

Town of Gilmanton – Planning Board
 Wednesday, September 02, 2009
 Minutes of Workshop
 Planning Board/Conservation Commission
 Academy Building – Conference Room

PB Members Present: Nancy Girard, Chair; John Funk, Vice-Chair; Marty Martindale, Member; Dave Russell, Member; Dan Hudson, Member and Don Guarino, Selectmen's Rep.

CC Members Present: Nanci Mitchell, Chair; Paula Gilman, Member; and Erin Hollingsworth, Member.

Other's Present: Jill Scahill, UNH Graduate Student

Workshop: *Audit of Land Use Planning Documents with Respect to Wildlife Habitat, Natural Resources and Smart Growth Principles for Gilmanton, NH.*

Following introductions, PB Chair Girard invited CC Chair Mitchell to discuss the purpose of the Audit. CC Member Mitchell explained the Audit will assist the Boards in procuring language for zoning ordinance amendments, as well as guide the town towards smart growth and development with attention to vernal pools as well as a future Aquifer Overlay.

Ms. Scahill provides handouts of the Audit and explained information from the Audit is intended to balance, as much as possible, ordinance recommendations that are both regulatory as well as monetary with public education initiatives playing a role.

Selectmen's Rep., Guarino noted that over the past year there had been a low number of new building permits, while addition and renovation permits remained steady. The number of new building permits was low enough that the town cut the Building Inspector's hours by one day. Additionally, it was noted that Mr. Flanders, Building Inspector/Code Enforcement Officer as well as the Fire Chief had been functioning more as code enforcement than in an inspection capacity.

The intent of the 3rd party audit is to provide an unbiased opinion of local natural resources, which will help substantiate the goals of the Boards as they move forward. With consideration that Members had not seen the document prior to tonight's meeting, all attending Members agreed to review the summary of each to establish priorities for future discussions and amendments to the zoning ordinance.

It was noted that on page 51; the definition does not reflect the current DES Definition ENV- Wt 101.99 "Vernal Pools" which states:

"Vernal pool" means a surface water or wetland including an area of intentionally created for purposes of compensatory mitigation, which provides breeding habitat for amphibians and invertebrates that have adapted to the unique environments provided by such pools and which:

- (a) Is not the result of on-going anthropogenic activities that are not intended to provide compensatory mitigation, including but not limited to:
 - (1) Gravel pit operation in a pit that has been mined at least every other year; and
 - (2) Logging and agricultural operation conducted in accordance with all applicable New Hampshire statutes and rules; and

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- (b) Typically has the following characteristics:
- (1) Cycles annually from flooded to dry conditions, although the hydroperiod, size and shape of the pool might vary from year to year;
 - (2) Forms in a shallow depression or basin;
 - (3) Has no permanently flowing outlet;
 - (4) Holds water for at least 2 continuous months following spring ice-out;
 - (5) Lacks a viable fish population; and
 - (6) Supports one or more primary vernal pool indicators, or 3 or more secondary vernal pool indicators.

PB Board Members questioned if a definition was required or if reference to the state statute would be sufficient. Board Members will revisit the position at a later time.

CC Members noted that the State RSA's, do not provide development set-backs to vernal pools and that they would like to address potential setbacks at a later time.

It was noted that there is an incorrect citation from the NRI, which states there are no forth order streams in Gilmanton, when in fact there is one.

Also noted was the need for an "Agritourism" definition that defines approved uses under the auspices of defined agricultural uses. All Members attending agree defining "Agritourism" should be simple, however, defining Prime Lands, which would support "Agritourism" development; will require much more work and a deeper look into the ordinances involved. All are in agreement to the need for such a definition and will revisit language at a later time.

Attending Members also discussed the need to protect farmland classified as Prime Soils and Soils of Statewide importance. It was noted that modification and clarification of policies and procedures governing such lands and their criteria must be formed prior to enacting a new ordinance.

Members noted concern with an overlay type regulation as the restrictions imposed by such an ordinance or overlay would be met with opposition from the town citizens who would perceive the overlay as controlling and restrictive. Incentives would be considered in the development of language for an overlay.

Board Members briefly discussed Cluster Type Development and Open Space Subdivision, which is similar to the Conservation Subdivision. All agree that more education and a model that could be used to show town citizens when the time comes would be helpful. Currently there are some good mechanisms in place should a large subdivision be proposed. The Board will revisit the Open Space Subdivision currently in place to review the minimum lot requirements. Board Members are concerned with the town citizens accepting the close proximity housing with the rural character of the town. Also mentioned were the well and septic issues that arise from "no boundary" development. A community-shared system would have to be discussed at a later time. The Planning Board will revisit the Open Space Subdivision regulation.

Attending Members mentioned that with open space development it is a more urban style of development and it is unknown how such development in a rural setting would work in Gilmanton. It was also noted that the growth estimates do indicate that Gilmanton will grow in the future and the town needs to be prepared for that growth. Board Members again reiterated the need to revisit the Open Space Subdivision language. The importance of density and incentives to developers was briefly discussed and all agree attention to development on Agricultural land needs to be addressed.

Redirecting discussions back to the Audit

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Summary of Findings

The current Master Plan for Gilmanton, NH was adopted in 2005; the current zoning ordinance was adopted in March, 1970 and amended in 1990, 1993, 1994, 1997, 1998, 2000, 2001, 2004, 2007 and 2008; the site plan review regulations were adopted in January, 1984 and amended in 1990, 1994, 1997, 1998, and 1999; the earth excavation regulations were adopted in July, 1983 and revised in 1990, 1998 and 2009; the Natural Resource Inventory was completed in 2004. The following paragraph summarizes the finding of the review of the above municipal documents. Detailed findings begin on page 8 of the Audit.

Agriculture

The preservation of existing farms is adequately addressed in Section IV: "Land Use" in the Master Plan (p.8). Stronger protections for agricultural lands use could be implemented in the Zoning Ordinance, Article II, Districts. Consider adding specific reference to agricultural practices when laying out the descriptions of both "Rural District" and "Conservation District". Specific protections for agricultural soils (both the local and state recognized prime varieties) would encourage and promote more agricultural practices.

Energy Efficiency

This is not clearly addressed in the Master Plan, the Board may want to consider including energy efficiency in the goals and/or objectives for the town. In Zoning Ordinance Article III-E the Board may want to consider widening the language to include non-wind powered energy devices, such as geothermal units, combined heat and power units and solar panels. The Board may also want to consider adding incentives to the developer who integrates energy efficient measures into a subdivision.

Board Members have discussed implementing such regulation. However, to date no language has been set forth. Tax incentives and credits when implementing such regulation were briefly discussed. Also noted were the legal requirements of such regulations.

Erosion Control

Not adequately or specifically addressed in the Master Plan. Consider strengthening language regarding "inadequate surface drainage" in the Purpose of the Site Plan Review Regulations to specify erosion control measures based on a 10-year storm. Adequately address in Section VI:H of the Subdivision Regulations.

Notable in the Erosion Control section, attention should be given to all stages of constructions as well as follow-up upon completions of construction to ensure compliance with the erosion control requirements. Most complaints of runoff come from neighbors upon completion of the construction when control measures are not used and the first heavy rains reveal the runoff issues. This is a major problem around Sawyer Lake area.

Board Members briefly discussed the issue when the ZBA approves development on an undersized lot there are no checks and balance to ensure proper clearing and to make sure enough vegetation remains or is reestablished on the lot so not to impact the runoff. Board Members agreed that enforcement is difficult.

Board Members discussed without conclusion erosion runoff with regards to steep slope development and the runoff issues of clear-cutting a lot for development. Board Members noted one recent example that caused issues of runoff following clear-cutting. Also discussed was if the language would be a zoning ordinance or a subdivision/site plan review regulation and who would have authority to enforce such a regulation or ordinance. Board Members discussed language as a design standard for subdivision, which would be enforced by code enforcement, as would be the case with preexisting development that was expanding, as well as zoning ordinances that would be enforceable by the selectmen.

Ms. Scahill explained to the Board that wildlife habitat is also a consideration when implementing regulations on erosion control related to clear-cutting that devastates habitat for many species of wildlife.

