

TOWN OF UNITY
LAND USE REVIEW COMMITTEE MEETING MINUTES
APRIL 23, 2014
LOCATION: UNITY MASONIC HALL, UNITY, MAINE

MEMBERS IN ATTENDANCE: Barry McCormick, Charlie Porter, John McIntire, Mark Nickerson

MODERATOR: Jim Kenney

OBSERVERS: Garrett Morrison

RECORDER: Sherry Powell-Wilson

18:36:36 Meeting opened. [Last meeting's Minutes approved.]

18:38:33 Barry McCormick: Jim had gone through something and had made a bunch of changes and that's what he hoped we could get done tonight, and then next week tackle 13.

18:38:33 Garrett Morrison: I printed out what Jim sent to me as a copy. Included, as far as I know, are all of the things we discussed last week. With the exception to a minor change to the Minutes (spelling), I'm happy. [Minutes accepted] I have a copy of what we had done last week, the notes on it and his [Jim's] changes. We can go read through up until they stop at 13.8.

18:40:41 Barry McCormick: If you don't mind reading that we could at least approve or disapprove or change what you have.

18:41:03 Garrett Morrison: This table, he has in red, 6,000 square feet and we moved 10,000. I assume that we changed that to 6,000?

18:41:57 John McIntire: From the Minutes, that's what it says, that we wanted to go to 6,000.

18:41:57 Garrett Morrison: Okay, I'm just going to cross out the 10,000.

18:41:59 Barry McCormick: The other thing on that paper, before you put it away, Randy did mention something about, we talked about putting something at the bottom of that and if I recall right, but it's something to do with a subdivision, referring them to another section.

18:42:21 Garrett Morrison: We were going to wait until more people got here, I don't know who but I think we might just as well go through the rest. That's under 13.3.1, type 1 classifications. It was to be an addition and we don't have it now.

18:43:36 Garrett Morrison: Basically, we're starting at 13.1. There are no marks on it up through 13.3.2.1.3. I'll start with 13.3.2.1.3, at least two of a size which all the contained information is legible. I think that's a change of what he had.

18:44:23 Barry McCormick: I see no problem with that.

18:44:26 John McIntire: I think what he did was cross out full size.

18:44:30 Garrett Morrison: I thought it was awkward of a size that all contained information is legible, and I said of a size on which information contained is legible. On the next paragraph, the applicant needs to only supply this information once. Part of 13.3.2.2 has been stricken so it now reads each development review application shall contain following the information. Under 13.3.2.1.4, the names and addresses of all abutting property owners.

18:45:24 Charlie Porter: What it says now is within 100 feet of the property line.

18:45:40 Garrett Morrison: The last paragraph of the section, general information, has been stricken entirely.

18:46:01 John McIntire: Registration and number of the surveyor, architect, engineer, etc.

18:46:11 Charlie Porter: That comes automatically. If I submit you a plan from an engineer, I have my seal on that sucker. An architect is the same way. You don't need numbers or seals.

18:46:29 Garrett Morrison: Then we moved to 13.3.3.2.3, existing conditions, is a section on existing conditions, and that has changed because it did have 2 subparagraphs and now is only one. The subparagraph titled 13.3.3.2.3.2 has been stricken. It references moving it to 14.4.2 and I'm not going to bother with that because it confuses the issue here.

Under subparagraph 13.3.2.3.8, location of open drainage courses, wetlands, any trees with 12" or more, has been stricken, and stands of trees has been stricken. We finished this, what was there other than important natural features with a description that such features to be retained. Skip next paragraph because it stays as it was. Going down to 13.3.1.0, general boundaries and description of vegetative cover. That's a period and everything that previously followed is stricken. Then down to 13.3.3.2.1.3., approximate location and depth of any wells on the property. It did have within 500 feet of each property line and I think that we changed that to 100.

18:48:33 Barry McCormick: So it's approximate location and depth?

