

PLANNING BOARD

Monday, January 24, 2005
Belmont Corner Meeting House
Belmont, New Hampshire

Members Present: Chairman P. Harris; J. Pike, G. Flack, W. Peterson, C. Patten, J. Marden and R. Caldwell.
Alternates Absent: C. Gilbert and C. Shibles.
Staff: C. Daigle, R. Ball and E. Murphy.

The chairman opened the meeting at 7:00 p.m. with the Pledge of Allegiance and a moment of silence for Hyman Steiman.

The chairman explained that this is the second and final Public Hearing on proposed zoning amendments. The Master Plan (MP), Capital Improvement Program (CIP) and Finding of Fact have been completed. He explained that Belmont was one of the last towns in the area to adopt zoning in the 80's. Many new committees and commissions were formed to help update the schools, services and infrastructure since that time. A newspaper, a Historical Society, a Heritage Commission and Downtown Committee was started. Work began on wildlife and wetlands preservation, recreation, transportation and trails. The Planning Board began working with LRPC, installed GPS, updated the MP and the CIP, all the steps necessary to evaluate and support a Growth Management Ordinance (GMO). He thanked all the people of Belmont for their involvement in this process and working to improve the quality of life for everyone. He stated that tonight's proposals reflect changes that have been brought about by public's input at the last public hearing.

OPEN SPACE:

P. Harris explained that the first proposal deals with Open Space. It is to create an Open Space Residential Development Overlay Zone. Lots within the proposed Zone consisting of 20 or more acres and to be subdivided into 3 or more lots for residential housing purposes would be required to design the subdivision as an Open Space subdivision, whereby lot sizes may be reduced, but permanently protected open space is also created. Amend the standards for Open Space Residential Development to include the additional of a density bonus for projects that are determined by the Planning Board to provide exceptional public benefits. Revise existing standards for permanently protected open spaces.

Mr. Peter James, a Barnstead resident, stated that he has read through the proposal and doesn't understand how the overlay zone will impact development. W. Peterson explained that it requires lots consisting of 20 or more acres and being subdivided into more than 3 lots to do a cluster subdivision and have open space. The benefit would be the developer could build shorter roads and receive a density bonus if they meet one of the following criteria. Have public trails for recreation, have a 300' setback from all building lots to rivers and ponds, conserve 80% of prime agricultural soils or transfer of fee title to and acceptance by the town.

Mr. James stated that there has been a study done by Steve Taylor stating that New Hampshire zoning is outlawing the New England village. Even though Belmont allows mixed uses in different zones the village concept has become obsolete. Schools, churches and businesses such as the corner markets are no longer within walking distance of each other. Mini estates have made it so that houses are spread out where neighbors do not know each other. This proposal makes it so large parcels of land have to be developed into neighborhoods instead of a village setting. W. Peterson stated that lots over 20 acres subdividing into 3 or more lots would be required to do a cluster subdivision. This would allow the houses to be closer together and would provide more open space for wildlife and recreational use. If deeded to the town it would create more public recreational area. Mr. James wanted to know what the minimum lot size in cluster subdivision is. C. Daigle stated that in the village zone it is 18,000 square feet and the rural zone it is 30,000 square feet. Mr. James stated that 600,000 square feet would be needed for 20 houses and road front development for lots over 20 acres will not be allowed. Bowling alley lots would not be allowed and all new subdivisions would have to be clustered with a back lot. C. Daigle stated that houses are allowed on the front of the lot but with no road cuts onto the main road. There has to be 50% buildable land as part of the open space.