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Floodplains

Not clearly addressed in the Master Plan, Site Plan Review Regulations, Subdivision Regulations or Earth Excavation Regulations. May consider strengthening the Drainage Formula in Section VI:G to reflect more recent and intense storm events and recurrence as well as expected increases due to climate change. Stronger protections for all riparian buffers could be considered as Gilmanton does serve as the headwaters for five watersheds.

It was explained that shoreland protection has several sections of language that is applicable. However, riparian buffers are key. It was suggested that the town implement delineation of wetlands as well as vernal pools on subdivision plans and site plan submitted to the Planning Board for approval. It was further noted with consideration of the five headwaters in the Town of Gilmanton, it is important to protect the floodplains.

Forestry

Addressed adequately in the Vision Statement of the Master Plan and in the Rural District and Conservation District description in the Zoning Ordinance. Consider adding specific language for protection of opportunities to practice forestry while also implementing the necessary erosion and sediment control measures. Consider including a forest management overlay district in the Zoning Ordinance.

Ms. Scahill suggested the Board encourage Best Management Practices set forth by the EPA and include erosion control plans as part of the regulation/ordinance that is proposed.

The Board briefly discussed the application for intent to cut permit and what is required and regulated by the State. However, there is no local regulation or oversight of tree cutting either for profit from the wood harvested or for purposes of residential development.

Forests

Adequately addressed in the Master Plan (p.15) and the Conservation Area Location and Design in the Zoning Ordinance. Consider designating a forest conservation district in the Zoning Ordinance. Consider including forest statistics (size, class, species, contiguous forest area) in the pre-application process of the Site Plan Review Regulations.

Ms. Scahill suggested model language that covers eco-services as well as human services that forestry provides for the Master Plan as well as recommended forest conservation districts. Erosion control would also be included.

Before moving on it was noted that the Planning Board has not received any site plans related to forestry and clearing. Other Members commented that it is possible in the future and the town should be prepared with adequate regulations and zoning. Safe guards to prevent fragmented lands were noted during discussions.

Members questioned if forestry being an agricultural use and not subject to Planning Board review would require zoning or regulation of such activity. Members entertained if it would be possible to regulate; it was explained that delineation of wetlands and creating a wetland buffer could minimize clearing of a lot.

Members briefly revisited the issue of fragmented land with regard to class VI roads. Additionally noting that the earth excavation ordinance provides language for clearing a lot properly. Discussion was redirected back to the Audit.

Greenfield Development

Adequately addressed throughout the Master Plan with references to growth management and projections for growth within the town. Consider specifically addressing the regulation of growth in undeveloped area of the town and methods in which this growth can be controlled.

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Greenfield and Green Infrastructure are very similar. Development of a guidebook is helpful to developers giving them clear guidelines as to what is and is not acceptable under Greenfield Development. Focus to low impact and control of the sprawl is essential.

Green Infrastructure

Consider more explicit direction in the Master Plan and other land use regulation documents to incorporate green infrastructure within the community through the adoption of a green infrastructure plan. Consider developing a Green Infrastructure Plan that includes mapping the existing infrastructure and identifying the potential linkages and corridors to extend the Green Infrastructure.

Ms. Scahill went on to explain the idea of having a network of undeveloped lands and water that support human life and wildlife. Use of the Natural Resource Inventory is helpful in this regard. Maintaining vegetation and replacement of vegetation is essential for smart development.

Groundwater

Addressed by implication in the Master Plan and Zoning Ordinance, Subdivision Regulations and Site Plan Review Regulations. Consider specific language pertaining to groundwater preservation and including a ground water or aquifer overlay district in the Zoning Ordinance.

Ms. Scahill explained that protection of ground water is essential to town growth suggesting that the town discuss aquifer protection and implement an aquifer overlay project. It was further explained that there is a multi-step process to implement an overlay. Drinking water source protection plan requires a detailed analysis which, deals with the assessment of the risk posed to the drinking water as well as management of the risks and to create a contingency plan to respond to an emergency loss of water supply. Also creating an aquifer overlay district is helpful.

CC Chair Mitchell noted that there are DES Maps available to use as a resource that are very detailed.

Board Members questioned what method is used to assess risk potentials and protections. Board Members discussed evaluation of current development as well as future development in the aquifer areas. Regulations and Zoning Ordinances can prohibit commercial development of potentially harmful business near a designated aquifer area.

Members discussed large water withdrawal/extraction such as a water bottling plant. It was noted that the only way the town could prohibit development of a bottling plant would be to purchase the land suitable for such activity.

Discussions were redirected to the need to designate and map the stratified aquifer districts in town. It was questioned how restrictive the regulations can be in the designated aquifer areas and it is believed that DES has model requirements to use as a guide in creating regulations and ordinances.

The Board briefly discussed language used previously and concluded that the previous language was overwhelming and required revisions before Board discussions could continue.

Growth Management

Adequately addressed in the Master Plan and Zoning Ordinance. Consider developing more specific growth management techniques and a specified growth management plan.

Ms. Scahill commented that the town has a great growth ordinance. It was noted that the ordinance is about to expire and it will have to be decided if the town needs renew the growth ordinance or with the economic downturn is renewal of the ordinance necessary.

Members commented that by creating the ordinance the town also updated the Master Plan, Capital Improvements Plan. Members agree to review the growth management ordinance in the near future.

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Impervious Surfaces

Addressed by implication in the Zoning Ordinance, Subdivision Regulations, Site Plan Review Regulations and Natural Resource Inventory. Consider including incentives for developers to reduce the amount of impervious cover needed by using cluster designs or alternative street designs or require the use of these methods in a regulatory manner.

Board Members briefly discussed cluster type development and how essential it is when considering impervious surfaces and roads that are created as part of the development. Use of green space was also discussed as a way to mitigate impervious surfaces, as was the use of smaller street designs in new subdivisions.

Ms. Scahill explained that the Impervious Surfaces section contains many suggestions to implement to help minimize the amount of impervious surface there is when a major development is proposed. Also available are graphics that depict the different styles of development that can be used to educated people.

Landscaping

Addressed by implication in the Zoning Ordinance, Subdivision Regulations, Site Plan Review Regulations and Earth Excavation Regulations. Consider including specific language in the Master Plan that refers to the use of native plants in landscaping. Consider including language in all documents that encourages protection of existing vegetation.

Board Members discussed the variety of native plants as well as similar alternatives. It was questioned if the town had handouts available to use as a guide. It was noted that there is a poster available in the town office that provides suggested native vegetation as well as suitable alternatives.

Light Pollution

Addressed by implication in the Master Plan. Consider specifically addressing in the Master Plan, Zoning Ordinance, Subdivision Regulations and Site Plan Review Regulations language and regulations that concerns light pollution, dark sky preservation and light trespass, be sure to note the cumulative effects of lighting, not just site specific.

Ms. Scahill explained PSNH has programs available to assist with swapping out older lighting for modern lighting. The information is contained in the audit.

It was noted that the land use boards are more diligent about requiring down directional lighting with all proposed development requiring lighting. It was also noted that in three years the “cobra head” style bulbs would replace light bulbs currently lighting the streets. There were concerns noted about the current light pollution and all agree it is important to minimize the amount of lighting when considering development.

Natural Hazards

Addressed adequately in Zoning Ordinance. Consider specifically addressing forest fire risk in the Growth Management section of the Master Plan and in the Zoning Ordinance through setback limitation, development patterns and fire protection plans. Address flooding through buffer and floodplain regulations.

The Board noted a few areas of concern that the State has been working to mitigate.

Natural Services Network

Consider accessing the Natural Services Network GIS Mapping tool and establishing language in the Master Plan to encourage consideration of the Natural Services Network when identifying and prioritizing open space conservation and development locations.

It was noted that there is NSN documentation from 2007. It was explained that graphics are available that layer over the town map to assist in identifying and prioritizing open space development locations.

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Natural Vegetation

Addressed by implication in Subdivision Regulations, Site Plan Review Regulations and Earth Excavation Regulations. Consider adding specific requirements for the preservation and protection of native vegetation on a site. Consider adding requirements for redevelopment sites to include a minimum portion of native vegetation.

Members agree more regulation in the site plan and subdivision regulations is needed.

Ridgelines and Steep Slopes

Addressed by implication in the Master Plan and in Submission Requirements in the Zoning Ordinance and Subdivision Regulations. Consider more specific language in the Master Plan that addresses steep slopes and ridgelines. Consider developing and adopting a ridgeline and steep slope protection ordinance. Consider making 15% grade be the cutoff for development rather than the current 25%.

The town has prohibited subdivisions on steep slopes with residential development. There is state documentation available to use as a guide when creating regulations and ordinances pertaining to steep slopes and ridgelines.

The Board discussed without conclusion that it was unknown who the enforcement body would be for such regulations and ordinances as was the Boards inability to enforce such ordinances and regulations on pre-existing lots. All are in agreement that there needs to be better ordinances and regulations in place to cover all areas.

Shorelands, Surface Waters and Wetlands

Addressed specifically in the Master Plan, Zoning Ordinance, Site Plan Review Regulations, Subdivision Regulations and Natural Resource Inventory. Consider including specific language pertaining to vernal pools. Consider adopting a wetlands conservation overlay district. Consider adopting a shoreland protection district and increasing buffers on all protected water bodies.

All agree additional work must be done with regards to the shoreland protection ordinance and in the site plan and subdivision regulations.

It was noted that there are various grants and funding available through the state to assist with document writing and research. It was also noted that a wetland ordinance would be more successfully enforced once mapping of the prime wetlands had been completed.

Board Members questioned the success of such ordinances and regulations in other towns. It was explained that lack of educating the citizens leads to a defeated vote. Use of state resources and funding are beneficial to successfully enact and pass new regulations and ordinances. All agree educating the Boards and Citizens of the town who will vote is important.

Sprawl

Adequately addressed in the Master Plan and Zoning Ordinance. Consider developing more specific growth management techniques and a specified growth management plan.

There were no discussions pertaining to Sprawl.

Stormwater Runoff

Addressed by implication in the Master Plan, addressed specifically in the Site Plan Review Regulations, Subdivision Regulations, Natural Resource Inventory and Earth Excavation Regulations. Consider adopting a local stormwater management ordinance instituting stormwater controls for projects of all sizes and during all phases of development. Consider offering incentives for development that incorporates Low Impact Design (LID) strategies.

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Ms. Scahill explained that educational outreach is available both for the citizens of the town as well as printed material that can be used in the schools.

Member Girard would like to see an interactive educational packet used for the school. Suggesting Earth Day would be a good starting point in the education process.

Ms. Scahill explained that DES does have a mobile education lab that travels to schools and provided interactive demonstrations. The availability of EPA programs were also noted. Members will look into additional information.

Village District

Adequately addressed in the Master plan and Zoning Ordinance. Consider adopting a specific Village District development plan that includes provisions for pedestrian centered development and density transfer.

There were no discussions pertaining to Village District

Watersheds

Addressed in the Master Plan, Zoning Ordinance, Subdivision Regulations, Site Plan Review Regulations and Natural Resources Inventory. Consider adding specific language that addresses the five watersheds that Gilmanton is headwaters for and introduce watershed based management and cumulative effects.

All agree there has to be collaboration of all topics discussed with surface waters. It was suggested that the town adopt policies for cumulative impacts of the land.

It was explained that there is a paradigm shift to town or state liability for impacts caused by the accumulated effects of development. There is an EPA Module available to assist the town in protecting the watersheds.

Wildlife Habitat

Addressed specifically in the Master Plan and Natural Resources Inventory. Consider including language specific to wildlife habitat in the Zoning Ordinance, Subdivision Regulations and Site Plan Review Regulations rather than just referring to "ecological resources" or "environment".

It was suggested that other towns have relied heavily upon the Audubon's "Balancing Development and Rural Character; Voluntary Practices to Protect Important Wildlife Habitat Features During Development and Other Land-Use Changes" to assist in creating suitable language for ordinances and regulations.

It was questioned if mapping of Deer Yards was done; many towns do not map the Deer Yards.

Members agree there is a need for increased attention and/or protection for wildlife habitat. It was noted that there is also grant funding available to offset costs to develop language for ordinances and regulations.

It was suggested that the Boards do what work they can with both long term and short-term goals. It was also suggested that the Aquifer Overlay as well as defining the agricultural table of uses is top priority.

Members thanked Ms. Scahill for her hard work and presentation.

The workshop meeting was adjourned at 9:15 pm.

As dictated by tapes and notes provided.
Respectfully submitted,
Desiree Tumas
Planning Board Clerk