There will be an opportunity to clarify and confirm adequate snow storage space per the Road Agent during the road design/acceptance process.

The Board's main concerns were accommodations for emergency access and snow removal. Based on input from the Fire Department and Road Agent, the Board moved to a vote on the waiver.

Mr. Karcz made a motion to accept the waiver with the temporary easement with the condition that it be shown on the plans and documented as recommended by KNA in the letter dated November 16, 2022 (see comment 3). Mr. Janvrin seconded the motion and the motion passed 3-1 with Mr. Kohlhofer voting Nay.

The Board continued the hearing with public comments.

Mr. Kohlhofer opened the hearing for public comment on the Subdivision Application at Map 2 Lot 151-2. Mr. Karcz seconded the motion and the motion passed 4-0.

Mr. Stephen Bassett, trustee of Heritage Farm Trust, owner of tax parcel Map 4, Lot 74, addressed the Board with concerns about his lack of legal access to his property. Mr. Bassett submitted a letter to the Board detailing his concerns (letter received by hand delivery to the Office of the Select Board October 3, 2022). He insisted that access to his property should be shown on the plan. He spoke to the history of the property and access in the past. He passed

around several letters and reports including Town mapping that showed a road on the subject parcel that provided access to his property. He noted land history associated with Exeter, a Folsom Meadow Grant, and common law access. Mr. Bassett also provided a one-page list of statements made by Donald Wilson, Land Boundary Consultant, copies of which were distributed to the Board. He also had a number of letters stating historic use of access to his property through the subject property. Mr. Powers spoke to the comment letter and noted that he personally took interest and did some of his own research into the mapping of the 1930s. While the materials provided seem to have merit, Mr. Powers made clear that no mapping has been submitted that specifically shows such a right of way. He informed Mr. Bassett that the Board doesn't have the ability to show a right of way and that the only document the Board could accept is a recorded plan showing an easement right of way or a deed. Mr. Bassett continued to disagree stating that he does not have either of those things, but he has evidence in his letters and reports that there is a right of way. Mr. Powers stated that the Board does not have the authority to grant access or an easement. Mr. Kohlhofer suggested that the Board seek legal counsel on what evidence the Board can accept into order to show any right of way as claimed by Mr. Bassett. Ms. Miner to follow up with legal counsel to get clarification on the matter. Ms. Miner's request will not be to review the materials in detail, but to advise the Board on what materials are required to show a ROW on the plan. Mr. Lavelle, licensed surveyor for the project, stated that the aforementioned map showing the right of way was prepared by the state and not surveyed. The referenced site plan from the 80s was done for Paint Pine Mills Inc and indicates easements. The right of way claim made by Mr. Bassett is a civil matter and is therefore not shown on the plan. Mr. Janvrin noted that the Town had done research in the past on this matter including research of rangeways and at that time the Town advised Mr. Bassett to seek legal action in the courts. No evidence of access was concluded. It was restated that the future cul du sac shown is concept only and not a part of the current proposal. The Board agreed that access appeared to be a civil matter and the conversation concluded.

Mr. Kohlhofer motioned to close the hearing for public comment on the Subdivision Application at Map 2 Lot 151-2. Mr. Karcz seconded the motion and the motion passed 4-0.

All materials were returned to Mr. Bassett.

Ms. Miner inquired about the Town Engineer's outstanding review of the as-built road plans and whether or not it would be acceptable as a condition of approval. There was discussion about the sequence of submittals, bonding, approvals. Mr. Janvrin noted that there is continued concern over the right-hand exit space for large vehicles. KNA states that the permit will need to be amended. The Board felt that the Town Engineer and NHDOT have the expertise to determine adequacy of entrance and exit which the Select Board will need to review for roadway acceptance.

Ms. Miner reviewed the proposed conditions of approval as follows:

1. Plan Sheets 1, 2, 5, and 6 Mylars shall be recorded at the Rockingham Registry of Deeds and a digital copy of the Mylar provided for the Town Land Use file.