Ms. Donna Cilley, a resident, wanted to know if she owns 150 acres and wants to subdivide it into 4 lots for her family will she have to do a cluster development? C. Daigle stated that a cluster subdivision would be required because her land is in the open space overlay district and is over 20 acres. Ms. Cilley stated that there has been a lot of talk about Belmont remaining rural and cluster development is not rural. The current wildlife will not be around much longer because of all the development that has already taken place. Cluster development is cheaper to build and more cost efficient for developer. In other New England States that promoted cluster development the open space land is being repealed. She wanted to know why the Board is taking this approach to zoning as it hasn't worked in other states. To preserve Belmont's rural character they could increase lot sizes from 3 acres to 5 acres instead of cluster developments. Cluster developments are like little cities inside of cities. They are like condos and apartments and are not preserving the integrity of the community. J. Marden explained that the Conservation Commission, the NH Audubon Society and NH Fish and Game have recommended the open space overlay area. They have studied wildlife habitats and designed the overlay district to allow wildlife to move from one area of town to another. They also look at co-occurrence when designing the overlay district. C. Daigle stated that the proposal is not to preserve the rural area for mini farms but to preserve the rural character of Belmont. It is to sustain agriculture and/or have access to open space linking scenic views. Ms. Cilley stated that she prefers to have 10 acre parcels than little circle of development. P. Harris stated they are protecting the landowners rights to develop his property. Ms. Cilley stated that they are not protecting landowner rights but managing what they do with. P. Harris stated the proposal is a positive for landowners not a negative.

Mr. James wanted to know why this is not being done throughout the town instead of discriminating against certain areas of town. Why isn't the area off Rte 106 near the track included in the overlay as there is plenty of vacant land in that area. C. Daigle stated that it is not discrimination but is based on scientific findings by the Jordan Institute, the NH Audubon Society and NH Fish and Game. They have located and mapped wildlife habitat and co-occurrence and set priorities based on the where the highest co-occurrence is taking place. Mr. James stated that the commercial and industrial zones are included in the overlay. R. Ball stated they used roadways for delineation based on the center line of road and buffers off of them. W. Peterson explained that the map was created based on co-occurrence, wetlands and large unfragmented areas.

GROWTH MANAGEMENT:

P. Harris explained that information from the MP, CIP and surrounding communities was gathered for this project. The Board was proactive in reviewing all services, operations and shared resources. They received input from the general public as well as private developers and held an extra workshop to address those concerns and made changes to the original proposal based on those concerns. They have legal opinions from both sides of the GMO. Local government has the authority to time growth to its needs as recommended in the MP. The Board has made a good faith effort to take into consideration the needs of its people and the people affected by this proposal and offer the least impact possible. In the MP under the Housing section it recommends providing guiding principles and strategies for managing present and future housing needs. The Board has recommended a study on housing needs. Consideration will be given to increasing revenues to offset costs associated with development also recommended by the MP. The true purpose of the ordinance is clear Belmont needs time to balance its needs with regional needs. Growth control does not stop development, it helps balance the impacts placed on a community by development. Belmont needs time to evaluate its housing needs.

Mr. James wanted to know if you have a 60 acre lot and do a cluster subdivision would the 20 lots have to be phased in over 5 years. C. Daigle stated that would happen if it were in affect. She explained that a developer has assured the Board that the market is changing and the pressure for permits or subdivisions may change. Mr. James wanted to know if he had a 20 lot subdivision and was required to do phasing would he be guaranteed his 4 permits a year. C. Daigle explained that it would be a condition of the subdivision approval. Mr. James stated that if a developer has a 16 lot subdivision and received only 2 permits a year it would take 8 years for a developer to recoup his investment. He wanted to know if permits could be carried over to the next year if they are not used. C. Daigle stated that they could be carried over but not more than 125 % of the guaranteed permits could be built on in one year. They have looked at the historic way developers have built out. Mr. James stated that there would be no profit for the first two years because they would have to cover the cost for infrastructure. C. Daigle stated that historically that is the way developers have built out.

Mrs. Susan Condodemetraky wanted to know if it would restrict developer from selling the lots. C. Daigle explained that building permits go with the lots and would be subject to the phasing. The developer can recoup his investment by selling lots.

Ms. Cilley stated that she reviewed the public comments from the previous meeting and wanted to know if the changes reflected the subsidized project. The affordable 30 unit housing cannot go forward because federal funded projects cannot be phased in. They have to be completed in one year. P. Harris stated the Board took into consideration all types of developments. The number of permits arebased on past history and number allowed active phasing. Evidence supports the need for a housing study to determine what Belmont can support. Ms. Cilley stated that housing studies have been done. J. Pike stated that those were regional studies and showed regional impact. They didn't look at Belmont's needs individually. Ms. Cilley stated as a head of Belmont's General Assistance Office she knows Belmont needs low income housing. J. Pike stated that he knows the regional needs but what percentage of Belmont's citizens would benefit from it. Ms. Cilley wanted to know when that study would be brought forward. P. Harris stated sometime after town meeting and the Board