18:48:38 John McIntire: It does read approximate depth.

18:48:43 Garrett Morrison: It says approximate depth, it says approximate location and depth because the second approximate was stricken, of any wells on the property within 500 feet was stricken. It is now ending that sentence with if known.

18:49:04 Barry McCormick: I think there ought to be some kind of measurement there, 100 feet.

18:49:09 Garrett Morrison: One hundred feet should be there but the depth of the well is the question, if known, because it just isn't information that is so critical that we've got to go to great lengths to find out. If you know it, fine.

18:49:43 Garrett Morrison: Down to 13.3.3.2.3.1.6, location, dimensions and restriction of any portion of the land abutting the proposed development that currently used for commercial agriculture. The rest of it is stricken.

18:50:38 Charlie Porter: Read the paragraph again as corrected.

18:50:41 Garrett Morrison: Location, dimensions and description of any portion of the land abutting the proposed development that is currently used for commercial agriculture. That moves us forward to 13.3.2.4.7, and the second paragraph which is 13.3.3.2.4.11 has been stricken entirely and that was location and description of any open space and/or public dedication to be made including ownership and plans for ongoing maintenance of the property. 13.4, development review stages, and under 13.4.1, preliminary plan stage, in the 3rd paragraph it says if the Board finds submission complete it shall decide within 30 days, changed from 60, of making this finding. Fifth paragraph, a public hearing may be held during this preliminary planning stage, for type 2 projects will be held automatically whereas a hearing for type 1 projects will be held following the majority vote of the Planning Board. Previously it said at the discretion of the Planning Board. And then, he's added, this is parenthetical, I've put the above/below the thoughts we agreed to, I would like us to consider this should be part of the bylaws of the Planning Board and not here. This was just an addition by Jim.

18:53:05 Mark Nickerson: Because we couldn't tell them what to do.

18:53:11 John McIntire: That would have to go through them and whatever bylaws.

18:53:18 Garrett Morrison: 14.4.2, final plan stage second paragraph, the same time tables shall be followed for the final plan stage as well as the preliminary plan stage regarding the termination of the complete application and making a decision on the application. A public hearing may be held and, this has been added, following the majority vote of the Planning Board. At the discretion was eliminated. Just above, where 13.5 begins, 13.3.3.2.3.2, bearings and distances of all property lines of the property to be developed and the source of this information parked here for placement following...

18:54:31 John McIntire: Actually, what I think he's trying to say is that we take 13.3.3.2.3.2 and put it right there in right ahead of 13.5, under 13.4.

18:55:08 Garrett Morrison: Now, under 13.5., professional review, we discussed this last week and in the interest of time Jim said pull some words together, so have the words and I'm going to hand them out. I'll let you read that.

On hiring "outside" help

Help might be: Pro lawyers and con lawyers; pro geologists and con geologists; pro hydrologists and con hydrologists; pro and con structural engineers; and same for mechanical engineers; electrical engineers; hydraulic engineers; civil engineers, uncivil engineers, surveyors; mapping and computer aided mapping specialists; plant specialist, animal specialists, endangered species specialists; plant pathologists, plant psychologists, plant counseling specialists, and many more as deemed pertinent to the situation.

The question will be how many of these or other disciplines will be found to be desired or necessary to hear from in review of an application. Then, who will make the decision as to how many specialists are actually hired and at what cost. I do not want to leave the decision in the hands of an elected official, or in the hands of two or more of the same. I suggest we specify the upper limit for such costs based on the total projected project cost as it is estimated at the beginning of the project. Then, for Projects Costing the permitted range of costs to be paid by the applicant will be:

\$0-\$1,000 \$100 or 10% whichever is less

\$1,000 to \$5,000	\$500.00 or 10% whichever is less
\$5,000 to \$10,000	\$1,000 or 10% whichever is less
\$10,000 to \$50,000	\$5,000 or 10% whichever is less
\$50,000 to \$100,000	\$7,500 or 10% whichever is less
\$100,000 to \$500,000	\$10,000 or 5% whichever is less
\$500,000 to \$1,000,000	\$10,000 or 5% whichever is less
\$1,000,000 to \$5,000,000	\$15,000 or 5% whichever is less
> \$5,000,000	Up to 5% or total projected project cost

18:56:56 Barry McCormick: This would be hired by who?
The applicant or the Planning Board?

