APPROVED

TOWN OF PELHAM
PLANNING BOARD MEETING MINUTES
January 6, 2020

Chairman Roger Montbleau called the meeting to order at approximately 7:00pm.

Secretary Cindy Kirkpatrick called the roll:

PRESENT: Roger Montbleau, Cindy Kirkpatrick, Paul Dadak, Jim Bergeron, Tim Doherty, Derek Steele, Alternate Selectmen Representative Kevin Cote, Alternate Richard Olsen, Alternate Samuel Thomas, Alternate Bruce Bilapka, Planning Director Jeff Gowan

ABSENT: Selectmen Representative Hal Lynde, Alternate Paddy Culbert

PLEDGE OF ALLEGIANCE

MEETING MINUTES

December 16, 2019

MOTION: (Bergeron/Doherty) To approve the December 16, 2019 meeting minutes as written.

VOTE: (7-0-0) The motion carried.

ADMINISTRATIVE

Map 18 Lot 12-15-1

HARRIS POND LANDHOLDINGS, LLC - Old Gage Hill Road – Request to release bond

Mr. Gowan stated the current bond was $2,100. He recommended a full release given all the recommended work had been completed to the Town and Road Agent's satisfaction.

MOTION: (Bergeron/Kirkpatrick) To accept the recommended bond release for discussion.

VOTE: (7-0-0) The motion carried.

Mr. Gowan explained the reason for the bond was to ensure (property) bounds were set. The work has been completed.

Mr. Doherty saw metal pins had been put in as they couldn't get to the rear of the property because of water. He inquired if there was anything in the Regulation that requires stone bounds on property corners. Mr. Gowan replied the granite bounds were only required along roadways.

Mr. Doherty made a motion to release the entire bond in the amount of $2,100. Mr. Bergeron seconded for discussion. He was previously concerned about the house furthest to the north because of the grade issues. He recalled it was going to be site specific and questioned if it had been checked off. Mr. Gowan stated it had been addressed and added there was an easement to be maintained to allow the Town to maintain the sight distance. Mr. Bergeron commented there were abutter concerns regarding drainage that had been taken care of.

MOTION: (Doherty/Bergeron) To release the entire bond in the amount of $2,100.

VOTE: (7-0-0) The motion carried.

PUBLIC HEARING ON PROPOSED ZONING AMENDMENTS

The full text of all proposed amendments is available at the Planning Department (the Municipal Center) Town Hall, 6 Village Green during normal business hours and from the Town of Pelham website at www.pelhamweb.com on the Planning Department page.

Mr. Gowan explained the public hearing process. The second public hearing will be held Thursday, January 23, 2020.

Based on public attendance, the Board reviewed the proposals in the following order:

Citizen Petition Zoning Question:

> **Are you in favor of the adoption of Amendment No. 4 as proposed by Citizen's Petition for the Town of Pelham Zoning Ordinance as follows:**
>
> **Are you in favor of repealing, in its entirety, the ordinance that was created by Article 3 of the 2019 Town Warrant, passed at the March 2019 Town election stating, *"Are you in favor of the adoption of Amendment No. 2 as proposed by Citizen's Petition for the Town of Pelham Zoning ordinance as follows: this amendment would modify; Article IV, Section 307-16 (A); Article V, Section 307-18 Table of Permitted Uses; and Article V-I Mixed Use Overlay District as follows: The raising and keeping of livestock, excluding poultry, may be conducted as an accessory use of a principal Residential or Mixed-Use Overlay District property of at least (3) acres and shall be clearly incidental and subordinate to the use of the lot for it's principal purpose. Structures and enclosures used in conjunction with the raising and keeping of livestock shall be a minimum of fifty (50) feet from any property line and shall comply with the best practices as identified by the UNH Cooperative Extension's housing and space guidelines for livestock. At no time shall a nuisance be created as to sight, sound, smell, or any other impact that may interfere with nearby property owners' rights and enjoyment of their properties."* A yes vote would remove this language from the Town of Pelham's Zoning Ordinance.**

The Board wanted to hear from the public before having their own discussion. Mr. Montbleau opened the hearing to public input.

Laura Spottiswood, 64 Webster Avenue read a prepared statement. After Article 3 was passed, she learned how devastating the ordinance could be for Pelham residents and families. These families are an asset to the community/Town and dedicated to their animals and farms. She was concerned for Pelham being at risk of losing residents and families if the current article 3 was not repealed.

Theresa Wentzel, Meadow Lane told the Board she resided in Pelham for twenty-six years. She bought her house because Pelham was a farming town and loved driving by the hay fields and riding the endless trail systems. Horses have been a big part of her life, along with her children and now her grandchild. She explained her grandson was eight years old and had Attention-Deficit Hyperactive Disorder ('ADHD'). She spoke about the mental health benefits of equine therapy, adding her grandson had bonded with her horse and told her their hearts are one; he has become quieter and more patient. Ms. Wentzel spoke how fortunate she was to have her dreams come true by providing that type of lifestyle and bonding for her family. She would like the opportunity to get her grandson his own horse so he could continue his improvement and ride trails together; however, it won't happen with Article 3. She pointed out horses were herding animals and needed companions; however, (with Article 3) she was restricted to replace one of her animals if something happened to one of them. The

remaining horse would be forced to live alone the rest of their days. She discussed her options and commented living alone or re-homing wasn't an option as her horses were her family. The only solution would be to move out of Town which made her sad given it's the home she raised her children. She said she would do so for the sake of her animals. She ended by saying farmers found stress relief in their barns and caring for their animals. She said no matter how stressful her days are, spending time with her horse had the power to clear her mind and soul. She asked the Board not to deny families their lifestyle and believed it would be simple to follow the UNH Housing and Space Guidelines for Livestock.

Jeff Caira, 141 Bush Hill Road told the Board he resided in Town for three years with his wife, two Jack Russell Terriers, one indoor bunny and two mini Sicilian donkeys. He stated if Article 3 wasn't repealed his donkeys could end up homeless or in an animal shelter. Recently a situation happened where twenty-eight goats were rescued from abuse and negligence; not one person in Pelham could help. He felt people should step up and help each other. He explained he moved from Methuen to New Hampshire where it was a free to farm state allowing livestock. He loves the country 'feel' of Pelham and hospitality they received from neighbors. He chose donkeys because they are an 'underdog' and at the same time a biblical animal. Mr. Caira states they prepared their barn area and received positive replies from neighbors. He and his wife adopted two baby donkeys (male and female). They purchase bedding and grain from Beaver Valley Farms and hay from Steck Farms to keep it with the community. Mr. Caira spoke about the attention they have received from having the donkeys, mostly from mothers showing their children. He didn't understand why certain animals were a burden to those who voted in favor of Article 3. He pointed out honeybees and bumble bees help with the growth of flowers and fruits. He felt Article 3 was a vicious attack against animals and bees that couldn't defend themselves. Mr. Caira believed there were two problems in Town that made the subject a Town issue. During October 2018 he placed deposits for two additional donkeys; however, Article 3 made it impossible to adopt them. He ended by telling the Board he couldn't have children; the donkeys are his children and they are greatly loved.