would place it on its high priority list. Ms. Cilley stated there is a tremendous number of working poor in the region and Belmont is part of it. Manufactured housing is not considered low-income housing. Orchard Hill Condominiums and Belmont Village Apartments do not require additional services, the only impact is to the school system. She stated that you cannot discriminate against low-income housing coming into the community; there is documentation that shows the need for it. J. Pike explained that they have had meetings with the school over the last 9 months and in the spring and summer the enrollment numbers were fine then in the fall the numbers jumped to bring the school to full capacity. A large portion of tax dollars goes to the school and they are just trying to control it. Ms. Cilley reiterated the fact that there is a need for affordable housing and phasing cannot be done because of the federal funding requirements she stated she supports low-income housing, not affordable, but low-income. P. Harris stated they have to be fair to all developer and they cannot give all the allotted permits to one developer.

Mr. Terry Turner, Realty Resources, commended the Board on reading the study he provided. He has been working hard since December to get the information on affordable housing. Affordable housing only works with multi family units. Belmont's zoning restricts multifamily housing to certain zones. Wetlands also limit the number of lots where multi-housing can be put. Belmont has a need for affordable housing and manufactured units are not considered affordable housing. This GMO would not allow any affordable housing in town because federal funding does not allow for phasing a project.

Ms. Karen Gilbert stated that if the GMO goes into effect when the trigger is met couldn't the affordable housing be approved before the trigger is reached if they were the first ones before the Board after the elections. C. Daigle explained that the third indicator of growth would be looked at for any development proposed and could be the trigger for phasing. A 40 unit multi-family is large and may have to be phased. She also stated that there are a lot of working poor in the community who own their own home and the Board has to consider the impact all new housing would have on their ability to pay for it. P. Harris explained that this is a temporary measure for 3 years. They cannot discriminate against other developers by allowing one developer to get all the permits.

Mr. Russ Thibeault, Applied Economic Research, commended the Board on a well thought out document and process. He explained how many children an affordable housing project generates for the schools. If there is a 180 unit multi-family housing project it will generate about 50 school age children. The average single-family home has about 2 school age children. Multi-family housing generates about 1/2 that of a single-family house. Multi-family housing generates fewer school age children than single-family homes. Multi-family does not produce an undue burden on a community. The Board may want to consider allowing affordable multifamily by special exception and consider impact fees even though affordable multi-family is exempt from them. Multi-family values are higher than everyone thinks. The average rent is between \$600 and \$750. There is a need for it.

Mr. George Helwig, stated that he is a landlord for Laconia Area Community Land Trust and they have 30 families from Belmont with 12 on the waiting list to get into affordable housing in Laconia. 35% of Belmont's working poor are priced out of the rental market and 65% cannot afford to buy in Belmont today. There are 18 manufactured units that are for sale and 40% of the citizens cannot afford to buy them. P. Harris stated that Belmont is a highly desirable area especially around the lake and that is why the prices are so high.

Ms. Linda Frawley stated that she feels that this ordinance is lengthy compared to others in central New Hampshire. She stated that this is Belmont's third CIP in the last 10-15 years. When it refers to the impact to taxes development has the numbers are soft and the Budget Committee does not use those numbers. When the estimate for construction is used in the CIP the numbers can change from the time of the proposal to the time of actual construction or purchase. The CIP is updated each year and that is working against you in this document. J. Pike explained that it is hard to plan on hard numbers. The department heads use their best judgment when estimating the cost of purchases and projects. He explained that in 2004 no new subdivisions were allowed and they still issued the same number of building permits. This GMO has triggers in place to determine when it needs to be activated. According to developers the trend is slowing down. Ms. Frawley stated that in other growth ordinances the Finding of Fact is not included but reference to in a supporting document. J. Pike explained that the Board's attorney has reviewed it.