18:57:03 Garrett Morrison: It's not defined.

18:57:11 Charlie Porter: Sometimes we've had to have an expert in for our side.

18:57:19 John McIntire: I think that's what 13.5 says is that the Planning Board is going to hire somebody and I think Garrett, are you suggesting that we add this range of cost?

18:57:34 Garrett Morrison: I'm suggesting that we limit it to this range of cost. It doesn't have to be any, you don't have to hire anybody but what I have seen in the past, and this is on the part of the DEP staff and enabled by management, is an attempt to hire enough specialists and a high enough price so that the applicant simply cannot pay the bill and, therefore, terminate the project. It's unfortunate and unfair. I'm saying we can establish some numbers. These numbers are verbiage and if anybody thinks that they're grossly wrong we can go from there but it seemed to me that the one place we could tie this and make it realistic and void of impact by inflation is to take what the applicant has proposed as project cost, and use that as basis. If your project is going to be something that you're going to pour some concrete steps next to the highway and it's going to cost you \$200.00, \$100.00 or 10%, it's not such a big deal, but if you have to spend \$300,000, and the same thing down through here for all of these projects that go up to \$5,000,000, tries to make it anything more than \$5,000,000, limit it to 5% of proposed project cost price. As the price of the project goes up, the requirement for outside help does not.

18:59:30 Charlie Porter: The only problem I think we're going to run into is the Selectmen set the fees. They set the fees for everything.

18:59:42 Garrett Morrison: But they don't set the fees for outside consultants.

18:59:49 Barry McCormick: I like the train of thought, the bigger the project, the more professional help the application is going to have as far as laying it out. If there is any discretion, all we have to do is hire somebody just to make sure what they're showing us is correct. You've capped it basically at \$10,000 or 5% whichever is less.

19:00:20 Garrett Morrison: Well, it may be 15 or higher. What I'm getting at is if Wal Mart comes in and says we're going to build a store that will be 40,000 square feet, and then they say, you know, we've got the land and we see this region as developing in the future, we're going to make it 60,000 square feet. Anybody that is opposing the 40,000 square foot development and wants to hire an expert, and wants the applicant to pay that cost, is not going to need more money, it's because he's not opposing

the size of the building, he's opposing other things associated with it. So it doesn't have to go up as the cost of the project goes up. I have no idea if 5 or 10 percent is even as reasonable as an upper limit on the cost, but I think we've really got to set an upper limit.

19:01:22 Barry McCormick: I have no problem with that. I have developed a few things myself. Like you said, they could run the cost up high enough so I would say to heck with this.

19:01:32 Garrett Morrison: And believe me, I have seen it.

19:01:38 Mark Nickerson: I think it's a great idea.

19:01:44 Garrett Morrison: What the situation is if we have something that crops up and people who oppose it have some really wonderful reason why they should be able to hire 50 experts instead of just two, and want to have them all paid. If we limit what the applicant has to pay who pay then who's going to pay the bill and I think the only fair thing is to make it the town.

19:02:13 Charlie Porter: These people are going to be paid by him.

19:02:20 Garrett Morrison: Up to these limits.

19:02:23 Charlie Porter: Right. What about us, the town? Suppose we have an issue.

19:02:32 Garrett Morrison: This isn't saying that this is an issue by somebody that opposes and application. This is anybody that has an issue can go in under the professional review section and said I have an objection to this, we need to hire an expert.