Danielle Masse Quinn, 9 Meadow Lane came forward with daughters Arianna and Brianna to speak about Devanna Farm. She told the Board she was born and raised in Pelham (44 years) and always had pigs, chicken, ducks and other farm animals. She currently owns approximately 2.5 acres although half of which could be used because it was surrounded by man-made cow ponds. She and her family own Devanna Farm. They currently have two potbellied pigs (and other animals). Her daughters have developed an interest in chickens and rescued three roosters. Having the animals has been a great outlet for her children as it got them out of the house, off electronics and responsible for completing chores. Ms. Quinn believed it was important to keep farming going; however, they had to decline taking in rescue goats and an additional pot belly pig because they don't own three acres. She wanted her daughters to experience what she did growing up. She was in favor of repealing Article 3.

Arianna Quinn (12 years old) addressed the Board and told the Board of the happiness she had from raising chickens. Rescuing animals also made her happy but understood they couldn't do so anymore because of a law requiring three acres. She hoped the community would come together and repeal Article 3.

Jenna Larson, 132 Main Street came forward with her daughter Ava. Ms. Larson stated she was third generation in Pelham. They had two goats, rabbits, chickens and large gardens to sell at farmer's markets. She was also an educator for the 4H Program in the State. She told the Board her daughter found her 'niche' through the 4H program and would like to start showing goats. Through UNH Cooperative Extension goats had to be two years old or younger; given the guidelines (of Article 3) her daughter wouldn't be able to. If animals aren't allowed to reproduce her daughter's future with 4H would be over. She noted Article 3 didn't follow the UNH guidelines. Ms. Larson explained she holds educational programs to discuss the care for animals and felt it would be terrible to close it down. She didn't want to leave Town and pointed out moving and buying bigger land would be too expensive. Also, being third generation, she wanted her children the opportunity to grow up in Pelham.

Ava Larson (10 years old) spoke to the Board and explained how she was very shy before she started 4H; however, when she joined, she began to make friends and met other children who had animals. It made her happy to have friends and meet the other mothers involved.

Joe Boissonneault, 2 Doris Avenue thanked the Board for the opportunity to speak. He stated as he grew up, he raised ponies, ducks, chickens, goats, racehorses etc. and went to area fairs to offer pony rides. This experience taught responsibility and was a lot of fun. He previously resided in Dracut but had the ultimate goal to buy his 'forever' home in Pelham and raise horses and ponies. He was in the process of doing so but put plans on hold because the house property was just over two acres. Mr. Boissonneault believed the UNH Cooperative Guidelines were great and believed everyone would be able to adhere to them. However, having three acres of land would be difficult without having a lot of money. He pointed out three acres weren't needed to raise animals as long as the owner was willing to give their yard to the animals and put in the time to keep it clean and be respectful to neighbors. He won't be purchasing his 'forever' home in Pelham unless Article 3 is repealed.

Meg Bressette, 45 Longview Circle hoped everyone present had spoken with the petitioners who put forth the article last year (Article 3) so they understand what the issues were. There were people who were unable to enjoy their property because their neighbors who had a number of animals were not respectful neighbors. Ms. Bressette told the Board she grew up on a 200-acre farm in New York state and understood how much hard work went into taking care of a farm and animals. She agreed with many of the people how wonderful it was for children to grow up having an animal and learn to care and respect nature. She believed the Board knew how much Pelham had changed in the last 10-20 years and how many housing developments had gone in. She was afraid a total repeal would not take into consideration people who move to Town and live in a neighborhood with no barns around and all of a sudden, a neighbor begins housing multiple animals. It wasn't fair to neighbors if animals aren't taken care of. Ms. Bressette feared a total repeal didn't take into consideration why the law went into effect last year and wished there was something to be more of a compromise that considered those having a hard time. She reiterated her feeling that having animals around were good for the community and for children. She also believed there needed to be recourse that neighbors could have if they couldn't enjoy their property because some owners don't take proper care of their animals; although she noted a majority of people take wonderful care of their animals. Ms. Bressette ended by reiterating her wish there could be a compromise.

Marie Sullivan of Rose Hill Farm, 309 Old Gage Hill Road commented about the articles on the agenda and saw people were concerned about preserving open space. She thought this was good given one of the major draws for people to come was Pelham had always been a farm community. She believed one way to keep a farm community was to allow people to preserve their own open spaces and be a good steward. She spoke about her property (5 acres) and noted she had six horses. She understood and agreed with the comments about children becoming more responsible when they take care of animals. She's worked with children from kindergarten through college to gain confidence working with animals. Ms. Sullivan then spoke about the other wildlife and ecosystem that had to be protected. She understood the comments of the previous speaker and there were some who were placed in difficult situation. She believed one family/situation turned into a Town-wide zoning law, which should be handled between the people rather than taking away everyone else's property rights. She noted there were people that moved to Pelham because they wanted to preserve the 'flavor' of the Town.

Paul Schnizler and Judy Birch, 16 Collins Way came forward and wanted to publicly applaud those who have come forward to speak in opposition of Article 3. He felt they had done an excellent job of explaining their love of the animals. He wanted those people to hear his side of the story. He stated he was one of the original petitioners. He then described his upbringing in upstate New York; the biggest social organization of his high school was Future Farmers of America, the second was the rifle club. His schools closed for the first day of hunting season. He worked on farms and knew what it was like. Mr. Schnizler understood approximately 80% of the land in Pelham was zoned residential, which to him didn't necessarily mean raising livestock or having farming activities. He admitted he wasn't an original Pelham person but had moved to Town thirteen years ago. When Article 3 was put together it didn't say people engaged in farming activities had to stop. He didn't believe that language was included in the article or allowed because it would go against the Town's bylaws. He said

there was nothing in the article prohibiting people from continuing the activity they were currently doing; it wasn't a change in the non-conforming use of a property. The Article would impede someone from starting the activity if it was under three acres. Mr. Schnizler said he would have loved to have foreknowledge so a compromise could have been worked out. He said he wasn't unreasonable but felt a total repeal would open the door to people coming to New Hampshire beginning an activity and have no regard for the impacts of those living around them. Prior to Article 3 there were very little restrictions, which was the reason for drafting the article. He pointed out he got nothing out of having Article 3 pass; his situation hadn't changed because the non-conforming use was allowed to continue. He simply didn't want to see other residents move to Pelham and wind up in a similar situation.

Ms. Birch explained how they decided upon three acres being specified in the article. She said they originally wrote it as a two-acre rule. They met with Mr. Gowan and learned there was another resident in Town who was also writing a petition. The other person wanted a three-acre rule, so to not have competing articles, she said they agreed to increase to three acres. Mr. Schnizler noted when reviewing other towns saw they had stipulated five acres; however, he felt that would be too exclusive and tried to meet a middle ground. Ms. Birch stated when they began speaking to people last year she was constantly told when you move next to a farm that's what you get. She noted when they moved to Pelham it was a brand-new subdivision thirteen years ago with mostly colonial houses. Two years ago, their neighbor decided to become a pig farmer and had anywhere between two to ten pigs (because they were sold). The reason for including a setback was to keep activity away from property lines. Mr. Schnizler told the Board his neighbor's pig pen was within 100ft. of his bedroom window. Ms. Birch stated they appealed to everyone in Town, but there was nothing to help them except changing the ordinances. She asked that the Article not be thrown out so they could come up with something to protect people and at the same time let people still have their animals.