Atty. Ned Gordon representing Mr. Mark Mooney, thanked the Board for listening to what was said at the last meeting and making changes. He understood that no substantial changes can be made tonight but some technical changes can be made. He suggested that specific date be inserted in the section on when the GMO expires instead of just stating that it shall expire in 2008 unless readopted. He also suggested changing the third indicator of growth because it appears that it will be triggered immediately because of subdivisions having been on hold for a year. If passed phasing would be immediate. He suggested adding a 6month delay. He asked if the Board had the 2004 numbers. C. Daigle stated that the full value tax rate will not be known until February and she has exchanged letters with other communities on building permit numbers and has not received any responses. Atty. Gordon suggested outlining the triggers that would rescind phasing or permit limitations. He also wanted to if there is a 25 lot subdivision and it is granted 5 permits a year are they guaranteed? C. Daigle stated they are guaranteed and selling the 25 lots to 25 different individuals cannot speed up the project. Atty. Gordon also suggested changing the date the GMO goes into effect. If they have it start three months after it is voted in then investors could move forward with projects that were started because they were exempt under the IGMO. J. Pike stated that the IGMO has been in effect for 11 ½ months and Realty Resources hasn't brought forward an application. Mr. Turner explained that they started in Jan 2003 but has had to go before Rural Development Council for their approval then the NH Housing Authority in June. In July they went to their engineers. Ms. Bonnie MacFathem, Open Arms, explained that there are a lot of working homeless that cannot afford housing. She stated that the area is growing in jobs but most of them are the retail area and they don't pay much. P. Harris explained that the town is asking for time to see how it would affect the tax rate. They are also looking at how the town can come up with resources to pay for development. Mr. Thibeault stated that Belmont's tax rate has been going down since 1999. C. Daigle stated that it had to do with the property revaluation. The GMO is only in effect until 2008 and the Planning Board can come back next year with changes to the ordinance based on the housing study or for other reasons.

LIMITED RETAIL:

P. Harris explained that a citizen whose intent is to enhance his craft display brought this change forth. He also stated that that it was part of the Master Plan for economic development in the rural area.

Mrs. Judith Pilliod stated that she has lived on Rte 107 for 30 years. There are owner occupied

businesses there but this is a historic area with winding roads and she wanted to know why that area is getting targeted for this proposal. If this passes there is concern about neon or illuminating signs. The proposal is not defined enough. She is not in favor of it. P. Harris explained that limited retail use would have to go to the Zoning Board for a special exception and it would be the Zoning Board's decision if the proposal fit in with the area. W. Peterson explained that there are limitations, which include no outside storage, the structure is required to complement the area. Only one business per lot, commercial space limited to 2,000 square feet and it must have frontage and access on a NH State Highway. Mrs. Pilliod stated that most of the new buildings in that area are almost mansions. She has no problem with Mr. Dalton's proposal because he will be near the business and able to police it. Her concern is that the crime rate would increase with an increase to municipal cost. J. Pike stated that he lives on Rte 107 and his neighbors have businesses and he is for the proposal because the Zoning Board can control the type of business and signage.

Ms. Frawley stated that the 1992 MP advocates maintaining a rural balance. Rte 107 is a historic area of town. Rte 107 is the earliest highway with the only state historic markers. Near Rte 140 and Rte 107 is the historic district. There is also a meetinghouse that is being renovated for a community center. Next to that is the former Grange building. Governor Badger's estate is on Rte 140 as well as a historic cemetery. These are all included in the 2002 MP. Having limited retail use in this area could create a traffic hazard. She is not confident the Zoning Board could enforce the regulations. Aesthetics are part of the 1992 and 2002 MP. She finds this proposal very undesirable, there are already lots available for retail use. She implores the Board not to make this change at this time.

Mr. Tom Dalton, Middle Route, explained that he appreciated the Board reviewing this proposal. He explained that currently there are retail businesses in that area. Some of the allowed uses currently allowed by special exception are: aircraft landing area, boat sales & service, business & professional offices, campgrounds, motor vehicle & trailer sales and more. A lot of these have retail sales connected to them as they sell something or are paid for services. The spirit of article is for limited retail stores with limitation due to the restriction put on them. This is designed for a single person to apply for a special exception and they would have to meet the criteria before they are given approval.

W. Peterson stated that the Town was reluctant to pass zoning and it passed in 1986 after being voted down a number of times. There are still a number of people of Belmont citizens who feel that a property owner should be allowed to do what they want. The 1992 MP indicates that Rte 107 primarily serves as a transportation route with mixed uses. The properties in that area are well kept. There is not a lot of commercial traffic it is a commuter route.