19:02:53 Charlie Porter: So you're saying anybody in town can come in and say, I have an objection, I want you to hire an expert to take care of this?

19:03:01 Garrett Morrison: Anybody can say it and the Planning Board says, okay, fine we will do that. I think it's up to the Planning Board but my point is, what we as a civil society is where the Planning Board says, yeah, that's a great idea because they don't want the project to go ahead, and this allows them to say that everything here that this person is objecting to is valid and we can hire 50 experts and this guy has to pay three million dollars and I'm saying put an upper limit on it as to what the applicant has to pay. That's what these are for. If the Planning Board says, well, yes, we really have to do this it has to come out of the town coffers, and the town have to approve it.

19:03:45 Mark Nickerson: What if a civilian comes in to the Planning Board, why wouldn't they be responsible rather than the town?

19:03:56 Garrett Morrison: That's an awfully good idea but what is goes on in the State is an applicant is trying to build a project, and this has happened numerous times, the plug your nose association or the anti-whatever association comes in and says this really needs to be objected to and we don't have any money and the Board of Environmental Protection will say, okay, the applicant has to pay the fees to hire to someone to oppose this. The applicant has to fund the opposition to his project.

19:04:41 John McIntire: I don't know. I hear what Garrett is saying and I appreciate there has to be limits set. I don't have a clue when it comes to that kind of money what is what.

19:05:01 Garrett Morrison: I don't either and that's why I put down some numbers for the sake of discussion. What I'm getting at is we cannot leave it as an open-ended expense for the developer because there are people, and I will use the term unscrupulous enough to organize this and see that it happens, that it costs so much money that the project cannot go forward and for nothing more than somebody opposes, and not necessarily for valid reasons. This is an attempt to say that, alright, you can want that and if the Planning Board says, yes, that's a valid expense, then it can be charged to the client up to this limit and anything that exceeds that has to be paid by the town. That would put some restraint on the Planning Board. That was easy. I thought you would fight this tooth and nail.

19:06:24 Barry McCormick: These numbers that you have, to me...

19:06:26 Mark Nickerson: I like the percentage part.

19:06:34 Charlie Porter: Well, up to \$100,000, some of these projects I don't think that's unreasonable.

19:06:45 Barry McCormick: To be honest with you, I'd make it 5% right across the board.

19:06:51 Mark Nickerson: I'm thinking if you have a \$100,000 project, that's a big chunk of money.

19:07:03 Garrett Morrison: I think that would be good.

19:07:07 Charlie Porter: There is no discrimination about it. Nobody is trying to hide the cost.

19:07:14 Barry McCormick: The reason I say that, I've spent on some of my projects, close to some of these just to make sure that didn't happen to me, an attorney. I'd much rather spend it in a positive way than a combative-type situation.

19:07:40 Garrett Morrison: If the Planning Board used it in the same sense that the Maine DEP, just say, well, if you oppose it you've got to have the applicant pay the fees for whoever you want to hire to oppose it. He's paying double cost because he's got to pay the lawyers or others to defend it as well as the people to oppose him. That may be what the State thinks is fair practice. I'm just saying let's just put an upper limit on it.

19:08:12 Barry McCormick: If we 5% in that situation I just mentioned, if the applicant has to pay 5% for John to oppose it, an engineer or somebody that the town has hired to check it out, I may have to spend another 5% just to stay up with him. I'd keep it reasonable. My suggestion is to make them

19:08:44 John McIntire: It would make sense to have it fair right through.

19:08:49 Barry McCormick: I think the dollar amount is acceptable but, like Mark said, say if you have something like \$60,000, and somebody protests, that's 10 or 11% you have to pay just to have someone tell you. To be honest with you, more of this would come into play when you get up around the top one or two tiers, more so than down around the \$100,000 mark. It's just fair to everybody. I make a motion that we make it 5%. Any discussion?

19:09:36 Mark Nickerson: It's good with me.