John Spottiswood, 64 Webster Avenue believed a reasonable compromise would be to repeal the article and use the UNH guidelines as written, not just pieces of it. This would allow people to have animals and at the same time have rules in place in the event of an issue. He felt they could fix the situation as a community without banning animals or taking people's property rights. He agreed there was room for compromise, but not now that the damage has been done; people's rights have been taken away. He suggested they go back to the beginning and work together as a Town.

Joseph Zannoni, 94 Jericho Road believed the article should be repealed as people's rights had been taken away. He spoke about his daughter and son growing up on a farm. He watched them learn responsibility, engage with 4H, learn responsibility and later graduate college at the top of their classes. He attributed their success to their upbringing and experiences. He thought it was wrong to see people's rights stricken from them. He reiterated his statement to repeal the article and work as a community to eliminate difficulties between people.

Mr. Montbleau read aloud correspondence submitted by residents.

1) Maureen Atwood – in support of the petition
2) April Gagnon – in support of the petition
3) Maureen Ardizzoni – in support of the petition
4) Carol McCarthy – in support of the petition
5) Hal Lynde – in favor of having a reasonable compromise

Ms. Kirkpatrick asked about the status of the Agricultural Commission. Mr. Cote replied it would be included on the warrant for Town vote. He told the public that a solution to the problem may be to create an agricultural commission who would be advisory (non-authoritative) to the Planning Board regarding potential zoning changes to help everybody's situation. Mr. Gowan assumed if the article (to create an agriculture commission) passed the Selectmen would appoint volunteer members.

Ms. Kirkpatrick personally believed the article should remain. She felt the Town should establish an agriculture commission and have people on both sides work together to come back next year with something that would

please both sides. She knew if the article was repealed the Town would defer to the State's Regulations. She noted UNH only made recommendations and didn't enforce any rules or laws; that action was left to the towns and Pelham didn't have any. There was no resolution, other than filing a civil suit which can be very expensive. Also, it would be difficult to find an attorney to go up against the right to farm. Ms. Kirkpatrick understood why the people who brought last year's article could be at their wits-end. She pointed out the article didn't fix existing problems, but it got people talking. She felt horrible that new issues were created. She believed three acres was extreme but was in favor of specifying/requiring spacing and waste management. She explained the State would only make recommendations and noted such recommendations had not impacted or helped her family's quality of life. She described her personal situation and was saddened a few 'bad apples' had ruined things for the Town. She didn't agree that Article 3 was the answer but was not in favor of repealing it without having something else in place. She felt having an agricultural commission create something for next year was the answer.

Mr. Montbleau inquired if people were grandfathered from before Article 3 was passed. Mr. Gowan replied it was complicated; they had to turn to Town Council in every instance of a formal complaint. It was 'thorny' to enforce what was presently on the books. He said 'natural expansion' was relevant. The Code Enforcement Compliance Official worked with the Town's Health Officer, Animal Control Officer and the State to evaluate situations on a case-by-case basis. Under current regulation he said it was challenging to address the issues in a satisfactory way to the people who brought last year's petition forward. Mr. Gowan stated he couldn't speak broadly about it other than to say they analyze each complaint as it comes in. He said it was challenging in the State because the laws strongly favor agricultural uses. Mr. Montbleau questioned what kind of complaints involved code enforcement. Mr. Gowan replied complaints of nuisance, such as animal care. He noted when it came to code enforcement, they involved Town Council each time. He said this was the most difficult piece of zoning in terms of enforcement during his fifteen years as Planning Director. Mr. Gowan spoke about 'grandfathering'. He said those with a pre-existing non-conforming use that was made non-conforming because of the ordinance that went in last year were grandfathered as long as they 'passed muster' with the best use practices of keeping animals.

After listening to all comments brought forth (by all sides), Mr. Montbleau stated he would defer a Board vote to recommend or not recommend until they have an opportunity to digest all the information. He was comforted knowing everyone had been grandfathered. Members of the public called out that statement wasn't true. Ms. Kirkpatrick informed when she spoke to the Code Enforcement Official about animals the answer she received was if someone had an animal that died, it could be replaced. Mr. Gowan stated that was how 'natural expansion' came in. He said if a person had animals and they had offspring that person didn't have to get rid of the offspring. However, establishing a new use or an expansion beyond animals having offspring would need Town Council's input. He added the ordinance was difficult to enforce in way for people feeling impinged to receive satisfaction.

Mr. Dadak didn't feel the article should be totally repealed. He wanted to see people work on a better solution. He believed the language 'raising and keeping livestock' was a very gray area. He suggested if there was new language it should include a limit/boundary regarding such. Ms. Kirkpatrick said that's where the UNH Cooperative Extension recommendations came in; they have specific charts for spacing and animals.

Ms. Quinn came forward again and stated she had lived in Pelham forty-four years. She had two pot bellied pigs and rescued other animals. She noted her pigs were both female so they wouldn't have offspring. She told the Board if something happened to one of her pigs (such as killed by a coyote) she wouldn't be able to get another pig. She noted she owned 2.5 acres. Ms. Kirkpatrick asked if she had spoken to the Code Enforcement Officer to confirm her understanding. Ms. Quinn replied when she contacted the Town no one knew where to send her to ask the question. Her understanding came from reading the article and discussing it with the community of Pelham farmers. She said the fear from the community came from living in the Town for forty-four years and having someone who moved in three years ago telling her what she could do with her farm animals and livelihood. Ms. Kirkpatrick suggested if people had questions, they should contact the Code Enforcement Officer for a direct answer. Before people make changes to their life, they should speak to someone in charge

of enforcement as they may give a different answer. Ms. Quinn stated in her forty-four years she'd never had to contact a code enforcer to question her livestock, farm, home or property. She said she wouldn't allow anyone to come to her farm town and tell her what she could do, how many animals she could have or how many acres to have for her property that was handed down from her parents. Mr. Montbleau felt people should seek the facts. Ms. Quinn wanted to see the parties who have problems work out their situation. She didn't understand why the whole community had to be affected. Mr. Montbleau pointed out there had been a citizen's petition and now there was another petition submitted.

Mr. Montbleau announced he would open the discussion back to the public for five minutes.

Hershel Nunez, 21 Webster Avenue told the Board he was a Representative for the District. He stated he had issues with what was going on with the Board. He commented the Planning Director was saying things were being handled on a case-by-case basis and at the same time Ms. Kirkpatrick was saying people needed to go to code enforcement to be told what to do; the Planning Board didn't know what to do. Mr. Nunez told Ms. Kirkpatrick he had an issue with her views on the Board because she had a problem with her next-door neighbor. He felt she should recuse herself from the vote. Mr. Doherty interrupted to point out comments should be addressed through the Chair, not members of the Board directly. Mr. Nunez apologized. He stated there was a Board member who had an issue. He didn't think it was fair and believed she should be recused from the vote. He said he had spoken with the Board member and completely understood her issue; however, when there is solid opposition without understanding everyone's view, he felt her personal feelings may have a bigger determination on the vote.

Mr. Montbleau brought the discussion back to the Board and closed public comment.

Ms. Kirkpatrick stated a year ago she was in the audience and came forward to speak about her personal concerns and issues. She didn't see anyone opposed to Article 3 at that time. She decided to get more involved with the Town and have an impact and help. She ran for the Planning Board and was elected in 2019. She encouraged everyone to do the same. She stated she had an issue and made the decision to be a voice and help the Town although she knew she didn't speak for everyone. She made it known she was not against anyone in the public. She felt there needed to be some kind of answer, rule or something in place that helped everyone, not one side or another. Ms. Kirkpatrick pointed out everyone was fine with having an ordinance that didn't allow more than three unregistered vehicles in a yard but there was no number restriction on (a neighbor) having foul smelling animals. She stated she was against a total repeal but in favor of an agricultural commission or something, such as the State's rules, that would help everybody.

Mr. Montbleau stated the Board had heard a lot of comments and received a tremendous amount of input. He asked if the Board had anything further to add.

Mr. Doherty pointed out the Board approved of putting the citizen's petition forward last year because citizens came forward and presented a side that the Board felt they could support. Tonight, the citizens in overwhelming numbers were coming forward and presenting information in reverse. He felt it was the obligation of the Board to approve and support (the petition) the repeal (of Article 3). A public hearing is meant for hearing and supporting the public at large. He reminded the Board the public would vote on the matter. The Board's role is to hear the public and either support or not support them.

Mr. Montbleau agreed. He stated last year the Board heard a different side from what they were now hearing. He wanted to 'table' a decision to the Board's next meeting so everyone would have an opportunity to think about the information and have discussions with the Planning Department, Code Enforcement Official and review the State's rules and regulations. He invited everyone to come back for the Board's next meeting on Thursday, January 23, 2020 beginning at 7:15 (in Sherburne Hall).

Mr. Doherty spoke to the public. He explained the Board members were volunteers and asked that people not 'pick on' individual members.

Citizen Petition Zoning Question:

Are you in favor of the adoption of Amendment No. 3 as proposed by Citizen's Petition for the Town of Pelham Zoning ordinance as follows: *"Are you in favor of repealing, in its entirety, Pelham Zoning Ordinance Article XV, Residential Conservation Subdivisions by Special Permit? The effect of the repeal would be to eliminate the building of subdivisions that would allow "cluster" style where houses are built closer together (on less than the required 1 acre of property) in exchange for open space land."*

The Board wanted to hear from the public before having their own discussion. Mr. Montbleau opened the hearing to public input.

Paul Gagnon, resident of Dutton Road and Conservation Commission Chairman came forward to speak on behalf of the Conservation Commission. He read aloud a letter dated January 3, 2020 addressed to Planning Board Chair Roger Montbleau and Planning Board members *(see attached)*. In conclusion the letter read *"The Conservation Commission voted unanimously (7-0-0) to recommend that the Planning Board not support the Citizens Petition proposing to repeal the conservation subdivision ordinance. The Conservation Commission is supportive of changes that would improve the ordinance but we are strongly opposed to its repeal."*

Mr. Gagnon stated the letter summarized the Commission's feelings that the Ordinance was an innovative land use ordinance to which the Planning Board has a tremendous amount of authority and chose not to allow a conservation subdivision. They felt it would be a shame to remove it for times when there were appropriate lots for a conservation subdivision. They also felt there were a several examples of excellent conservation developments. Mr. Gagnon would like to see the ordinance remain as an option for the Planning Board to use. He would also like to see a subcommittee formed to make modifications since it was written years ago and there were some problems with it; however, he believed there were 'fixes' for those problems. He volunteered to be on the committee to make changes to the ordinance.

Mr. Bergeron stated he was well-aware of the good work done on by the Conservation Commission and all the work done to knit open space together which gained the Town over two thousand acres. He noted a year ago Mr. Gagnon was against modest proposals of the ordinance and now was hearing he was in favor of modification. Mr. Bergeron had a problem with how the 'science' side of the conservation ordinance was written although he understood they were speaking at this point about the proposed ballot question. In his opinion for a conservation subdivision to be what it truly should be, they should be something everyone wanted to have. He agreed there had been some good ones but also recognized there were some bad ones, which were the fault of the Board. He added it was up to the language used by the Board to head them in that direction and realized it was an innovative land use. He felt water quality and protection was very important as well as developing open space. Mr. Bergeron mentioned people spoke to him with concerns for what would happen to open space and if it would be protected. He commented about an application that wanted to develop 'set aside' land. He believed the ordinance was well-intended; however, the problem was within the ordinance and saw in reading RSA 674:21 they could do more to protect the existing community and come to the point of providing open space. He would like to have more input from the Conservation Commission before anything came in front of the Planning Board. He also wanted absolute direction from the Board of Selectmen before something (acceptance of open space) comes in front of the Planning Board. He wanted this because of the concern about homeowner associations failing or going into bankruptcy. He didn't understand why density offsets were given to developments with an association because they haven't fulfilled the Legislative intent of the Statute. He felt if the Town wasn't receiving a defined public benefit, they shouldn't maintain the roads.

Mr. Bergeron believed they couldn't take the existing ordinance and fix it, in his opinion they needed to have an innovative land use ordinance for the sake of gaining open space. He brought up 'workforce housing' and his opinion for it to be a stand-alone ordinance. Mr. Gagnon agreed with that point and noted he had previously sent an email to the Board indicating that opinion. Mr. Bergeron mentioned he had spoken with many citizens (who signed the petition) and promised them he would work for language that gave them an ordinance they would love. He recognized the preamble to the ordinance referenced it would not disturb existing neighborhoods. A problem he had with the existing ordinance was the density offset. It seemed to him the Board didn't have control given proposals were coming to the Board with a 50%-70% reduction in size, which in his opinion, without infrastructure (outside water) was a bad plan. Mr. Bergeron pointed out for the past 70 years Pelham had based lot size on soil-type requirements. Often times the Board is shown a conceptual conventional plan but doesn't have the opportunity to work on them because the applicant is looking to go immediately into a conservation subdivision. He pointed out the Board went out of their way to accommodate the Conservation Commission's recommendations. He felt the existing conservation subdivision ordinance was flawed throughout. He didn't want to get rid of it in its entirety but wanted to come up with one that worked.

Mr. Gagnon spoke about why last year he was opposed to changes and this year was not. He explained a few years ago he sat with Mr. Gowan and wrote the Wetland Conservation District ('WCD') Ordinance, not by making substantial changes, but instead tried to make the language clearer. When he presented it to the Board, he was told the Board would instead be creating subcommittees to put thought into ordinance changes and make a presentation to the Board for acceptance. He pointed out that changes were brought in for changes to the conservation subdivision ordinance without consulting anyone on the Conservation Commission for input. He said if they were going to do things right, they would have someone from the Conservation Commission involved. He suggested going through the WCD ordinance and hiring a wetland scientist to assist. Mr. Bergeron replied he would like to write an ordinance that requires the Conservation Commission to 'weigh in' on every conservation subdivision. He was aware of changed made by New Hampshire Department of Environmental Services ('DES') to the wetland impact regulations. He noted they reduced it to 10,000ft. Mr. Bergeron believed the existing language was out-of-date/antiquated and needed to be redone, but not thrown out completely. Mr. Gagnon had no objection to starting the language from scratch; however, he didn't want to go a year with nothing in place. He was in agreement to presenting a replacement ordinance. He pointed out the citizen petition called for eliminating the conservation subdivisions which, if passed, would only allow conventional subdivisions during 2020. The Conservation Commission was opposed this. They were willing to modify the existing ordinance or start with a blank paper and rewrite the conservation ordinance to be brought to the voters. The commission didn't want to wait a year giving the Planning Board no other option than conventional developments. Mr. Gagnon completely agreed with the suggestion to have the commission provide input on conservation developments.