WETLANDS ORDINANCE:

P. Harris stated that the changes from the meeting reflect the change to the size of the wetlands that are regulated and includes the buffer to the wetlands.

There being no public input on this proposal the chairman moved on to the aquifer proposal.

AQUIFER:

P. Harris explained that this proposal was brought forth by petition.

Mrs. Susan Condodemetraky explained that this is not a new ordinance it grew out of the MP. It is the natural progression recommended by in the MP. They came to the Planning Board to discuss it and offered to write it. There was a hearing which 100 people attended and the Planning Board opted not to bring it to the people for a vote. The ordinance is at no cost to the town, it addresses the drinking water and how to protect it. The Wetland Ordinance protects surface water and this ordinance would protect the ground water. The southern tier communities are already dealing with polluted aquifers. The town has to decide how to protect their source of drinking water. Junkyards, transfer stations and large stores with parking lots are sources of contamination. C. Daigle stated she has concerns about how it applies. Once it was posted she had to apply it to the 35% of the town located on the aquifer. The entire village parts of Rte 140, Rte 106 & Rte 107 and along Rte 3 are in the aquifer zone.

Mr. Victor Virgin stated that the wetlands and aquifer go right through the industrial zone and he wanted to know if they were going to relocate the industrial zone since you cannot use more than 10% of it. The industrial zone has easy access and the residential area would not want industry next to it.

P. Harris stated that the Town already requires the use of Best Management Practices. Bestway was allowed and are utilizing the regulations that are in place now. W. Peterson stated that this was brought by petition and allowing 10% of imperious surface is too restrictive. People would be allowed to use only 10% of their property. The Board has reviewed the site plan regulations and adopted Best Management practices and updated the ordinance to include part of the previously proposed aquifer ordinance. C. Daigle stated that there are hardships that would be a result of this ordinance. People would not be allowed to add decks onto their homes if the home already takes up more than 10% lot coverage, which many of the homes in the village do. Septic system cannot be accepted unless stamped by a professional engineer. Driveways could not be paved and would prohibit snow removal offsite within the aquifer zone. DES has looked at the proposal and is concerned that it is an anti growth measure rather than aquifer ordinance and that there is scientific basis for the restrictions. After the first review it was the consensus of the Board not to support it last year. They have concerns about additional regulations for septic designs without any additional standards. They also agreed with DES that it is not an aquifer ordinance but an anti-growth ordinance. Mrs. Condodemetraky stated that snowplowing is not too restrictive. C. Daigle stated that the proposal prohibits off site dumping of snow. The snow from the village area needs removed from the downtown area and this ordinance would require the Town to truck it outside the aquifer zone at a cost to the taxpayers. Mrs. Condodemetraky stated the removal of snow is prohibited because of the salt and the town could find a different location to put their snow that is not on the aquifer. C. Daigle stated that it would be costly and timely for the town to find a new location for snow removal and they currently follow Best Management Practices. Mrs. Condodemetraky stated that she has worked with Ms. Sarah Pillsbury from DES and she encouraged them to go forth with the ordinance as a water protection ordinance. C. Daigle noted DES doe not support this petition ordinance. She stated that there are unintended consequences of this proposal that she has seen since the posting. She has had to deny residential permits because of it. She denied a deck on High Street because it would be over the allowed 10% lot coverage. A manufactured unit in Pleasant Valley cannot be upgraded or a new one brought in because of lot coverage. In the village area no breezeways, decks or even driveway paving can be done in some cases due to lot coverage. Mrs. Condodemetraky stated that things need to be worked out but they want to bring it to the voters to let them

decide. Changes can be made to it next year. C. Daigle stated that it would impact everyone who owns property and has no scientific backing. They cannot accept septic designs now unless they have an engineers stamp on them but they have no standard to follow. Mrs. Condodemetraky stated that they had no choice but to go back to original proposal in order to protect the water supply. Last year a lot of people supported it. They are using DES scientific standards and EPA standards. J. Pike stated that Rte 140 towards Tilton and Rte 3 have the highest salt mix. Rte 3 is the highest and Rte 140 is the second and DES is not too concerned about it. If they are not allowed the salt mix more accidents will happen and the possibility of vehicles ending up off the road and contaminating the aquifer more with oil/gasoline spills. Mrs. Condodemetraky stated that some parts of Rte 106 aren't on the aquifer and it could be developed.