2. All licensed professionals whose names appear on the approved plans and Mylar shall have original stamps and signatures.
3. All required state permits are received, and permit numbers noted on the approved plans and recorded Mylar.
4. All waivers granted and conditions of approval be noted on approved plans and recordable Mylar.
5. The “temporary easement for emergency vehicle maneuvering” be modified as recommended in comment 3 included in the Town Engineer’s letter dated November 16, 2022.
6. All monuments shall be installed, shown on approved plans and recorded mylars, and certified.
7. Four paper copies of the final plan set (2 full sized and 2 half size) shall be signed for Town Land Use files.
8. A Development Agreement is executed according to Subdivision Regulations Article IV, Section 4.
9. To the extent that the existing private site driveway is intended to be dedicated as a public way, the applicant shall demonstrate construction conforms with applicable design standards and requirements contained in Sections 10.01 through 10.05 of the Fremont Subdivision Regulations as detailed in comment 5 of the Town Engineer’s letter dated November 16, 2022. It is further required that Subdivision Regulation Sections 10.06 and 10.07 be satisfied precent to subdivision approval and prior to commencement of formal consideration of possible public acceptance of Iron Horse Drive by the Select Board.
10. All conditions of approval are met within 365 days of this approval date. The Planning Board may grant an extension of its original approval with good cause.
11. All fees incurred by the Planning Board, including but not limited to consulting, engineering, and legal fees, have been paid by the applicant.
12. An amended NHDOT Driveway Permit be received prior to or as a condition of any future site plan approval for establishment of new or modified use(s) on properties served by the now existing site driveway.

Mr. Karcz motioned to approve the subdivision of Map 2 Lot 151-2 with the conditions as read. Mr. Kohlhofer seconded the motion and the motion passed 4-0.

Mr. Gregsak and the Applicants left the meeting at 8:29 PM.

III. CONTINUED BUSINESS (continued) – Zoning Ordinance Updates for 2023

Proposed Zoning Ordinance amendments were discussed by the Board.

1. **Clarifying definition and district allowance for Motor Vehicle Showroom.** Based on popular requests made to the Land Use Department regarding auto sales, the Board reviewed two amendments to better define Motor Vehicle Showroom and discussed in which districts they should be permitted with or without a Conditional Use (CU) Permit or prohibited. The Board concluded with the following two changes that they felt addressed the commercial land use for all types of vehicle repairs or sales. Individual sales of vehicles from one’s property do not apply here and/or are regulated by the state.

- a. Add the following to Section 708 - Table of Uses:

	Zoning Districts			
	SH	MS	FUR	R
Motor Vehicle Repair Shop	P	P	CU	X
Motor Vehicle Showroom Motor Vehicle Sales	P	P	CU	X

- b. Add the following to Section 403 – Definitions:

MOTOR VEHICLE REPAIR SHOP: A building and/or lot used for the servicing and repair of automobiles, recreational vehicles, or other similarly sized vehicles.

MOTOR VEHICLE SALES: The use of any building, land area or other premise used principally for the display, sale, rental, or lease of new or used automobiles (but may include light trucks or vans, trailers, or recreation vehicles), and including any vehicles preparations, warranty, or repair work conducted as an accessory use.

- 2. Refining the definition of Feedlot.** Ms. Miner noted that the current definition could be misinterpreted by code enforcement based on the number of five (5) animals used in its definition. This is contrary given that agriculture is allowed in all districts and when it is common that many people have more than 5 chickens for example. Also, when the Aquifer Ordinance was updated, there were concerns voiced by local farmers. The Board considered a dictionary definition and/or simply shortening the definition to exclude a limit of 5 animals. Ms. Miner shared her findings that the basis of including feedlot in our Zoning Ordinance was based on surface water or groundwater contamination by manures which is regulated by the state and federal government. Both the NH Department of Environmental Services and the US Environmental Protection Agency have guidance for best management practices and criteria which trigger permitting. The Board expressed a desire not to regulate such matters on a local level and decided to instead strike the definition of Feedlot and its application in the Aquifer Protection District all together in the Zoning Ordinance.
- (Existing Definition) Animal Feedlot: A commercial agricultural establishment consisting of confined feeding areas and related structures used for the raising of livestock. An animal feedlot shall be considered one on which more than five (5) animals are raised simultaneously.
 - (See also reference to feedlots in Section 1203.8, D, 9) Animal feedlots. (see definitions = five (5) or more animals)

- 3. Amending the Zoning Ordinance to clarify incentives for Workforce Housing as required under House Bill 1661.** Ms. DiLonno proposed the language below which the Board approved with instruction that Ms. Miner get legal counsel to review and approve in advance of the Public Hearing.