19:10:52 John McIntire: So that would fit under professional review, and would that be a separate note or something to tack on to that paragraph that said the applicant is not responsible for more than 5% of the cost of the said professional project.

19:11:35 Garrett Morrison: I think we might need a little bit of development of verbiage and I think it should be inserted under 13.5, maybe 13.5.1, close enough that it fits with professional review and right at the outset it says, okay, this is what you can do but you're limited.

19:12:02 Garrett Morrison: That puts the limits on.

19:12:06 Barry McCormick: I'd actually put this right in there, change the 10% to 5%, have a little verbiage above it explaining exactly what it means and just punch that right in there. Pretty simple. It makes sense, it's fair to everybody, and the Town has some recourse to protect themselves.

19:12:35 Garrett Morrison: It also shifts the battle, if you will, if somebody is dead set on costing twice what this allows it means the Town has to find a way to come up with the money or simply say, no, we won't approve that, the Planning Board would have to say, no, we won't approve that because it isn't in the budget.

19:12:59 Barry McCormick: What else do you have for us?

19:13:05 Garrett Morrison: Under 13.5, professional review, and this will be inserted. I will try and clean up the verbiage that precedes that to relate to this and will give that to Jim. Under 15.6, standards for approval, there was a paragraph, actually five paragraphs, and it started all developments shall be configured to preserve productive farmland as defined to the maximum extent practical. That paragraph and the three that followed were deleted in total. One of the things that we had discussed at the time was the way this was written it basically constitutes a taking where the town is making laws that says we now own your land. That's not permissible. Alright, go down to 13.6.4, access to the site, under what was a 3rd paragraph, which would have been 13.6.4.2, it had said in subdivisions the number of new driveways, intersections directly with the existing street shall be minimized whereas such driveways shall flow into a new road or roads which then intersect with the existing street -- that's all been stricken. There's a note here from Jim after the last paragraph of that section 13.6, let us look back at 5.1.3, road access management to make this consistent.

19:15:37 Barry McCormick: I've got it, we'll be looking at this again next week and touching it.

19:15:42 Garrett Morrison: Jim's comment there was to stop there on the 16th. We now have whatever remains to have here and work on if you want to continue working on that tonight.

19:16:01 John McIntire: I think we're going to run into trouble in 13.6.1, preservation of farmland, although it doesn't say farmland, it says preservation of land, but if you try to take that out, preservation of productive farmland, those two paragraphs.

19:16:29 Barry McCormick: We didn't take all of it out did we?

19:16:35 Garrett Morrison: We did. 13.6.1. Reads preservation of land, land shall be preserved in its natural state in so far as practical minimizing tree and soil removal, retaining the existing vegetation where desirable.

19:17:11 Garrett Morrison: Let's start this over again. Preservation of land, the land shall be preserved in its natural state insofar as is practicable minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas. Environmentally sensitive areas such as wetlands, steep slopes, flood plains and unique natural features shall be maintained and preserved to the extent possible. The Planning Board may require that any structure and any potentially threatening land use be set back 50' from these areas. Natural drainage areas shall also be preserved to the extent possible. Then everything else following that was stricken.

19:19:24 John McIntire: Those two paragraphs, I think, talked specifically about productive farmland.

19:19:49 Garrett Morrison: See and I think that when you're talking about that, you're trying to establish an ordinance which tells the landowner that if he wants to sell his land or do something different with his land that he's not permitted to. That is essence is a taking. If he has the option of selling to some big company we're telling him, no, because it used to be used to graze cows.

19:20:33 Barry McCormick: I don't think we have a right to do that.

19:20:36 Garrett Morrison: That's taking and that has been adjudicated in many cases in court.

19:20:41 Barry McCormick: If somebody else has an issue with that, they can buy the land, right?

19:20:46 Mark Nickerson: For the same amount as the big company.