Mr. Kevin Sturgeon stated that there is a cost to the town. By not permitting the industrial zone the commercial land developers will go to Northfield or Gilmanton. Hundreds of acres of industrial would not be used. There would no longer be an industrial zone. The wetlands setbacks have been increased to protect wetlands and he strongly asks the Board not to support the petition.

Mr. George Hall representing Brox Industries stated that with increased development everyone is concerned about ground water contamination and the petition is well intended but 10% of impervious coverage is too restrictive. It is like a taking. He stated that it doesn't take much to recharge the aquifer. Requiring a hydrogeologic study for a commercial use with only 2 employee that use less water than a house is an extreme cost to Mom & Pop stores. He also stated that under prohibited uses "All on-site collection, handling, manufacture, use, disposal, storage, processing or recycling of toxic or hazardous materials or wastes, both solid and liquid" would prohibit homeowners from having gasoline for their lawnmowers or propane for their grills. Also the Mom & Pop stores could not sell cleaning supplies. Mrs. Condodemetraky stated that the hydrogeologic study is not for small projects and safeguards are in place for them.

Mrs. Sue Roberts admires the intention but it seriously curtails property owner rights.

MOTION: J. Marden moved the amendment to create the Open Space Residential Overlay Zone be placed on the ballot. The motion was seconded by C. Patten and carried. (7-0)

MOTION: J. Marden moved the amendment allowing only one in-law apartment per lot in zones where in-law apartments are currently allowed be placed on the ballot. The motion was seconded by J. Pike and carried. (7-0)

MOTION: J. Pike moved that the amendment adopting a GMO to regulate the timing of residential growth be placed on the ballot. With the following wording modifications: Adopt a GMO to regulate the timing of residential growth. Under the proposed Ordinance the Planning Board may limit building permits for new residential housing units and/or may require that new residential subdivisions and residential site plans be built out over more than one year. The restrictions would be implemented only at times when Growth Indicators, based on building permits and/or the rate of increase for the full value tax rate, are present. Under the proposed Ordinance, permits for preexisting lots of record and lots and sites approved by the Planning Board prior to the enactment of the GMO are exempt from the permit limitation. The motion was seconded by C.

Patten and carried. (7-0)

MOTION: C. Patten moved that the amendment to define and regulate new limited Retail Store use be placed on the ballot. The motion was seconded by G. Flack and carried. (5-2) J. Marden and P. Harris opposed.

MOTION: G. Flack moved that the amendment to adopt standards for the protection of vegetated buffers within 50' of Public Waters, Prime Wetlands, Ponds and Perennial Stream, and within 35' of Wetlands larger than 3,000sf. Amend setbacks for parking lots, fill materials and commercial earth excavation. Amend setbacks to Wetlands (any size) to be to Wetlands larger than 3,000 sf. Amend wetlands data certification requirements. Amend/create definitions for Certified Wetland Scientist, Intermittent and Perennial Streams, Streams and vegetated Buffer be placed on the ballot. The motion was seconded by J. Marden and carried. (7-0)

MOTION: J. Pike moved that amendment by petition to adopt an Aquifer Protection Ordinance be place on the ballot without the Planning Board's support. The motion was seconded by W. Peterson and carried. (7-0)

BOARD'S ACTION-MINUTES:

MOTION: On a motion by J. Marden, seconded by J. Pike, it was voted to approve the minutes of the January 10, 2005, meeting as submitted. (7-0)

STAFF REPORT:

A. WORKSESSION:

C. Daigle stated that Ms. Kate Hartnett from the Jordon Institute and Ms. Carol Foss from the Audubon Society would like to meet with Board at their worksession to discuss their grant work with Belmont to voluntarily or by ordinance protect Belmont's rural quality.

ADJOURNMENT:

MOTION: On a motion by J. Pike, seconded by G. Flack, it was voted unanimously to adjourn at 10:05 p.m. (7-0)

Respectfully submitted,

Elaine M Murphy
Administrative Assistant