- a. Add the following to Article 1301.1 – Elderly Open Space
Pursuant to RSA 674:17, IV, any dimensional or procedural incentive under this elderly open space ordinance is deemed applicable to a development of workforce housing as defined in RSA 674:58, IV. Any proposed workforce housing development shall comply with the provisions of the Fremont zoning ordinance, site plan and subdivision regulations with respect to environmental protection, water supply, sanitary disposal, traffic safety and fire and life safety protection.

Mr. Kohlhofer motioned to move the Zoning Amendments as discussed to a public hearing on December 7, 2022 at 7PM. Mr. Lavelle seconded the motion and the motion passed 5-0.

IV. NEW BUSINESS – Renewal of Economic Revitalization Zoning (ERZ).

1. At the request of the Select Board, the Planning Board reviewed a letter from the New Hampshire Business and Economic Affairs Department for the renewal of Town ERZ Certification. According to the letter, Fremont was previously granted ERZ designation for the areas listed below. The ERZ statute requires that each ERZ be evaluated every 5 years to determine if it meets the criteria required in RSA 162-N:2. An ERZ must have at least one of the following characteristics.
 - (a) Unused or underutilized industrial parks; or
 - (b) Vacant land or structures previously used for industrial, commercial, or retail purposes but currently not so used due to demolition, age, obsolescence, deterioration, brownfields, relocation of the former occupant's operations, or cessation of operation resulting from unfavorable economic conditions either generally or in a specific economic sector.

Corporate/Commercial District- Shirkin Road (approved 7/17)

2) Commercial Highway District- Red Brook Road (approved 7/17)

3) Commercial Highway District - Route 107 (approved 8/17}

4) Village District ERZ #1 (approved 8/17)

5) Village District ERZ #2 (approved 8/17)

The Board reviewed the Town Zoning Map and discussed any changes to land use over the last 5 years. With the exception of Liberty Lantern Estates which has not actually been built at the time of this review, the Board felt that some properties in these zones remain underutilized or vacant.

Mr. Powers motioned to recommend that the Select Board continue with the certification of ERZ areas as described in the letter based on limited development in the areas noted over the last five years. Mr. Kohlhofer seconded the motion and the motion passed 5-0.

V. ADMINISTRATION, OTHER

1. Circuit Rider Business

- a. The next subcommittee meeting for the Transportation Chapter of the Master Plan is December 7, prior to the next Planning Board meeting. All are welcome.

2. Incoming Correspondence and Project Updates

- a. Liberty Lantern Estates – No updates since previous meeting.
- b. Scribner Road – Ms. Miner is working with the new owner/developer on getting final approvals.
- c. Governor's Forest – Final paving has been completed. The Board is expecting a final inspection report from the Senior Field Engineer and will consider bond release upon that request. Maintenance bond – not required because private.

3. Administration –

- a. **Budget 2023** – Ms. Miner noted the Planning and Zoning budget is at just over 50% spend for the year at the end of October. She has some office items to purchase and will review and consider any incurred or expected charges for the remainder of the year.
- b. **Capital Improvement Program (CIP)** – The summary spreadsheet has been drafted and will be distributed in the near future for discussion with the CIP Committee.
- c. **Other Department News** – The Conservation Commission has installed one of the new interpretive trails signs at the library.

VI. ADJOURNMENT

Mr. Karcz made a motion to adjourn the meeting at 9:13 PM. Mr. Kohlhofer seconded the motion. The motion passed 5-0.

Respectfully submitted,



Leanne Miner
Land Use Administrative Assistant