19:20:3 Garrett Morrison: It's like, I can't remember his name but he was famous, something like Larry the lobster, which was a 50-pound lobster, somebody was going to take him to Boston to cook him up but somebody said, no, I want to save his life. Okay, fine, he's yours but you have to take him.

19:21:12 Barry McCormick: It's like me, I've got 40 acres of field up there. I don't want somebody coming in and telling me I can't sell it the way I want.

19:21:20 Garrett Morrison: That's exactly what this does.

19:21:24 John McIntire: I'm not sure that's what it says. I think what they're trying to say is, to me what it says is you want to see creative measures to minimize the development that occurs on productive farmland.

19:21:44 Barry McCormick: But that's still telling what I can do on my land. I don't know how you can figure it otherwise.

19:21:49 Mark Nickerson: How creative can you get?

19:21:53 John McIntire: I don't know. Well, that's the question.

19:21:53 Garrett Morrison: It is and this whole thing comes back ultimately to a court case that says you weren't creative enough or we need another 15 years of effort to see what's going to be adequately created to stop this from occurring because, what's the term, practical, and that does in the legal sense

is prevent t you from doing what you intended to do with your land and is a taking. Courts have upheld that in a number of cases. One of the cases that I was involved with in Well's Beech where they had houses that were washed away. The State ordinance said, well, you can't put it back. So you've got this property that people have been paying \$200,000 for a quarter of an acre because they wanted to build their house on there and now is useless because State law has taken it.

19:23:07 Barry McCormick: Let me read the first sentence. All developments shall be configured to preserve productive farmland (as defined) to the maximum extent practical. Who's going to tell me that, who's going to tell me what is practical?

19:23:21 Garrett Morrison: And what is practical for them isn't practical for you. They're saying it's practical to maintain the cattle on there and make this productive farmland.

19:23:32 Barry McCormick: But if I don't want that on my property anymore I can't be forced to keep it for that purpose.

19:23:35 Mark Nickerson: Remember when one of the Murch boys said that productive farmland as defined, the definition of it was he, I would love for my farm to be producing that amount of income on it but they don't.

19:23:50 John McIntire: Yes, and some of it may not meet the definition. I don't know where the definition is on this, how they define this.

19:24:05 Charlie Porter: Productive farmland? It's the amount of money the land produces every year, I think it's \$2,000.

19:24:11 Barry McCormick: This falls on the Planning Board and whoever is sitting on the Planning Board at the time to make that decision.

19:24:19 John McIntire: What this is going to do is fall back because this came out of the Comprehensive Plan that the Town approved in 1994, is that the date, which is where all of this came from. And when the new Comp Plan gets approved, it will, I don't know if it's going to drive a similar kind of thing. What I do know because I go to the Comp Plan meetings, is that one of the things that they've talked about, where the current Comp Plan has been successful, is in bringing, in maintaining farmland. We've had a real growth in farms in this area. That's hard to argue with.

19:25:24 Barry McCormick: I have to argue that though. Where are they? Where are the farms?

19:25:27 Garrett Morrison: It's a different question because to have a growth in farmland and it's productive and making money with it, that's good. That's a laudable goal. But, that farmland, because you're next to Waterville, Belfast, and Bangor, in 20 years will have a population increase, which is fourfold for the State, as it is right now, and people want to have a house or build another business because there are four times the population, and they want to buy stuff at Wal Mart, whatever, it is going to change, the logistics of the State of Maine and you can't simply say, no, wait a minute, 20 years ago we passed this ordinance that says nobody is ever going to be able to develop anything again, that isn't going to work.

19:26:19 Barry McCormick: Where are my kids, they've got a place up there now but the grandchildren, they're going to have to move because there's no place to build. They won't be allowed to build because 30 years ago it was a farm. It's not an issue so much as the farming but somebody telling me what to do.