Regarding open space, Mr. Gagnon explained by law it had to remain open space; however, citizens could change the law. He said if they thought land wouldn't remain open space, he was wasting time seeking to purchase land. He had a high degree of confidence the taxpayers wouldn't agree to have more houses on land purchased with taxpayer money instead of keeping it as open space.

Mr. Montbleau agreed with Mr. Gagnon and felt while the Board worked on changes to the ordinance the conservation subdivision ordinance should remain. This will allow the connection of land and keep open space for the protection of habitat and recreation areas. He believed they could modify, improve and make the existing ordinance work. In this case he was not in support of the citizen's petition. He felt the Conservation Commission's opinion weighed heavy in this regard. Mr. Montbleau understood Mr. Bergeron's points and didn't discount any of them.

Mr. Doherty stated subcommittees were stopped because the Chairman doesn't allow them. The process has been brought back to the Planning Board. He explained until the Board's Chair could be convinced to start doing zoning subcommittees there was no method of going back to getting good zoning. The Board could only have discussions at open public meetings which left no ability for others to report in on a weekly basis. Mr.

Montbleau responded it wasn't that they didn't have it anymore; this year he chose the process to allow all the Board members to be in on the discussions. He wanted to avoid a small group of people bringing their thoughts in by themselves. He expressed as Chair he made the decision for all the Board members to be involved.

Mr. Dave Hennessey told the Board he and Mr. Doherty spent an agonizing time putting the original conservation subdivision language together; it was a painful process, but he was proud of what they did. He said there was no doubt people were upset with the monstrosity of a development on Nashua Road, which they mistakenly conflate with a conservation subdivision. He said when conservation developments are pinned down, he's heard no outcry; he's heard congratulations, particularly with the Garland Woods and Sky View developments. He said thank goodness they had the tool (conservation ordinance) to do so and the Board used it. Mr. Hennessey spoke to Mr. Gowan about asking Mr. Cote and other people to withdraw the petition for another year and was told it couldn't be done. The article will appear on the ballot whether or not the Board supported it. He urged Mr. Cote and the others who wrote the article to seriously urging their followers to 'let it be' for a year. Mr. Hennessey attended a workforce housing follow up meeting at St. Anslem College (in early December). During with Governor Christopher Sununu spoke about big changes coming during the year. He talked about creating policy to increase housing stock, both rental and owned. He also talked about increasing housing investment by making the approval process more predictable and in addition having community standards and enforcements for affordable housing with new report cards for every town. He urged people not to discard what Pelham had in place until they learned what would come down from the state house. Mr. Hennessey believed there were a lot of misconceptions about planning, housing and the way the State runs. Everything done by local government is only done by the shadow/permission of the State. He reiterated his belief the Town would make a grave mistake by tossing out what they had before seeing what would be coming in from the State.

Mr. Hennessey understood the Currier Road development had been in front of the Board and accepted for consideration. Mr. Doherty stated they couldn't discuss it. He said if the applicant wasn't present to give their side of the story the Board shouldn't discuss the plan. Mr. Hennessey said Mr. Cote brought it up when speaking with the Conservation Commission. He said it was a fact that people on that hill were upset with the idea of the plan coming in effect. He pointed out if the Board had taken the (Currier Road) development under consideration, the repeal of the (existing) ordinance wouldn't affect the subdivision. He felt people ought to know this fact. He understood there were some who signed the (citizen's) petition thinking it would throw a 'monkey wrench' into the (Currier Road) subdivision, which wasn't true. He was not advocating one way or another; he was simply informing getting rid of the conservation subdivision ordinance wouldn't affect that development. He urged those who signed the petition to put it off for a year to understand what would be stipulated by the State.

Regarding the minimum open space requirements, Mr. Hennessey referenced Section 307-105, C of the ordinance which indicates dedicated open space shall be protected in perpetuity through deed restriction or conservation easement designed on the approved/recorded plan. He didn't mind taking workforce housing out of the ordinance but didn't think it would be wise at this time given what would be coming down from the Governor's office. He offered to be involved in the process of amending the ordinance.

Mr. Dennis Hogan, Moonshadow Drive stated he was a frequent user of Town trails and parks near his home. He described the trail route he walked which was included in the 2,000+ acres owned by the Town. When he was a child his parents moved to a thinly populated rural town with great outdoors; Billerica had a population of approximately 10,000 in 1955. During the building boom he watched the rural nature of the town change in a drastic way; developers put houses everywhere with no regard for drainage, well capacity etc. He had deep respect for the work done by the Planning Board. Mr. Hogan has resided in Pelham for twenty years and loved living in Town. He's reached the age where he thinks about the value of open space and what they'll give future generations. Mr. Hogan commented there was a citizen petition to eliminate conservation subdivisions. When he first heard about the petition, he spoke with several friends in Town who had strong opinions. The first thing people spoke about was the 55+ development on Nashua Road, which isn't a conservation subdivision. He

didn't blame people for being upset but was saddened the ordinance would be 'tossed' out given it preserves the inherent beauty of the Town. Mr. Hogan mentioned it was his privilege to be an alternate to the Conservation Commission for the last six months with a caring group of volunteers who focus on open space, water quality and wildlife to advise the Board of Selectmen and Planning Board. He believed the boards needed to do a better job communicating with the public about Town land and the uses they were trying to make of it. People would then learn how the land was acquired. Mr. Hogan felt everyone on commissions and boards should constantly hear feedback from people in Town and had his eyes opened during a short period of time. In conclusion he was in favor of fixing the ordinance if need be but didn't want it eliminated.

Mr. Mike Gendreau, Harley Road told the Board he was a resident, member of the Conservation Commission, member of the Border Riders and coached football. The third point raised during the Conservation Commission meeting hit him when Mr. Cote stated it was the next step to remove the conservation subdivision. He spoke about being very active with the Town and on social media and found it embarrassing when people question developments that had not gone in front of the Conservation Commission. He mentioned what he found was people wanted to slow down growth in Town. He never heard anyone say they wanted to grow the Town faster and felt eliminating the conservation subdivision would negate what people were asking for. In his opinion the reason they eliminated the 62+, 55+ and now the conservation development was because people wanted to slow things down. He's spoken to a lot of people who signed the petition and learned their main complaint was development. He said if people wanted to slow down growth and they had land to sell, they should contact Mr. Gagnon. Mr. Gendreau understood the Board had the ability to say no to virtually anything.

Mr. Bill McDevitt, Lane Road wanted it clear none of what he stated represented anyone's thoughts except his own. Regarding ownership of open space believed most of the protected areas were in private ownership and not public ownership. The question about why the Selectmen don't want certain land has been raised, his response was the wildlife didn't know who owned it. He informed the Town owned 95 parcels of land that were each six acres or less. It was the Selectmen's responsibility to watch over those parcels and they had to be careful when accepting land. In his opinion it made sense to connect parcels to other conservation land; however, if it didn't make sense it remained in private ownership. The Planning Board's responsibility was to make sure there was a specification in the deed. He believed it was critical to protect open space. Mr. McDevitt urged Mr. Montbleau to look into the rights of those speaking during a public hearing under the First Amendment, which he believed were very broad. He noted the Selectmen had adopted a Policy for public speaking; he said the board didn't have to acknowledge what was being said, but they had to listen to it. Mr. McDevitt understood there was some feeling if the Town threw out the conservation subdivision the proposed subdivision (off Currier Road) could be thrown out. He said as the Board members knew, nothing could be further from the truth. He pointed out the laws in New Hampshire were 'pro-development'. He also pointed out when land is acquired through the Conservation Commission it's paid for. He reminded people land acquired through a conservation development was free; it didn't cost the taxpayers anything. He spoke about a Town acquired parcel off Sherburne Road that contained to productive wells which the result of a conservation subdivision. Mr. McDevitt heard people comment about wanting a perfect ordinance and felt they should take the 'good', such as preserving the rural character of the Town and preserving open space at no cost to the taxpayer. He noted many of the homes within conservation subdivisions were paying a lot of money in taxes which was good for everyone. They also didn't have a lot of children in school. He was puzzled when he saw the petition article. Mr. McDevitt didn't feel the existing ordinance should be thrown out as it had been good for the community and preserved the Town's rural character and open space. He mentioned the open space on Mammoth Road/Sherburne Road not accepted by the Selectmen. He said during consideration there was a lot of discussion about slivers of land and connectivity. He ended by urging the Board to keep the conservation subdivisions and not throw them out.

Ms. Karen MacKay, resident and member of the Conservation Commission believed part of the rationale people wanted to get rid of the conservation developments was to slow down development. However, if there were no conservation developments and entire parcel would be developed rather than just part of a parcel. She felt they needed to keep the ordinance because it provided options. She commented if the Planning Board didn't want to give density offsets, they shouldn't give them. She added if the Board didn't want a conservation subdivision

for a particular lot, they could tell the owner to do a traditional (conventional) subdivision; the ordinance gave the Board the option of choosing. She reiterated her belief the Board should keep the conservation subdivisions for now; the commission was open to changing/improving it. She also reiterated if the ordinance was repealed the options were lost and would only be able to have traditional subdivisions on any lot. Ms. MacKay pointed out the oversight of developments such as by the Zoning Board or input from the Conservation Commission, engineering review (Town and applicant). She spoke about open space and explained the goal wasn't necessarily to 'obtain/own' open space; the goal was to 'have' open space land in Town. They simply wanted to gain open space whether privately or publicly owned. Ms. MacKay listed the benefits of conservation subdivisions such as the roads and driveways were shorter, less impervious surface, less (Town) maintenance and salt on roads, houses are smaller, less drainage structures, etc. She commented if the Board sees a plan with little slivers of land, they don't have to let the plan go through. They can tell the engineer to rearrange the lots to better fit the site. She reminded the Board there were times those slivers of land connected parcels together, which would be a benefit to the Town. Ms. MacKay ended by stating she didn't think the ordinance should be repealed and was open to fixing it or making it better. She believed they should keep the ordinance until they came up with improvements.

Ms. Louise Delehanty came forward and displayed a map of currently protected land (over 2,400 acres) within Pelham. She thanked Mr. Gagnon for his hard work and anyone else responsible for acquiring the parcels. She also thanked the taxpayers for their support in acquiring the land. She pointed out any open space land not saved would be built upon. She felt having conservation subdivisions was beneficial for having shorter roads, less maintenance and drainage. Also, more wildlife is protected.

Mr. Montbleau brought the discussion back to the Board.

Mr. Doherty addressed some of the comments. He said the most noticeable development was built on a 10-acre parcel, which couldn't happen anymore because the ordinance was changed. He discussed the problems with having the smaller parcels, which didn't create quality open space. He felt slivers of land should stay with homeowner's associations (for the residents of the development) and larger parcels should be added to Town land and perhaps accepted by the Town. He pointed out the Board currently had the flexibility to do this because the ordinance was an innovative land use. With regard to over-development or fast-tracking developments, he explained conventional developments work under a timeframe and the Board has a small amount of time to deal with developers. If the subdivision regulations are met the developer builds and moves on to the next development. With a conservation subdivision, the Board addressed the time clock and the voters voted to have conceptual plans submitted prior to a formal submission. The Board has the opportunity to see a concept and forward plans to other boards/committee for input. Mr. Doherty explained an innovative land use ordinance is very flexible and gives the Board the ability to 'barter' and adjust zoning without having to go to the Zoning Board. The Board can vary its own zoning and do a great subdivision. An example of the Board negotiation with a developer is the connection between a golf course, Peabody Forest and conservation land that created an even bigger parcel of land. Mr. Doherty stated the ordinance was not broken; it had been 'hijacked' by certain developers trying to do other things that created a lot of friction in Town. He noted they never intended to have septic and wells on a half-acre parcel. It was up to the Board to stop allowing it in the future and go back to what the ordinance allowed. The ordinance gave the Board flexibility and didn't feel it was possible to get rid of it and start from scratch. He pointed out if they ended up doing away with the ordinance the Town would be required to notify every affected parcel.

Mr. Doherty heard mention of an applicant who tried to increase density on an open space parcel. He explained the applicant was denied by the Board to have a duplex; they had three acres of land but couldn't subdivide or build a duplex because it was part of the yield plan for the original subdivision. He also heard mention that the Town didn't want scattered lots. He said there were already lots all over the place. He stated when the Board asks the Town to accept land (and sometimes slivers of land) they do so because it connects parcels to one another, and homeowner associations aren't able cut connectivity. Mr. Doherty didn't see any bad things about the ordinance and noted there were six new members that weren't on the Board when it was implemented. He

pointed out the new members were holding the developer's 'feet to the fire', which didn't always happen in the past. He said if the ordinance was taken away the Board would be stuck with 'fast-tracking' developments without the ability to negotiate with applicants.

Mr. Montbleau understood Mr. Doherty spoke in favor of the conservation subdivision ordinance. Mr. Doherty answered yes. He said the Board shouldn't vote to approve the petition with withdraw the conservation subdivision ordinance. He believed they should keep it intact because it wasn't broken. He pointed out it was an innovative land use ordinance which gave the Board the ability to fix it while they were in session, which they couldn't do with a conventional subdivision. He added the time clock for conservation subdivisions was slower because applicants had to bring conceptual plans to the Board for review. Mr. Montbleau agreed with Mr. Doherty's points.

The Board discussed how to proceed. The Board will make a decision on Thursday, January 23, 2020.

PUBLIC HEARING SUSPENDED

NEW BUSINESS

Case #PL2020-00020
Map 6 Lot 4-175-1
PAWTUCKET ROAD LANDHOLDINGS, LLC - 32 A & B Valley Hill Road – Proposed 3-lot Subdivision consisting of duplex style units.

Mr. Bergeron recommended the Board hold a non-public session in accordance with RSA 91-A:3,l (legal).

MOTION: (Bergeron/Doherty) To enter into non-public session per RSA 91-A:3,l (legal).

ROLL CALL VOTE:
Roger Montbleau-Yes
Cindy Kirkpatrick-Yes
Paul Dadak-Yes
Jim Bergeron-Yes
Tim Doherty-Yes
Derek Steele-Yes
Alternate Selectmen Representative Kevin Cote-Yes
Alternate Richard Olsen-Yes
Alternate Samuel Thomas-Yes
Alternate Bruce Bilapka-Yes

The Board entered non-public session at approximately 10:12pm.

After the Board had entered non-public session for some time, they called for Planning Director Gowan to enter.

The Board and Mr. Gowan returned from non-public at approximately 10:25pm. The public session was reconvened.

The Harris Pond Landholdings case was date specified to February 3, 2020. Mr. Montbleau informed the Board would seek clarification of the plan from Town Counsel. Abutters will not receive additional notification.

Mr. Gowan asked the meeting minutes to reflect the abutters list was no read into the record. He said in addition to the legal question he wanted to know if the plan would be forwarded to the Board's engineering firm for review. Mr. Montbleau replied Board action would be deferred to February 3, 2020 for legal opinion.

PUBLIC HEARING RESUMED

Pelham Planning Board DRAFT zoning change to modify Article XII Special Exceptions:

> **Are you in favor of Amendment No. 1 as proposed by the Planning Board for the Town of Pelham to change Pelham Zoning Article XII Special Exceptions to allow Accessory Dwelling Units (ADUs) to be a maximum of 1,000 square feet (increased from 800 square feet), and to eliminate the common wall requirement. To clarify, ADUs shall not be allowed on lots of less than one acre unless the lots are within an approved Conservation Subdivision or within the Mixed-Use Zoning District where the Planning Board has approved smaller lots under their authority over Innovative Land Use projects. This amendment would also allow detached ADUs by Conditional Use Permit issued by the Pelham Planning Board when the lot is at least 1.5 acres in size with a minimum of 45,000 square feet of contiguous non-wetland soils. The Planning Board shall also have the authority to determine placement of the detached ADU within the lot. The proposed amendment would also remove the prohibition of minor home occupations within ADUs, primary dwellings, duplex and multi-family units. The primary purpose of this ordinance is to expand the mix of affordable housing opportunities throughout the Town by permitting the creation of secondary dwelling residences as an accessory use to existing single-family detached dwellings while maintaining the visual and functional character of single-family residential neighborhoods.**

Mr. Bergeron stated he was very much a proponent of accessory dwelling units and detached accessory dwelling units. In the past he was a member of the subcommittee that originally drafted the accessory dwelling unit article. In regard to the proposal currently in front of the Board he stated he wouldn't let it 'slip by' unless it was as perfect as it could be. He spoke about section N of the ordinance referring to criteria for ADUs are allowed and questioned if the proposed language was correct. Mr. Doherty read section N aloud and spoke against allowing ADUs within conservation subdivisions. Mr. Gowan stated ADUs had to be allowed anywhere a single-family home could have an addition put on, as long as it met setbacks. He referred to Town Counsel's opinion on the topic. He discussed the process in which both an attached and detached unit could be reviewed. The Board discussed the section and made amendments for the intent of the language to be clear.

Mr. Montbleau read aloud the entire ordinance (with amendments previously included and discussed during the meeting).

Mr. Cote questioned if there was a limit to how many ADUs were allowed on a property. Mr. Gowan replied only one ADU (of any kind) was allowed on any parcel. This was contained in 'Criteria for Accessory Dwelling Units' section C. Mr. Cote asked if the size of a detached ADU was similar to a 1,000SF house. Mr. Gowan reply that would depend on what the Board wanted since it would come to them under a Conditional Use Permit. Mr. Cote asked if the square footage would include a basement. Mr. Gowan pointed out 1,000SF is the maximum total (living) area allowed. There were questions regarding other special exceptions. Mr. Doherty explained Article XII was for Special Exceptions, not just ADUs. Mr. Bergeron wanted to know if ADUs were prohibited in duplexes. Mr. Gowan answered yes; they were only allowed within a single-family residence.

Mr. Montbleau opened the hearing to public input. No one came forward to speak.

The Board discussed the amendments already made to the ordinance and agreed to final language. Mr. Gowan will revise the language for public inspection as well as post on the Town website for people to see the final version.

The Board will further discuss the ordinance at the Thursday, January 23, 2020 meeting.

Pelham Planning Board DRAFT zoning change to replace in its entirely Article VIII-I Illicit Discharge & Connection (IDDE) Ordinance:

> **Are you in favor of Amendment No. 2 as proposed by the Planning Board for the Town of Pelham to replace in its entirely, the existing IDDE Ordinance with a revised IDDE ordinance that will comply with the Federal EPA mandate to control stormwater runoff and its negative impacts to drinking water, ecosystems and wildlife. The proposed amendment clearly defines what are acceptable water discharges and those that are defined as Illicit discharges and how the Town can regulate and enforce any illicit discharges.**

Mr. Gowan read the entire ordinance aloud. He then spoke about and read aloud proposed amendments to the draft. The Board discussed the areas to adjust. Mr. Gowan will amend the ordinance accordingly.

Mr. Montbleau opened the hearing to public input. No one came forward to speak.

The Board will further discuss the ordinance at the Thursday, January 23, 2020 meeting.

DATE SPECIFIED PLAN(S) – February 3, 2020

Case #PL2020-00020 - Map 6 Lot 4-175-1 - PAWTUCKET ROAD LANDHOLDINGS, LLC - 32 A & B Valley Hill Road *(abutters were not read into the record)*

ADJOURNMENT

MOTION: (Cote/Dadak) To adjourn the meeting.

VOTE: (7-0-0) The motion carried.

The meeting was adjourned at 12:12am.

Respectfully submitted,
Charity A. Landry
Recording Secretary

TOWN OF PELHAM
CONSERVATION COMMISSION

6 Village Green
Pelham, New Hampshire 03076-3723
603-635-7811

January 03, 2020

Roger Montbleau, Chairman
Pelham Planning Board
6 Village Green
Pelham, NH 03076

Dear Chairman Montbleau and Planning Board Members,
As you know, a citizen's petition has been submitted. It reads as follows;
"Are you in favor of repealing, in its entirety, Pelham Zoning Ordinance Article XV, Residential Conservation Subdivision by Special Permit? The effect of the repeal would be to eliminate the building of subdivisions that would allow "cluster" style developments where houses are built closer together (on less than the required one acre of property) in exchange for open space land."

At our monthly meeting on December 11, 2019, we discussed this petition. Mr. Kevin Cote, one of the Pelham residents who signed the petition, explained the reasoning behind it. The following are the petition signers' concerns as expressed by Mr. Cote, followed by the Conservation Commission member's comments;

1) Mr. Cote; Residents are concerned with the amount of development in town.
   Conservation Commission; We agree, the town is being developed too quickly. But, eliminating the conservation subdivision ordinance will not stop development. It simply means all developments with be conventional subdivisions. Some sites may not be appropriate for conservation subdivisions, in which case the planning board can simply deny them and require a conventional subdivision instead.
2) Mr. Cote; After repeal of the 62 and older zoning ordinance, then repeal of the 55 and older zoning ordinance, it seems the next step is the repeal of the conservation subdivision ordinance.
   Conservation Commission; We do not understand this logic. The 62 and older and 55 and older ordinances allowed far greater density than a conventional subdivision or a conservation subdivision. They were eliminated because of this allowed density and because these types of developments have been overbuilt, in Pelham. The conservation subdivision requires a yield plan based on a conventional subdivision. The density of a conservation subdivision is far less than the density of either 62 and older or 55 and older developments even given that a conservation subdivision allows density offset lots.
3) Mr. Cote; The Town gets useless space including small slivers of land that wrap around the house lots. In return, builders get extra lots.
   Conservation Commission; There have been approximately 10 conservation subdivisions built to date. Most provide significant open space, some of which was accepted by the Town. For example, The Pines conservation subdivision on Atwood and Briarwood roads was an 8 lot subdivision and the Town gained 16 acres of open space which increased the size of Peabody Town Forest. The Waterford Estates conservation subdivision off Sherburne road created 17 acres of open space which increased the size of Pelham Veterans Memorial Park (PVMP) and connected PVMP to Cutter Woods. The Skyview Estates conservation subdivision created 42 acres of open space, not Town owned but

abutting Town forest on two sides. And, the Garland Woods conservation subdivision protected 38 acres of open space including large fields along Currier Roads. These four conservation subdivisions alone protected over 110 acres of open space, some of which was added to existing Town owned open space but all of which added to wildlife corridors. Another significant advantage is trail connectivity. Consider the connectivity provided by the Garland Woods, Waterford Estates and The Pines conservation subdivisions versus the complete reroute of a trail, up an impossibly steep hill, which resulted from the conventional subdivision off Poplar Hill Road.

4) Mr. Cote; Residents don't like the Nashua Road subdivision even though that is a 55 and older development not a Conservation Subdivision.
Conservation Commission; We do not like that subdivision either but as Mr. Cote stated, it is a 55 and older development not a conservation subdivision. Age restricted developments, which are no longer allowed, resulted in far greater density than a conservation subdivision.

5) Mr. Cote; The Board of Selectmen do not always accept the open space offered by the developer of the conservation subdivision.
Conservation Commission; True, but that doesn't mean the open space has no value … just that it may not be in the Town's best interest to own that open space. If the Town does not accept the open space, it remains as open space, in perpetuity, managed by the homeowners association. The conservation subdivision ordinance was changed to require a minimum of 15 acres for a conservation subdivision. The main reason for this was to avoid having small open space parcels that were of no interest to the Town.

✦ *Point of Order raised by Mr. Doherty during Public Hearing of January 6, 2020. He stated Mr. Gagnon could not talk about a subdivision that was presently in front of the Board. Mr. Gagnon refrained from reading this (strikethrough) paragraph aloud.*

~~6) Mr. Cote; Residents are concerned with the proposed Conservation Subdivision off Currier road. One of the problems is that the site has a considerable amount of ledge.~~
~~Conservation Commission; We share these concerns but this Citizen's Petition, should it pass, will have no impact on the Currier Road subdivision because the Currier Road subdivision has already been submitted to the Planning Board. And, based on the yield plan that has been submitted and the preliminary conservation subdivision plans available at the time of this meeting, there are numerous advantages to the conservation subdivision for this Currier Road parcel. For example, the conservation subdivision would reduce the length of new road by approximately 3,500 feet from that in the conventional subdivision. That is 2/3 of a mile less road for the Town to maintain and fewer drainage structures and less salt to enter the wetlands. The conventional subdivision would have two wetland crossings and significant wetland conservation district (WCD) impacts versus none for the conservation subdivision. The roads in the conventional subdivision would cross the existing gas pipeline 4 times versus once in the conservation subdivision. And, the conventional subdivision has no open space whereas the conservation subdivision has 57 acres of open space. The proposed open space would more than triple the size of the abutting Wolven Park. We recognize that this site has considerable ledge and suggest the planning board not grant any density offset lots and require no more than the minimum 40% open space. This will result in fewer lots than currently proposed and by minimizing the open space, will allow the lots to be spaced further. The result would be the same number of lots as a conventional subdivision yet with the benefit of greatly increasing the size of Wolven Park.~~

At this point in the meeting the Conservation Commission opened the meeting to members of the audience and Mr. Roger Montbleau made the following comments …

Mr. Montbleau commended Mr. Cote for getting involved with the Town and for his enthusiasm. Mr. Montbleau believes there is a lot of misinformation around Town and encouraged voters to get informed about Town regulations and procedures. The Town should be able to balance development with the preservation of open space. Not every regulation is perfect and the conservation subdivision ordinance could be improved but

if applied properly, it can be of great value. The State also has stringent regulations regarding wetland impacts and septic system design. This provides another layer of protection. Mr. Montbleau's home abuts the Skyview Estates conservation subdivision. He much preferred the conservation subdivision to a conventional subdivision as it protected 42 acres of open space, all of which is upland, and the developer built a trail head parking lot on the adjacent Town Forest. Residents are always walking their dogs and hiking with their children. He believes the conservation subdivision ordinance should not be eliminated because of its value in preserving open space and providing connectivity for trails and wildlife.

Following Mr. Montbleau's remarks, we discussed three other concerns regarding conservation subdivisions … overlapping well radii, density offset lots and small slivers of land that wrap around the house lots that are counted as part of the open space. In the opinion of the Conservation Commission, all can be resolved within the current ordinance. First, overlapping well radii can be resolved by requiring a community well as was done with the Skyview Estates and Garland Woods conservation subdivisions or with a well field as was used in The Pines conservation subdivision. Next, density offset lots, which were commonly granted in the early years have become much less common. For example, the developer of The Pines subdivision requested no density offsets. The Planning Board need not grant density offsets to the applicant. The Planning Board can simply allow only the number of lots shown in the yield plan. Perhaps the conservation subdivision ordinance should be modified to allow density offset lots only for workforce housing. Lastly, small slivers of land that wrap around the house lots need not be part of the open space offered to the Town. The builder can be required to create two or more open space lots. The bulk of the open space, not wrapping around the house lots, can become Town land. The small open space lots which wrap around the house lots or contain retention ponds or treatment swales can be owned by the homeowners association.

Based on the reasoning stated above, the Conservation Commission voted unanimously (7-0-0) to recommend that the Planning Board <u>not</u> support the Citizens Petition proposing to repeal the conservation subdivision ordinance. The Conservation Commission is supportive of changes that would improve the ordinance but we are strongly opposed to its repeal.

Thanks, in advance, for your support in this matter. If you have any questions, please contact me.

Regards,

Paul R. Gagnon, Chairman
Pelham Conservation Commission

cc: Planning Board Members
Jenn Beauregard, Zoning Administrator
Jeff Gowan, Planning Director
Kevin Cote