19:26:41 Garrett Morrison: When you have this kind of thing, we have an ordinance here that says you have to maintain as pastures for cows and Wal Mart is coming in and offering \$300,000 for your land that because if being unable to accept that offer because of this ordinance sue the town and the town is then liable for the loss of that potential sale and the town has to pay the bill. Because things change over time we're locking ourselves into a totally unacceptable future bill and it's going to happen. We can't just go in and say, sorry, whoever owned a farm we're going to take it, like it or not and you're not going to get paid for it. That's what it would amount to. It sounds good on paper.

19:27:40 Charlie Porter: Until somebody challenges it.

19:27:51 Garrett Morrison: See there would be no substantial difference between that and having the town pass an ordinance that says anybody that has a house with more than 200 square feet or useable floor space on the first and/or second floors combined is now the property of the town. They're taking it. How can you do that?

19:28:20 Barry McCormick: I just think that the people that want to farm can buy the farm. If you don't want to farm, and I don't want to farm, don't make me put my land into farming. If you want it, buy it. It's just options we all have.

19:28:41 Mark Nickerson: I think the definition of today's farm is different from what it was when I grew up. Dairy farms, big barns and so forth. You look down here at the community sales, organic vegetables, they're small plots.

19:28:58 Barry McCormick: That is the difference I'm sure. When you say there are more farms now than ever, my sister was a Wren and they just folded up. When you're talking farms, you're talking individuals themselves growing enough for themselves and maybe selling. How big a lot do you need for that?

19:29:22 Garrett Morrison: Ninety-nine and a half percent of cases, somebody is gainfully employed off the site.

19:29:34 Barry McCormick: They're not doing it to make a living, they're doing it to feed themselves and maybe a little extra money. I love the concept but I don't want my hands tied because of that. If one of the people is working for a living and you want to make an extra \$10,000 or \$15,000 by growing vegetables and selling them, that's doable but as far as making a living doing it, that's why the guy had all the farms around here had to truck it to Portland to sell it, to Boston. He's actually moved down there.

19:30:25 Garrett Morrison: In so many words what this is saying, if you've got some vegetables and you can't make a living out of it, if you manage to stay there that's good until you get to the point where your taxes have gone up. Somebody comes in and offers to buy your farm because they'd like to use the land for different purposes, you're out of luck.

19:31:02 Charlie Porter: I think really we should run this by a qualified attorney and ask him. What is his opinion? And I qualify the qualifier, a qualified person.

19:31:19 Barry McCormick: I think if this committee feels here that we'd like to strike that and see where it ends up and then if it becomes an issue with the Comp Plan or Selectmen or whoever, at that time we're going to have to look at it a little more seriously and get an attorney involved and see what our options are. I'm sure with the Comp Plan, like you said, there's a bunch of people on there who will come back and say, no, we're not going to accept that. Well, it's really not up to them, it's up to the townspeople to accept that. If there is a problem with the Comp Plan Committee in thinking this should be left in, then we have to do our homework and research and find out what is legal and what isn't legal. That's my suggestion.

19:32:02 Mark Nickerson: There is another point, there are these Forever Farms around, that really is outside of this anyway, there is some farmland that is supposedly...

19:32:02 John McIntire: The development rights are gone.

19:32:13 Barry McCormick: Because they bought the land. If they want to buy it, spend money on it, they own it, they can do whatever they want.

19:32:32 John McIntire: I don't know. I hear you.

19:32:36 Mark Nickerson: It will be interesting because that is going to be a challenge.

19:32:43 John McIntire: When it comes up in court.

19:32:46 Garrett Morrison: Do you mean the loss of the land?

19:32:46 John McIntire: The development rights.

19:32:49 Garrett Morrison: That's what I mean. If you have donated that...

19:32:52 Barry McCormick: I sold my farm to you for Forever Farms, the Maine Farmland Trust so what we're talking about is say if somebody wants to buy that and do something different with it, first of all, they won't sell it to them.

19:33:05 Garrett Morrison: And it's something that's forbidden by an agreement with the land owner.

19:33:13 John McIntire: It's in the deed, it gets registered in the deed that says no development on this. It has to be a farm. You buy it, you buy the land and you can sell it to anybody who will buy it but you can't develop it. It's got to remain as farmland.

19:33:28 Barry McCormick: Or, as a caveat to that, or if they're willing to sell it they have to pay the back taxes.

19:33:39 Charlie Porter: No back fees, the only thing you can do on that property is you can build a barn or a woodshed or something to do with agriculture. Let's say you wanted to put your store on it.

19:33:52 John McIntire: No.

19:3:57 Garrett Morrison: What we're talking about here, if somebody says I want to put my land in Maine Farmland Trust, and I'm donating it so we've got 100 acres or 500 acres and we donate it to the land trust. That's what they wanted to do with their land. Now, the other side. ...

19:34:17 John McIntire: No, they don't give that land to the trust. They give the development rights. That's the difference. That's a different ball game. They retain ownership of the land but they give up any right to development on it.

19:34:34 Garrett Morrison: What happens when that person dies and somebody else has it but doesn't have any value in the land because there are no development rights.

19:34:46 Mark Nickerson: Like Bobby Elwell, he sold it to...

19:34:48 John McIntire: He sold the development rights to Maine Farmland Trust.

19:34:50 Charlie Porter: He sold the whole damn thing.

19:34:56 Barry McCormick: Maine Farmland Trust owns the whole thing...so they're doing more than just buying the land.

19:35:02 Charlie Porter: They'll sell it as a farm. You can see where I'm coming from. Here comes the second generation that says, what the heck, I want to sell that for development...

19:35:18 Garrett Morrison: But that's something that would have to be worked out. My point was what we have in this ordinance is something that is done to every farmer whether he's agreed to it or not. That's where it's not going to end up good. This is just saying we're going to take it, sorry, we can't have development on it, we will seize development on it.

19:35:36 Barry McCormick: It puts such restrictions on it that you're basically right. I don't know that they'd take it but it would be worth less.

19:35:55 Garrett Morrison: If you are preventing the owner from being able to recover the value of his land, because of the restrictions you put on it, that's taking.

19:35:56 Barry McCormick: I'm against that, we've got to stop that.

19:35:58 Garry Morrison: And I don't have any problem at all with the land trust, where somebody goes into in voluntarily and if the kids don't like it, let them work it out.

19:36:18 Charlie Porter: You can understand where I'm coming from, the kid says, hey, that place should be worth half a million dollars and now it's only worth \$125,000.

19:36:27 Barry McCormick: If that's the case though, the kids had the right to buy it first. They chose not to and the Farmland Trust came in and said this is what we're going to do. That takes the family completely out of it.

19:36:50 Sherry Powell-Wilson: I'm just curious, who pays the taxes on the property that goes into the Farmland Trust?

19:36:50 Charlie Porter: The taxes are paid by whoever owns that property.

19:36:53 John McIntire: They don't get a tax break when you sell your development rights.

19:36:57 Sherry Powell-Wilson: So, Bobby Elwell still pays the taxes on that land?

19:37:01 John McIntire: The Maine Farmland Trust does, he sold the whole property.

19:37:27 Garrett Morrison: In his case he sold the whole thing and not just the development rights.

19:37:30 John McIntire: Right, I think. I don't know.

19:37:27 Garrett Morrison: But you see my point, we can't pass an ordinance that does this to every single landowner without his knowledge or concurrence.

19:37:37 Charlie Porter: It was done before...I guess it wasn't as important at that time as it is now.

19:37:47 Barry McCormick: I say we leave it like it is. If there is an issue with it down the road then we deal with it in a separate meeting. Let's stop and go home. It's 20 minutes of 8. Motion make and seconded.

19:38:31 Meeting closed.

Respectfully submitted,
Sherry E. Powell-Wilson, Notary Public
Approved: