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TOWN OF BETHEL, VERMONT

PUBLIC HEARING
ON UNIFIED BYLAW

Held on Monday, April 17, 2017, at the Bethel Town
Hall, 318 Main Street, Bethel, Vermont, commencing at
6:00 p.m.

- PRESENT:
- SELECTBOARD MEMBERS
- CARL RUSSELL, BOARD CHAIR
- VANESSA BROWN
- MOE BRIGHAM
- PAUL VALLEY
- KEITH ARLUND, TOWN MANAGER

Cynthia Foster, Registered Professional Reporter

1 MR. RUSSELL: We'll call the meeting to
2 order now. It's a Public Hearing on the Amended
3 Proposed Unified Bylaws for the Town of Bethel.

4 There are copies here for people I think
5 have downloaded or you can get one off the back
6 table. I want to make sure that everybody is
7 signed in.

8 We have a court reporter here tonight
9 regarding everything that's being said so
10 please, when you speak, say your name clearly.
11 We also have a microphone so that she can hear.
12 I think I should try that myself to set a good
13 example. So that we can take a little extra
14 moment, particularly if there's a crowd or more
15 people and people start talking in the
16 background, voices can be hard to hear.

17 So please state your name and use the
18 microphone when you speak. We want to be able
19 to take testimony in case there are issues that
20 people would like us to deal with or have
21 comments specific to the Bylaws, but before we
22 begin with that, I want to make sure that
23 everybody who's here who has any questions has
24 the opportunity to inform themselves so we'll
25 spend about a half an hour, if it takes that

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1 long. We can dedicate a half an hour to back
2 and forth to try to clarify any questions people
3 have before we take official testimony.

4 So I'll open it to the floor now.
5 Everybody had a chance to review them and
6 anybody have any specific questions or
7 clarifications they'd like to have?

8 I've had a chance, obviously, to go through
9 the Bylaws, the Selectboard's gone through the
10 Bylaws several times. Carla Powers Hodgdon,
11 everybody knows who she is. Carla is quite the
12 resource in terms of details about the Bylaws,
13 and we also have Pete over here from Two Rivers
14 who is a regional planner and can help with some
15 of the issues related to the Bylaws as well as
16 with the maps. So anybody? Yes. Tim.

17 MR. MILLS: I have a question, Carl. Page
18 17. The biggest question I have on this is I'm
19 a camper owner. Section 4 at the top on page
20 17.

21 MR. RUSSELL: So which item?

22 MR. MILLS: Number 4.

23 MR. RUSSELL: The owner of a travel trailer
24 may park it on his own property. Trailer so
25 parked shall not be used as living quarters and

1 shall not be hooked up to any utilities.

2 MR. MILLS: Yes. Utilities. So my camper
3 is hooked up year-round when it's home because
4 it's part of how it maintains itself. So it
5 just seems like we might all agree that, you
6 know, that's just a camper sitting there plugged
7 in and the fridge is running and a couple of
8 electronics, but according to the book, somebody
9 that's trying to enforce the rule down the road
10 could say it's hooked up, you're in violation.

11 MR. RUSSELL: It says it shall not be used
12 as a living quarters.

13 MR. MILLS: Living quarters and. I get it,
14 but that could be splitting hairs because they
15 could say well, I've seen somebody sneaking in
16 and out of it. Well, we go in and out of it at
17 any time bringing stuff and back and forth. It
18 doesn't specifically say -- what it really
19 should say is not connected to the sewer, not
20 connected to the water full-time for certain
21 number of days. Utilities covers a broad range.

22 MR. RUSSELL: What if we just said not used
23 as living quarters?

24 MR. BRIGHAM: It says that before that.

25 MR. MILLS: It does, but you do have guests

1 that show up occasionally that, I never have,
2 but I mean it could be used as a living quarters
3 temporarily.

4 MR. RUSSELL: Well, guests are not --

5 MR. MILLS: I'm more concerned about the
6 utility being hooked up to it. That seems a
7 little too Big Brother. Really in the end it's
8 no different than having your car with a battery
9 tender that's a summertime car only all through
10 the winter season that's still hooked up to a
11 utility.

12 MR. RUSSELL: So, in essence, what you're
13 saying is that the emphasis of this number 4 is
14 really that even if the owner parks the trailer
15 on his property or her property, it shall not be
16 hooked up to the utilities. Because the
17 assumption is that if it is hitched up to the
18 utilities that it will be construed as a living
19 quarters.

20 MR. MILLS: It could be, but I still need
21 to plug mine in.

22 MR. RUSSELL: Right. So that's what I'm
23 saying is that the number 3 above only talks
24 about if it is used as a living quarters, it
25 cannot be used for more than 21 days or it could

1 be, have a permit not to exceed 90 days. So
2 number 3 is dealing with characteristics in
3 which one could be used for a living quarters
4 for a short period of time.

5 MR. MILLS: Yes.

6 MR. RUSSELL: But this one here, number 4,
7 as far as I read it, is meaning that if it's,
8 that the point is that it shouldn't be used as a
9 living quarters. It's redundant, isn't it?

10 MR. MILLS: It is a bit on that, and it
11 says it shall not be hooked up to any utilities.

12 MR. RUSSELL: So Carla, have you got any
13 insight as to why both of those were included?
14 Particularly with the way that these travel
15 trailers are being designed now, you're looking
16 at --

17 MR. MILLS: They're a living machine on
18 their own half the time.

19 MR. RUSSELL: There's a benefit to having
20 them plugged in.

21 MR. MILLS: You have to on some of them.

22 MR. RUSSELL: That's worth considering. I
23 mean, truthfully, that's a pretty minor
24 amendment if the Board were to feel like that
25 was something that we would take up.

1 MS. HODGDON: Carla Hodgdon. No changes
2 were discussed. This has been in there, and I
3 think if you consider these, that probably went
4 into zoning in the '80s or the '90s and was
5 appropriate for travel trailers utilized at that
6 time. I presume they're different now.

7 MR. RUSSELL: Yes. So I'm going to ask
8 that maybe this microphone be taken from here,
9 and people could help themselves by passing it
10 around the room. Could somebody? Thank you,
11 Katie. Okay, Tim. Thank you. So noted.

12 MS. FERRIS-BURT: Louise Ferris-Burt. Town
13 Lister. So along Tim's line of question, State
14 statute says that a mobile home is not
15 considered realty until it stays in place for
16 180 days, even if someone leaves it parked for
17 an extended period of time. So when we drive
18 around, if it looks like it's being used as a
19 shed and stays there, then we might add it, but
20 there are a lot of people who have travel
21 trailers that store them on the property and
22 they need to keep the batteries charged and
23 stuff like that. So we feel that just plugging
24 something in to the electricity is not plugging
25 it into everything. However, if we see it's

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1 hooked up to water and sewer, that is another
2 story. So there's a very distinct
3 differentiation on our part between electrical
4 and having water and sewer.

5 MR. RUSSELL: Yes.

6 MS. FERRIS-BURT: So that's kind of
7 defining that a little tighter than what you
8 have because the reality is you have to keep
9 things charged so when you have to move it, but
10 we do try to follow the State statute on the 180
11 days and do look at things like this.

12 MR. RUSSELL: All right. I think that the
13 contingency here that if someone like a Lister
14 were to determine that it appeared as though it
15 was a living quarters because it was hitched up,
16 there's an allowance of 21 days out of the year
17 for that to be used in such a capacity.

18 MS. FERRIS-BURT: The State says it has to
19 be in place and not moved.

20 MR. RUSSELL: I'm not talking about the
21 State. I'm talking about in this Bylaw right
22 here. Just a minute, Louise. I'm finishing my
23 thought. That this doesn't talk about whether
24 or not the Listers are considering it to be a
25 dwelling. We're saying that it's not going to

1 be considered within these Bylaws as a dwelling
2 unless it appears as if someone is using it for
3 living quarters for more than 21 days or more
4 than 90 days with a permit. So the 180 days is
5 valid for what you're talking about.

6 But I think that the point being is that if
7 they could use it as a living quarters, and it's
8 a trailer that can be hitched up to water, they
9 have a 21-day allowance or they also have the
10 opportunity to get a permit. So we'll have to
11 give that some consideration.

12 MS. FERRIS-BURT: Yes, because we have a
13 property up off Gay Hill that they rent it as a
14 campsite for campers and charge a fair amount of
15 rent, and they do have like an all-summer-long
16 rental. I don't know that they've ever gotten a
17 permit from the town. We weren't aware they
18 were actually charging rent and renting it out
19 until recently so that has me concerned.
20 Because, you know, I think people need to be
21 aware.

22 MR. RUSSELL: All right. Good. Any other
23 questions? Other questions or clarifications
24 that anybody would like? Yes. Mike.

25 MR. BILODEAU: Mike Bilodeau, as I'm sure

1 you all know by now. I'd like to look at the
2 map. There we go. Let's go down to where
3 Bethel Mills is.

4 MR. RUSSELL: Is that close enough for you?

5 MR. RACINE: So where I'm seeing Avon Drive
6 where, all that part that's red. No. That's to
7 the left.

8 MR. RUSSELL: Yes.

9 MR. BILODEAU: Is that Bethel Mills'
10 property?

11 MR. RUSSELL: No. Bethel Mills is right
12 here.

13 MR. BILODEAU: Okay.

14 MR. RUSSELL: The red is our core business
15 district.

16 MR. BILODEAU: Okay. I've got it. I see
17 where we're at now, following the river.

18 MR. RUSSELL: Yes, this is Church Street
19 bridge.

20 MR. BILODEAU: So the part where the north
21 end is, the lines going all the way across the
22 river.

23 MR. RUSSELL: Yes.

24 MR. BILODEAU: Is that the part that you
25 deem not to be in the flood hazard overlay

1 district right there? Because you changed it.

2 MR. RUSSELL: We haven't changed the map.

3 MR. BILODEAU: Okay.

4 MR. RUSSELL: I'm going to have to come out
5 so I can look at the key.

6 MR. BILODEAU: Yes. No problem.

7 MR. RUSSELL: This is the flood hazard.
8 Blue stripes is the flood hazard. The dots is
9 the river corridor. So the stripes -- sorry.
10 It doesn't go where I want it to.

11 All right. So there's blue stripes right
12 here. All the way across the ballfield.

13 MR. BILODEAU: Correct.

14 MR. RUSSELL: That's the flood hazard area.
15 Flood hazard overlay. And it goes all the way
16 out along through here. This speckled, yellow
17 speckled, that's the river corridor, and when
18 you get down in here, there are places where the
19 river corridor is under the flood hazard area,
20 and I'll go right to here where the ball fields
21 are. You can see flood hazard goes all the way
22 out to the bottom of the bank.

23 MR. BILODEAU: Yes.

24 MR. RUSSELL: The river corridor is mapped
25 to be right in this --

1 MR. BILODEAU: Gotcha. So does it go on
2 the other side over to -- I know you talked
3 about changing where his property was, and you
4 were taking it out of the river corridor.

5 MR. RUSSELL: What we did was we talked
6 about different ways in which the river corridor
7 could be, that the mapping of the river corridor
8 could be made more realistic in terms of sort of
9 certain barriers like this here where the
10 railroad and the bridge or the likelihood that
11 this would become subject to the stringent --
12 all right. I'll back up.

13 We talked about modifying the river
14 corridor map.

15 MR. BILODEAU: Okay.

16 MR. RUSSELL: But what we also talked about
17 was reducing the stringent regulations
18 associated with the river corridor. So when we
19 agreed that we would make the regulations in the
20 Bylaws for the river corridor match those
21 regulations for the flood hazard area, we didn't
22 change the river corridor map. Because there's
23 nothing with the river corridor that's any more
24 restrictive than --

25 MR. BILODEAU: I got you.

1 MR. RUSSELL: So we're keeping the map as
2 published.

3 MR. BILODEAU: Okay.

4 MR. RUSSELL: Because the river corridor is
5 likely to change as we've all heard because of
6 ANR where their Phase II, I can't remember what
7 they called it. Phase II Assessment. The Phase
8 II Assessment of the river. So once that
9 physical measurement of the river corridor is
10 brought to the ANR, they can modify those
11 boundaries, and we've worked with Two Rivers to
12 submit that areas like this around this bridge
13 and the downtown area would show a much
14 restricted river corridor because we already
15 have armoring in place that would prevent the
16 river corridor from ever making it into those
17 areas. It won't prevent flooding.

18 MR. BILODEAU: Right.

19 MR. RUSSELL: But it would prevent the
20 reestablishment of a river corridor as a result
21 of a flood.

22 MR. BILODEAU: Gotcha.

23 MR. RUSSELL: So what we did in response to
24 these Bylaws is we've changed the river corridor
25 regulations to being conditional use and

1 matching those of the flood area.

2 What will be different is that in some
3 areas, the river corridor extends beyond the
4 flood hazard zone. So in those areas, in
5 essence, like up here, just north of the Davis
6 Road, there's a stretch right here of the flood
7 hazard area and here's the mapped river corridor
8 extending to the outside of it. So that area
9 right in here will have the same conditional
10 uses as the flood hazard area.

11 MR. BILODEAU: Okay. You've done a good
12 job, Carl, of explaining it satisfactorily to
13 me. Now I'd like go to pages 52 to 56. I don't
14 have a copy in front of me. I'm going from
15 memory. But basically what I'm --

16 MR. RUSSELL: You're looking at 52.1? The
17 Failure to Act? Or Permits Applied During the
18 Bylaw Amendment Period?

19 MR. BILODEAU: No. I must have my pages --
20 is that 52 right there?

21 MR. RUSSELL: It is.

22 MR. BILODEAU: What I want to get to is
23 what you have to do for conditional use to build
24 in the flood and hazard areas. I believe
25 that's --

1 MS. O'NEILL: 5.2, Application for Permit
2 maybe?

3 MR. RUSSELL: No. No. I'll get it.

4 MR. BILODEAU: All the criteria that you
5 have to meet to build in the --

6 MR. FELLOWS: Page 45?

7 MR. BILODEAU: 40 to 50, I think, was most
8 of it, and then there was some 52 to 56.

9 MR. RUSSELL: In the flood hazard area it's
10 right here.

11 MR. ARLUND: 4.12.4.

12 MR. BILODEAU: Rather than focus just on
13 one specific thing, I read all of it, and having
14 developed a few properties in my time --

15 MR. RUSSELL: Here it is. 43. Conditional
16 use review in the river, in the flood hazard
17 area. Yes. Go ahead, Mike.

18 MR. BILODEAU: Just having done a little
19 bit of developing in my time and trying to meet
20 all the criteria that the average person is
21 going to have to meet to try to build in this
22 flood hazard area, versus what they have to do
23 now, somebody's going to have to spend close to
24 \$10,000 in engineering fees just to get to you
25 in front of the Board to give you what you want

1 to be able to develop in that area. And with no
2 guarantee of getting anything.

3 MR. RUSSELL: Right.

4 MR. BILODEAU: I just want, and I'm saying
5 this, I know, but I don't think the public
6 really knows, and the unfortunate thing is that
7 they're going to find out when they go to do
8 something after it's already passed, and I just
9 think it's going to cost a lot of money.

10 I'd also like to say, Carl, that, for the
11 record, I would be here and testing these Bylaws
12 because I feel that they're so restrictive.
13 Whether I had a contract with Dollar General or
14 not, I would still be here. It's just how I
15 feel about personal property rights.

16 And I'd also like to say that things have
17 gotten heated over the several months that we've
18 been working on this, and I want you to know
19 that this wasn't a personal attack on the board.
20 I just had strong feelings towards my feelings
21 on what was happening.

22 MR. RUSSELL: Thank you.

23 MR. BILODEAU: I respect the people of the
24 Board taking their precious time in their off
25 hours to come in here and do what you think is

1 the right thing. And truthfully, what the Board
2 is trying to do and what the State is trying to
3 do with this river corridor is not a bad idea.
4 I actually agree with it in some aspects.

5 The big problem that I have with it is it's
6 taking away people's property rights, and if
7 they're going to deem the property worthless
8 through zoning, then they should do like FEMA's
9 doing and buy out the property owner and do what
10 they want with it.

11 Your contention is -- if I'm mistaken,
12 please correct me. Your contention is that
13 we're doing this for the public good. Yes,
14 there is some people that are going to lose at
15 this, but the majority of the people are going
16 to benefit from this by no flooding later on,
17 it's not going to wash buildings down, not going
18 to hurt other property owners by restricting
19 this building. That's all fine and I get it. I
20 really get it.

21 But what I say is the state or federal
22 government ought to come in and buy these
23 properties and make the landowner whole. That's
24 my whole contention with this thing. It's not a
25 personal thing with this Board or anybody else.

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1 It's about personal property rights, and it
2 just, I'm laying on the table how I feel about
3 the whole thing.

4 MR. RUSSELL: Thanks, Mike.

5 MR. BILODEAU: That's all I have to say.

6 MR. RUSSELL: We're, unfortunately, not
7 going to able to put financial restitution into
8 the Bylaws.

9 MR. BILODEAU: I understand, and they're
10 going about it, I think, the wrong way. I think
11 the concept is great. I'm not disagreeing with
12 the smart people from ANR and what everybody's
13 trying to do. Like I said, I think it's
14 probably overall a good thing. But when you're
15 losing and somebody has bought the property,
16 paid taxes on it for a long period of time, and
17 then losing out financially, then they ought to
18 be compensated. That's my whole thing.

19 MR. RUSSELL: Thank you.

20 MR. BILODEAU: Thank you.

21 MR. RUSSELL: So Mike does bring up a good
22 point that a lot of these, the rules and the
23 bylaws are a lot like the rule to fasten your
24 seatbelt when you get in a car. You think
25 you're being protected against your own self.

1 And the unfortunate reality of the municipality
2 or a governmental organization is that once you
3 are informed about risk or we are informed about
4 risk, it's our responsibility to try to
5 establish rules that do protect people from
6 themselves and protect the people from other
7 people. So I personally have strong Libertarian
8 views myself. I also recognize the value of
9 these Bylaws. Yes?

10 MS. PAVONE: I'm Mary Pavone. I'm not sure
11 if what I'm about to ask it's here or later. So
12 we just stop me if it's later. Are you into the
13 next step?

14 MR. RUSSELL: No, we're not into the next
15 step yet, but go ahead and ask your question.

16 MS. PAVONE: I can't decide. So this is a
17 phrase used on the new version here. In this
18 version on page 46. Under item 3 A and B. So
19 the phrase that comes up, so it's new, it's
20 under the new section. And twice under A and B
21 the phrase is volumetric analysis. And that one
22 comes across as really, you know, that's pretty
23 sophisticated language, and I'm thinking that in
24 some fashion, whether it's a definition included
25 in these Bylaws or just a little education to

1 the DRB.

2 If I can explain what happened a couple
3 weeks ago is someone on the DRB asked of the
4 people doing the public hearing, presenting the
5 proposal, if they were indeed, in fact, months
6 ago asked if they were going to provide a
7 volumetric analysis, and the answer was yes.
8 Okay.

9 So then offsite after the meeting I
10 unofficially asked so what do you think you're
11 going to get, what kind of information do you
12 think you're going to get out of this volumetric
13 analysis, and the answer that I got was I don't
14 really know. Now, that doesn't sound good.
15 Here I'm saying it in public, but it doesn't
16 sound good if our own DRB people don't know what
17 it is that they're asking for.

18 My assumption is that it was put in, I
19 don't know why it was put in, I'm not disputing
20 that some sort of analytical information be
21 presented, and it could be that a hydraulic
22 engineer knows exactly what to do, but it
23 certainly puts our DRB members at a disadvantage
24 if they don't even know what they're asking for
25 or if what they get is what they're supposed to

1 get. Do you follow?

2 MR. RUSSELL: Yes. Absolutely.

3 MS. PAVONE: So in some fashion, to repeat
4 myself, I think that there ought to be either a
5 definition or some language that everyone knows
6 because it's not just for the purpose of the DRB
7 understanding what all this is but that the
8 average person coming to the DRB understands
9 what, you know, whether you have an engineer in
10 tow with you or not, any Applicant should
11 understand what it is being expected.

12 MR. RUSSELL: Yes. Okay. It seems to me
13 that it's not necessarily, it's not capitalized
14 volumetric analysis like there's an actual title
15 or a specific item. It's an analysis of volume
16 of water that would be displaced.

17 MS. PAVONE: Uh-huh. But analysis usually,
18 implies something more than just tell me how
19 much.

20 MR. RUSSELL: Well, it's got to have
21 supporting data.

22 MS. PAVONE: Yes. So it's open to an
23 interpretation then.

24 MR. RUSSELL: The proposal provides
25 compensatory storage for flood water in the same

1 region at the same elevation up to one foot
2 above the base flood elevation to offset the
3 impacts of the proposal. So you need to have an
4 analysis that shows how this design will address
5 the shift in volume of water within that area.

6 MS. PAVONE: Yes. But as I said, the
7 person on the DRB, the whole DRB didn't really
8 know what it was they were going to get. So
9 maybe that's a separate issue.

10 MR. RUSSELL: Well, we have volunteers on
11 the DRB as well.

12 MS. PAVONE: Yes.

13 MR. RUSSELL: So, Pete, do you have any
14 idea why there's no definition for volumetric --

15 MR. FELLOWS: That volumetric analysis
16 phrase is one I haven't seen in a standard
17 boilerplate template, and we could look into why
18 it's there. You should be aware that if you are
19 considering building in an area with a detailed
20 study, a detailed study means within the special
21 flood hazard area, that is already based on the
22 elevation set, and you don't necessarily need to
23 hire an engineer. You could hire a surveyor
24 that looks at the elevations and says based on
25 what you're planning, you're not filling at all

1 and everything is above the base plot elevation
2 for your first floor and all that jazz.

3 So if there is, a portion of Bethel has
4 base flood elevations already calculated and a
5 portion does not. So in those areas where
6 they're already calculated, you can just get
7 away just hiring a surveyor and don't have to
8 hire an engineer, but in those other areas you
9 would have to hire an engineer. So it really
10 depends where you are. So you can't say,
11 blanket, that you have to spend 10,000 to hire
12 an engineer to do that. It's going to be a
13 range, and it depends on the site. It always
14 depends on the site.

15 MR. RUSSELL: So that A and B both refer
16 back to the last sentence in this 3 that refer
17 to the technical data that conforms to the
18 standard hydraulic engineering principles and
19 certified by a licensed professional engineer.
20 I think that it's a, like Pete says, it's
21 boilerplate. I think that it's interesting,
22 though, Mary, to think about the degree of
23 information that could be better provided to the
24 DRB in terms of interpreting these things.

25 MS. PAVONE: As an area like this is pretty

1 specific and beyond the scope of what most of us
2 are prepared to understand.

3 MR. RUSSELL: Yes.

4 MS. O'NEILL: Katie O'Neill. Resident of
5 Bethel. So reading through the Town Plan and
6 the ordinance and this Bylaw, I thought I
7 remembered the volumetric analysis being a part
8 of the, not ponds but detention areas, and so I
9 want to say that it was like under 25,000, not
10 sure what it was, but there was a dividing line
11 of if it's this small or if it's this large, you
12 have to get a permit from this, you know, from
13 the administrator or the DRB. So I feel like
14 that was the difference and the importance of
15 the volumetric analysis. But this is different.

16 MS. PAVONE: I don't think so. This has to
17 do with how far you are above that flood
18 elevation. Flood elevation. The pond thing was
19 35,000.

20 MR. RUSSELL: This has to do with flood
21 level. You have to be able to bring your
22 structure up to above that flood level. When
23 you do that, you have to show that the fill that
24 you've brought is, that there's compensation for
25 it elsewhere in your flood hazard area to

1 compensate for what you've brought in for
2 volume. So if you're going to displace 20,000
3 cubic feet of water, then you need to show that
4 you've allotted for 20,000 feet of cubic feet of
5 water to be able to be stored in another
6 location on your property.

7 MS. O'NEILL: Correct. And so just as
8 easily as the both of you understood that,
9 because there was an actual definition of how
10 much the volume they speaking of, that might be
11 a good addition to this so that the DRB
12 understands the volume that you're speaking of.
13 Does that make sense?

14 MR. RUSSELL: It does.

15 MS. O'NEILL: Great.

16 MR. RUSSELL: Okay. I'm getting to the
17 point, it's 6:34 now. So if we have any more
18 information to be clarified, I'd like to know
19 now, and then we can move on to taking
20 testimony.

21 MR. SAPPERN: Adam Sappern. Also a citizen
22 of Bethel. 4.7.4. Page 34. Conditional uses
23 in the village district. Actually, conditional
24 uses outside the core business district. Was
25 there any consideration in providing further

1 eliminating metrics to help define and control
2 sprawl and keep our primary businesses located
3 in the core business district as stated by the
4 Town Plan? This seems like a very wide open,
5 this really begs for applications from virtually
6 anyone to go for a conditional use. Wouldn't we
7 be better served by trying to further limit this
8 to keep people focused on developing businesses
9 in the core and not expanding out?

10 MR. RUSSELL: Well, you're talking about
11 commercial development.

12 MR. SAPPERN: It could be commercial. It
13 could be light industrial as well.

14 MR. RUSSELL: So that is once you get out
15 of the village or hamlet district to the medium
16 density which is a four-acre density, there are
17 no commercial uses allowed, and in conditional
18 use there are only commercial services or
19 commercial outdoor recreation even allowed in
20 conditional use.

21 MR. SAPPERN: Okay.

22 MR. RUSSELL: So it's the primary area in
23 which commercial developments are considered at
24 all, whether it's a permitted or conditional
25 use, is in the core business district or the

1 village district or the, well, even in the
2 hamlet there are -- oh, yes. Town center
3 commercial is a conditional use in the hamlet
4 area and that would be Locust Creek or East
5 Bethel Village.

6 MR. SAPPERN: Okay. All right. Thank you.

7 MR. RUSSELL: So those are the anti-sprawl
8 perspectives. If you want to see that on the
9 map, the core business district is this red.
10 The village district is the purple, and then the
11 hamlet is this salmon color. And you can see,
12 you know, 107 down to Tozier's and the Locust
13 Creek area and then East Bethel Village back
14 over here in the corner. Those are hamlet areas
15 where the density is already fairly high. And
16 then we have the actual village district here in
17 the purple and core business district is the
18 red. Yes, Mary?

19 MS. PAVONE: Thank you. Since you write on
20 this -- can you hear me? Yes. It seems like it
21 would be clearer to, when you're saying, I'm
22 referring to the red center, the red core
23 district, to make some equivalency and this may
24 be in your later part and I'm happy to do that
25 later, but to add in that this is an equivalent

1 to the village center designation.

2 MR. RUSSELL: Yes.

3 MS. PAVONE: Because I think people can
4 reinterpret, well, core district, there's
5 actually a boundary, you know that, and so to,
6 but core district seems to be the terminology
7 that has been selected which I think --

8 MR. RUSSELL: It's boilerplate.

9 MS. PAVONE: I think it's fine. But so
10 they can see equal to or this is what we mean on
11 the map where you show the village center. The
12 downtown or the village center designation.
13 That's a very specific designation that has a
14 specific boundary.

15 MR. RUSSELL: Core business district is not
16 the, there's no --

17 MS. PAVONE: I didn't think there was
18 language that equated that.

19 MR. RUSSELL: Doesn't say anything in here
20 in the Bylaws, but it might in the Town Plan.

21 MS. PAVONE: I think it's a little clearer
22 in the Town Plan, and I'm saying that that, it's
23 not like out of the blue to suggest that there
24 be something comparable to make people
25 understand.

1 MR. RUSSELL: I'm not sure that it's
2 applicable. The Bylaws are related to specific
3 uses in areas.

4 MS. PAVONE: But it is an area. It has a
5 designated boundary.

6 MR. RUSSELL: Yes.

7 MS. PAVONE: I'm just saying to use the
8 phrase core district, it's boilerplate, no
9 problem with that, but wouldn't it be helpful so
10 that someone reading this says, oh, that's the
11 same as when I look on the map and see village
12 center boundary.

13 MR. RUSSELL: All right. Why didn't we
14 call it historic?

15 MS. HODGDON: I don't think they're
16 identical.

17 MR. RUSSELL: I didn't think they were
18 either. That was what I was thinking. This is
19 like the wall to the hall type of --

20 MS. HODGDON: It's been two years since the
21 Planning Commission dealt with this. My
22 short-term memory is lapsing.

23 MR. RUSSELL: The historic village district
24 is more, the village district extends -- Keith,
25 doesn't it extend down to 107 all the way down

1 to the --

2 MS. PAVONE: It does come up on Church
3 Street a bit.

4 MR. RUSSELL: So this is related to
5 business. This is the core village district.

6 MS. PAVONE: The other one isn't really a
7 historic district. No. It's the village
8 center, downtown --

9 MS. HODGDON: Downtown designation.

10 MS. PAVONE: Downtown designation.

11 MR. ARLUND: Town center. Not downtown.

12 MR. FELLOWS: To clarify a little bit, you
13 can set your zoning boundaries to be whatever
14 you want. Then there are state and federal
15 designations. There's National Register of
16 Historic District or the State Register of
17 Historic District. There's also the Agency of
18 Commerce and Community Development's Village
19 Center Designation which has its own guidelines
20 about what parcels can be in and out of that.
21 And we don't encourage towns to make those maps
22 for their zoning. Your zoning should be
23 whatever your zoning wants to be, and these
24 other districts which have their own criteria to
25 set the boundaries should be on their own.

1 MR. RUSSELL: Yes. Because the Bylaws are
2 pertinent to particular uses, and as you can see
3 in here, some of the criteria to be considered
4 has to do with mass and scale. If I get down to
5 it, it has to do with mass and scale related to
6 the development in the area. So if you create
7 these zoning areas so that they encompass a
8 certain type of development, then when the
9 conditional use is applied, it's applied based
10 on a consistency within that area. So that
11 you're allowing for a certain type of commercial
12 use. So I think that's the point for why these
13 things have been -- I don't see that in this
14 list. Oh, it's page -- didn't I say that was
15 page 56, Adam? I always have to go back to the
16 index to find what I'm looking for. Conditional
17 use. There it is.

18 So that in a conditional use criteria for a
19 commercial development, mass and scale
20 multi-unit residential and nonresidential
21 structures may be required to resemble the
22 general size, style, and shape of the structures
23 in that same district. So that you're not
24 making a district going into an area where you
25 might have a particular type of development that

1 doesn't match the current development.

2 Okay. Now I would like to entertain
3 testimony from people who have issues that they
4 would like the Board to consider in terms of
5 potential amendments to this Bylaws. I am savvy
6 enough to recognize that some of what's been
7 said already can be construed as such so Tim's
8 concern about hooking up trailers, we can carry
9 that forward, as well as Mary's comments about
10 the guidance to the DRB.

11 But I would open it up to the floor now to
12 anybody who has a prepared statement or any kind
13 of specific issue that they'd like to bring to
14 the Board's attention. Please remember to state
15 your name.

16 So just in case anybody wanted to see this,
17 the river corridor 4.12.4.3 river corridor and
18 outside the special flood hazard area. So we
19 changed it from quite a bit of complicated
20 language and drawings to read, "New structures
21 in the area are at risk of flood damage. In
22 order to not increase flood risk and channel
23 management, primary structures shall not be
24 located closer to the top of the bank than," and
25 then we struck all of this language down to,

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1 "either the adjacent existing primary
2 structure," parenthesis, "within a gap that is
3 no more than 300 feet." So cannot be closer
4 than an adjacent primary structure that's within
5 300 feet or 50 feet from the top of the bank,
6 whichever is less.

7 In other words, if you're 50 feet from the
8 bank, if you're within 50 feet of the bank, you
9 can't build, but if there is somebody who has
10 another primary structure that's very close to
11 the bank, you can build in lateral equation to
12 the river channel to that person. And then all
13 other restrictions were conditional use.

14 So I don't want you to make my life too
15 easy. Paul, I know you mentioned you had some
16 questions. Did you get those answered today?

17 MR. VALLEY: Yes.

18 MR. RUSSELL: Adam, do you have anything
19 you want to bring up?

20 MR. SAPPERN: I was thinking about
21 discussion regarding the limitation of sizes of
22 commercial endeavors in town. Other communities
23 in Vermont have done this with some success. It
24 helps them manage the nature and scale of these
25 commercial endeavors, and I'm trying to get a

1 sense of exactly how townspeople would feel
2 about an amendment like that.

3 MR. RUSSELL: So as I pointed out just a
4 moment ago about the mass and scale, part of the
5 reason why the designated areas were designated,
6 particularly the core district was designated so
7 that one of the criteria for the conditional use
8 of any commercial development would be does it
9 match the character of the surrounding area.

10 MR. SAPPERN: It's my understanding that
11 arguments that rely on qualitative assessments
12 like matching character are really very
13 difficult to defend in litigation.

14 MR. RUSSELL: Except for the Act 250 is
15 actually entirely based on that.

16 MR. SAPPERN: Act 250 requires ten acres or
17 more, correct?

18 MR. RUSSELL: I'm just saying that you
19 can't, that the basis for the statewide
20 regulation was that you couldn't have
21 development in an area that adversely changed
22 the character of that area without certain
23 restrictions. So it's entirely qualitative.
24 There are certain quantitative aspects brought
25 in. If you were to say that we don't want this

1 to be any, we don't want this to change, it
2 needs to be in the same character as the rest of
3 the district, up to a certain square footage,
4 then you might have both.

5 MR. SAPPERN: Right. So my point was
6 trying to put a measurable metric that's not
7 open to interpretation in something like that,
8 and something like measurable square footage
9 clearly would do that.

10 MR. RUSSELL: Right.

11 MS. HODGDON: Carla Hodgdon. When the
12 Planning Commission was debating about this
13 because we had designated the hamlet areas for
14 commercial, we did talk about specific square
15 footage, and quite frankly, because at that time
16 there had not been clamoring to build large
17 stores, we felt it was moot, and then because
18 the hamlet areas there was space to put
19 something that was larger, we didn't feel it was
20 an issue.

21 The next Town Plan which people, the
22 Planning Commission will start working on this
23 year, if that is something, then people should,
24 we should get it into the Town Plan, and then
25 the zoning would need to be adjusted to

1 compensate for it.

2 MR. RUSSELL: Yes. That might be a good
3 avenue to find the feeling within the community
4 about that type of development. Yes?

5 GENE KRAUS: Gene Kraus. I'm a Bethel
6 resident. Are there any size limitations now in
7 the zoning for commercial, particular retail?

8 MR. RUSSELL: No. Not that I saw. It has
9 to do with lot size.

10 MR. KRAUS: So there's a lot size limit?

11 MR. RUSSELL: No. There's a minimum lot
12 size limit.

13 MR. ARLUND: The minimum lot size and then
14 you have setbacks, side and rear setbacks that
15 define how many you can build within that
16 particular district.

17 MR. KRAUS: May I ask what the minimum is?

18 MR. ARLUND: Depends on the district.

19 MR. RUSSELL: Each district has a different
20 lot size. And that's what, I mean, we've
21 printed off the Bylaws for.

22 MR. KRAUS: Right. Right. Okay.

23 MR. RUSSELL: So for like the hamlet, land
24 area and structural requirements. So there are
25 no structural requirements in these. It's just

1 land area. Lot area minimums, 20,000 square
2 feet per unit for multi-family. One acre for
3 one and two family. One acre for all other
4 uses. So you have to have a minimum of an acre
5 to put in a commercial use except for light
6 industrial which requires two acres. So you'd
7 have to own, in the hamlet area you'd have to
8 have a minimum of two acres because you could
9 put in light industrial, but if you owned four
10 and you wanted to put in a three-acre light
11 industrial structure like Vermont Castings, you
12 could. But you could also put in a three-acre
13 retail structure as well.

14 MR. KRAUS: Picking up on what Adam was
15 saying, Gene Kraus, the town of Woodstock has a
16 two-acre limit on residence or on retail
17 properties.

18 MS. HODGDON: Limit or minimum?

19 MR. KRAUS: Maximum.

20 MR. RUSSELL: Two acres of land maximum to
21 be developed per unit of commercial.

22 MR. KRAUS: Right. See, that two acres
23 would give you a one-acre building, a half an
24 acre or three quarters of an acre for parking
25 and another quarter of an acre for setbacks and

1 et cetera, et cetera.

2 MR. RUSSELL: Yes.

3 MR. KRAUS: That's a large building for
4 retail.

5 MR. RUSSELL: So we're, that's one of the
6 things that I was asking Adam about who had
7 approached me was the idea of a building size is
8 that you, the place that we're at right now is
9 we have Bylaws that have been, all of this
10 discussion has gone on for the last two and a
11 half years with the Planning Commission, and
12 they've, under the guidance of the Regional
13 Planning Commission using boilerplate language
14 have worked out a lot of these details based on
15 the Town Plan, and the Bylaws have been already
16 brought forward once and amended once, and we
17 have the opportunity to make minor adjustments.
18 So if we were to say, "and not to exceed a
19 building size of 3000 square feet," we could do
20 that. But if we want to start to rewrite the
21 Bylaws to address different size lot sizes and
22 maximum and minimum development size, that's a
23 rewrite of the Bylaws.

24 MR. KRAUS: I understand that.

25 MR. RUSSELL: So some of the value of the

1 place that we're in right now is that we are
2 going to start rewriting the Town Plan. It's
3 the next thing on the Planning Commission's
4 to-do list. And some of this should require and
5 would benefit from broader community discussion.

6 MR. KRAUS: Right.

7 MR. RUSSELL: So while I think it's
8 appropriate in these hearings, if I don't have
9 some suggestion for a fairly simple kind of an
10 addition and an amendment, I'm thinking that
11 we're going to need to respect the work that the
12 Planning Commission has done so far.

13 MR. SAPPERN: Adam Sappern again. I would
14 like to actually explore and/or propose an
15 amendment that would limit the square footage of
16 commercial establishments to a 3000 or 4000 as a
17 few of our community neighbors have done as
18 well.

19 MR. RUSSELL: Yes.

20 MR. SAPPERN: So if that's feasible at that
21 meeting, and that's something you think you can
22 adapt into the existing Bylaws, I would very
23 much like to explore that.

24 MR. RUSSELL: So as we've talked about,
25 we're really looking at the core business

1 district, the village district and the hamlet
2 district because those are the areas where
3 commercial is already being allowed. In those
4 areas, what I said before when looking at the
5 criteria for mass and scale, well, there's a
6 couple different ways. One is conditional use
7 is in the village district which could include
8 town center commercial. The next criteria in
9 the conditional use village district is land
10 area and structural requirements in the village
11 district. It doesn't say it has lot sizes, rear
12 and side setbacks, front setback, minimum
13 right-of-way and off street parking. But it
14 doesn't say anything in there about minimum
15 building or maximum building size while that is,
16 that's an area that 4.7.5, for example, land
17 area and structural requirements could be number
18 5, not to exceed 4000 square foot building.

19 MS. HODGDON: This will be the footprint of
20 the building.

21 MR. SAPPERN: The footprint of the building
22 not to exceed 4000 square feet. I would support
23 that.

24 MR. RUSSELL: So, Pete, what kind of
25 feedback can you give us on making, on the

1 appropriate location for such a limitation like
2 that?

3 MR. FELLOWS: Well, I think everyone needs
4 to be clear first when they're talking about
5 acreage and square footage what they're talking
6 about. Generally, acreage is applied to land
7 area. Remember that one acre is 43,560 square
8 feet. When you're talking about building size,
9 there's the overall square footage and then
10 there's the building footprint square footage
11 which is the first floor area. You might go
12 above that. And then your Bylaws are also
13 talking about unit size as you can have more
14 units on a lot, and then that, confusingly
15 enough, switches to square footage. So when you
16 say something has 20,000 square feet for a unit,
17 that's half an acre per unit roughly.

18 So I think it's a lot to talk about in
19 this, like Carl was saying, in this venue, in
20 this framework.

21 MR. RUSSELL: There's trickle-down. It has
22 to apply to more and more places.

23 MR. FELLOWS: I'm not sure what you guys
24 want to do. If you want to restrict the size of
25 the commercial building in a certain district,

1 the footprint of it, you should figure out,
2 okay, how big do we want the footprint to be,
3 how big do we want the overall square footage to
4 be. That's a lot to do, but it's something you
5 can do. You don't have to finish tonight. You
6 can keep going. But you should be very clear
7 about each one of those things you do.

8 MR. RUSSELL: Right. So would it be
9 appropriate to put structural requirements, for
10 example, in the village district. Would it be
11 appropriate to add to this area right here
12 those --

13 MR. FELLOWS: If you wanted to, yes. Once
14 you decided on what those would be, yes. That's
15 okay.

16 MR. RUSSELL: And that would apply to any
17 structure in that district whether it was a
18 permitted use or a conditional use. Whereas if
19 it were to be put into the conditional use
20 criteria, it would only apply to conditional use
21 structures.

22 MR. FELLOWS: Right. The key to doing that
23 is to look at the existing things that are
24 present in your hamlets and villages that are
25 within these current districts and see what you

1 like and you don't like. Because people have a,
2 you know, I like what I see here. Well, how big
3 is that footprint, how big is the overall square
4 footage.

5 MR. RUSSELL: Which is what the Planning
6 Commission did already in certain ways.

7 MR. FELLOWS: Yeah, I don't know, but
8 that's always a good idea, and if folks have a
9 ceiling or a bottom, if they have an example of
10 the size of the building that does that, that's
11 good, too. Because it's hard, it's hard to, you
12 know, I know one acre, 43,560. I know that.
13 But what does that mean when you see it.

14 MR. RUSSELL: Right, and 3000 square feet
15 is already like many of the businesses in here
16 on the first floor are already dealing with
17 maybe not quite that much but getting close to
18 it.

19 MS. HODGDON: Carla Hodgdon. I think it's
20 a bigger issue than you want to deal with in one
21 evening with half an hour's discussion. I think
22 one of the concerns I have when we started
23 looking at this which was three years ago now,
24 you need to also be aware of what -- when zoning
25 was adopted in Bethel, most everything that

1 existed here was grandfathered in. As changes
2 have occurred with zoning, more grandfathering
3 has happened, and, therefore, if you begin to
4 look at what seems to be reasonable square
5 footage, you want to be careful if you're
6 looking at an area and saying gee, this is
7 there, that looks okay. Was that grandfathered
8 or was that established and built after zoning
9 that affected it.

10 MR. RUSSELL: How does it relate to the
11 actual zoning already. Yes.

12 MR. FELLOWS: That's a very good point.

13 MR. RUSSELL: Yes. Mike?

14 MR. BILODEAU: Mike Bilodeau. I think we
15 said, of course, we're on two separate sides of
16 the fence here. You have a developer here who's
17 adamant about his property rights, and you have
18 another group here that's trying to put their
19 point of view, keep the town small, close knit,
20 whatever. Whatever you're trying to do.

21 But the keyword for me is restrictive. And
22 when you start putting square footage sizes in a
23 commercial district such as the village
24 district, you already have limits that are in
25 place. Now you're bringing in these more

1 restrictive. I'm telling you the average person
2 that comes in and tries to develop in, say, my
3 area up here that's in the flood hazard overlay
4 district is going to spend some serious money to
5 try to get in as it is right now, and then you
6 add in the square footage requirements, you
7 just, there hasn't been anything that's happened
8 here in Bethel for the last 30 years. And after
9 these go into place, there isn't going to be
10 anything going to happen here in Bethel for the
11 next 50 years or 100 years. They're going to
12 just, it's going to stay the size that it's
13 going to stay, and maybe that's what the town
14 wants. Okay? I don't live here, but I'm just
15 giving you my point of view, and, like I said,
16 it's not personal, but I just think the keyword
17 is restrictive. And I agree with Carla's view
18 that it's a lot more to look at than just in a
19 half hour's meeting.

20 And what's really sad about all of this,
21 and it's not just in Bethel because I've been to
22 other towns doing zoning rewrites, is that it
23 just seems that nobody seems to get involved.
24 They get involved after it's already passed.
25 And they had every opportunity to come while it

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1 was being changed, but for, I don't know what it
2 is, but it's in every town it's the same thing.
3 People just don't seem to get involved. I don't
4 know if they're overworked or what it is. But
5 these new restrictive laws go into place,
6 somebody wants to do something with their
7 property, they find out all the crap that they
8 have to go through to develop their property,
9 and then they get all mad.

10 MR. RUSSELL: Thanks, Mike. I think that
11 the point was, though, that this is the
12 opportunity to bring up the issue. I've never
13 construed the idea that we were going to solve
14 anything tonight, but, and nor was the
15 suggestion anything more than a discussion about
16 what the possibilities could be for building
17 size, and I think that it's clear throughout the
18 Town Plan and the Bylaws that we recognize
19 zoning and restrictions are one way to meter out
20 the development in our town so it doesn't get
21 away from us. So it doesn't become the town
22 that we didn't grow up in.

23 MR. BILODEAU: I get it, and if that's what
24 the townspeople want that live here, then that's
25 fine, but I'd like to knock on every door and

1 just let every person know that this is
2 happening and speak now or forever hold your
3 peace. Because these are serious laws, they
4 affect you and, like I said, my views are not
5 personal, against anybody. It's just I'm a
6 property rights advocate, and the more
7 restrictions you place on somebody, I just think
8 it's -- if you're not growing, you're dying.
9 That's the way I look at it. But like I said, I
10 have my own personal view, and I respect
11 everybody else's and I'm going to let everybody
12 else speak. I've said enough.

13 MR. RUSSELL: Thanks. Okay. So without
14 making, I think that the premise here is that
15 after tonight's hearing and our ability to go
16 back through the record and look at the issues
17 that have been brought up, the Board will decide
18 whether or not there are any amendments that we
19 can make based on the discussions, but I would
20 say that just in terms of my own feedback right
21 now about some of this, particularly related to
22 building size, that there may need be a fair
23 amount of investigation and review, and it would
24 be, if we can't do something in this iteration
25 that it would be well worth the effort to see

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1 whether or not the next Town Plan and Bylaws can
2 incorporate that. Anybody on the Board have any
3 thoughts about that?

4 MR. VALLEY: Paul Valley. Selectboard. I
5 I've got to agree, Carl. There's a lot more to
6 this, I think, than meets the eye. The
7 trickle-down effect of what it would be years
8 down the road, all those things are going to
9 need to be considered before putting anything
10 definite into the works.

11 MR. RUSSELL: Great. Thanks for bringing
12 it up, Adam. Anybody else have any?

13 MS. O'NEILL: Katie O'Neill. So I'm new to
14 this. I'm learning. And so I was hoping that
15 you might be able to clarify something for me.
16 I have the old printout, but it's the, that
17 hazard area diagram so it was on page 43.

18 MR. RUSSELL: You mean the matrix?

19 MS. O'NEILL: Yes. It's really a handy
20 thing. Thanks for making it. So on new
21 structures --

22 MR. FELLOWS: Otherwise known as a use
23 table.

24 MS. O'NEILL: Use table. Thank you. There
25 wasn't one in any of the other things. So what

1 I'm wanting to clarify is the new structures on
2 the special flood hazard area. There's
3 conditional use, but there's also prohibited,
4 and I also see a flood way which says
5 prohibited, new structures, and then the river
6 corridor it says conditional use.

7 MR. RUSSELL: Yes.

8 MS. O'NEILL: Great. So as someone that
9 has been observing the flood plains in this
10 town, and recognizing that there actually aren't
11 many floodplains that are not developed, because
12 you have the Bethel Mills and like Dean's Auto,
13 you know, so Mr. Bilodeau's floodplain would be
14 the last floodplain before the third branch
15 enters the town and it's also not developed. So
16 I'm just wondering how to interpret this because
17 if it's saying flood way is prohibited --

18 MR. RUSSELL: The flood way is closer to
19 the river. It's not the flood hazard zone,
20 right, Pete?

21 MR. FELLOWS: The flood way during a flood
22 is actually the part of the river that's spilled
23 out that is flowing very fast whereas the
24 floodplain could be into a farmer's field and
25 the water's moving, but you could, you

1 shouldn't, but you could probably walk or drive
2 through it. Whereas if you were in the flood
3 way, you'd be swept away.

4 MR. RUSSELL: And the flood hazard area is
5 replacing, the flood hazard area extends across.
6 So the flood way is in the middle of the flood
7 hazard area, and the flood hazard area extends
8 to the end of what we would consider to be
9 floodplain.

10 MS. O'NEILL: Great. So the reports that I
11 read from like the White River Tactical Plan of
12 2013, and then the Geomorphic Assessment from
13 2014, the recommendations along with the Town
14 Plan, the Two Rivers have recommended that our
15 existing floodplains are not developed or should
16 not be developed in the future. And I imagine
17 that it is because there's been so much
18 grandfathering going on with the floodplains.
19 So I guess I'm just trying to clarify the real
20 intent for the conditional use.

21 MR. RUSSELL: In which area? In the flood
22 hazard area?

23 MS. O'NEILL: Right. Which is now, which
24 is what I understand to be the floodplain.

25 MR. RUSSELL: Right. It's both. But yes.

1 The conditional use is because there are
2 structures in the flood hazard area, and there
3 is some recognition in the financial and
4 insurance industries and the engineering
5 industries that you could manufacture landscape
6 within that area so that you could minimize
7 flood damage to the proposed development or to
8 the structures in the new development. So if
9 those conditions are met, there's reasonable
10 expectation like at the federal agency level
11 that those structures could be allowed to be
12 built in an area like that.

13 MR. FELLOWS: It should be clear to
14 everyone that special flood hazard areas outside
15 of the village district, new residential and
16 nonresidential structures are prohibited.

17 MR. RUSSELL: Yes.

18 MR. FELLOWS: Within the village district,
19 they're conditional use. So it's just within
20 the village district where they're allowed as a
21 conditional use.

22 MR. RUSSELL: Right.

23 MR. FELLOWS: Everywhere else they're
24 prohibited in the special flood hazard area.
25 And that's why in that blue highlight, if you

1 have a color copy, otherwise double gray, it's C
2 and X. On page 42. That's why that one has
3 two. I guess. C and X.

4 MR. RUSSELL: Because within the village
5 it's a conditional use. Outside of the village
6 it's prohibited.

7 MR. FELLOWS: You might want to put an
8 asterisk there and explain that in the bottom.

9 MR. RUSSELL: It says, yeah, right. I
10 mean, this is --

11 MR. FELLOWS: You can figure it out.

12 MR. RUSSELL: This is what we're talking
13 about -- but these regulations still apply to
14 river corridor and special hazard area in the
15 town of Bethel as described -- somewhere in here
16 it says outside of the village district.

17 MR. FELLOWS: It's after the use table.

18 MR. RUSSELL: Okay.

19 MR. FELLOWS: Page 43.

20 MR. RUSSELL: Yes. New residential and
21 nonresidential structures in the special flood
22 hazard area outside of the village district. So
23 the, and we had originally, based on
24 recommendations from ANR and Two Rivers, we had
25 included language in here that would have

1 prohibited any new structures in the river
2 corridors. But because that matches in many
3 ways the flood hazard area already and the
4 existing mapped perimeters are inconsistent or
5 unverifiable, I guess is what I should say, we
6 felt that having overly restrictive regulations
7 associated with a challengingly defined area
8 would be complicated so we've modified that to
9 be conditional use.

10 MS. O'NEILL: One last question. In
11 regards to grandfathering, what I'm, what I
12 think I understand that to be is nonconforming
13 use? Is that correct?

14 MR. RUSSELL: Yes.

15 MS. O'NEILL: And so a part of this Bylaw
16 says that a nonconforming use can be terminated
17 if it is left vacant, I believe, for a year.

18 MR. RUSSELL: Yes.

19 MS. O'NEILL: Okay. Just making sure.

20 MR. RUSSELL: That's a structure.

21 MS. O'NEILL: Right.

22 MR. RUSSELL: Like I own a piece of
23 property that's smaller than the zone, but it
24 was smaller than the zone before the zone was
25 created. So it's nonconforming use. But I'm

1 not doing anything to the land. It doesn't
2 change. You can't change that. So there's
3 certain, like the storefront, if there were a
4 size of a commercial retail structure imposed on
5 the core business district, you might find that
6 there are several stores here already that have
7 larger than that much. Well, you can't
8 necessarily change that.

9 MR. RUSSELL: Okay.

10 MR. FELLOWS: It's better to think of it in
11 terms of a whole building. Like I live in a
12 house in Plymouth that doesn't meet the setbacks
13 in my Zoning District. That's been
14 grandfathered. And you know, if you write your
15 bylaw, if I were to abandon it for a year, and
16 then the bylaw required me to tear it down,
17 nobody else could build a house back in there
18 because it doesn't meet the setbacks.

19 MR. RUSSELL: Yes. Carla?

20 MS. HODGDON: In the introduction on page
21 7, second sentence is, "Any current land use
22 that was legal prior to the adoption of this
23 bylaw may be continued." That is basically
24 grandfathering.

25 MR. RUSSELL: Yes. Right. Well -- Mary?

1 I was just about ready to --

2 MS. PAVONE: So are you going to after you
3 deliberate move to finalize this set of Bylaws
4 now, and then if I understood how that previous
5 conversation was going that the next thing was
6 to look at updating the Town Plan and then
7 coming around for another cycle. So that, among
8 other things, not just the conversation that
9 these people suggested, but other things could
10 be then included for refinement?

11 MR. RUSSELL: Absolutely.

12 MS. PAVONE: Rather than throwing out
13 something tonight that needs more time to be
14 thought through.

15 MR. RUSSELL: Yes. Absolutely. I mean, I
16 think that there's statutory requirements for
17 Town Plans and Bylaws, and Bylaws are much more
18 statutory, but when you have a small core group
19 of people working on something like a Town Plan
20 that has statutory requirements, there's a lot
21 of boilerplate information that's being provided
22 because the agencies have developed this stuff.
23 So there's a lot of work just in that process of
24 going through the boilerplates and trying to
25 decide how it affects, but it's just a small

1 group of people.

2 And as this town grows and thrives and
3 becomes more vibrant, more and more people are
4 starting to talk about plans. Planning. And it
5 seems to be reasonable to expect that if there
6 were enough people with enough energy to expand
7 the town planning process to being somewhat more
8 than the barebones statutory requirements that
9 it's absolutely applicable. It doesn't
10 necessarily, necessarily inform the Bylaws all
11 the time, but there may be some other aspects to
12 town planning.

13 And one of the other Selectboard members,
14 Chris Jarvis, has begun to unearth the early,
15 what we call the wall to the hall visioning
16 process. So there's some questions about
17 visioning as well in this town that could
18 coincide with the new iteration of the Town
19 Plan. I think that there is opportunities to
20 have some broad conversations.

21 MS. PAVONE: Yes. And I'm willing to
22 return to this at the appropriate time, but I
23 just want to throw out an idea so not really
24 asking for feedback, and that is on this topic
25 of grandfathering. It's in an area in

1 particular that certainly has a lot of
2 significance to us, and that's protecting our
3 water supplies. That there were no changes to
4 the wellhead protection overlay district. And I
5 was thinking, you know, there's structures and
6 I'm thinking of the one across from the school,
7 but there's no, there are many grandfathered
8 structures there so we're not going to throw, no
9 one's suggesting anybody be thrown out of their
10 place, but that there be some careful
11 consideration as time goes on that maybe as
12 property is about to change hands or pass from
13 one generation to another that there be some
14 thought about buying out or putting further
15 protection on the zoning closest to the wellhead
16 which if we were digging a new one we would have
17 a setback and isolation zone of 200 feet all
18 around it. So we can't do that now because
19 there it is, sitting right in the midst of a lot
20 of things. But it doesn't, it makes, when you
21 look at that information and you look at who's,
22 what all is going on there, we certainly have
23 ourselves a bit of a, we're in a situation that
24 could have contaminants entry. So I'm just
25 thinking if there's any way that, not just the

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1 Town Plan because, of course, the Town Plan is
2 saying broad strokes, but that the zoning could
3 address how can we actually improve on
4 protecting this resource. There's only two of
5 them in the town, and the other one has a little
6 bit more open land which is not likely to be
7 developed because it's owned municipally whereas
8 the one on the other street isn't. So I'm just
9 throwing it out as something to say.

10 MR. RUSSELL: So that people understand,
11 the Town Plan informs the Bylaws. So it would
12 be important to have that discussion in the Town
13 Plan as a way to inform the developer because
14 the Bylaws have to show that they're informed by
15 the Town Plan.

16 MR. SAPPERN: I just want a little
17 clarification before you wrap up because I sense
18 we're coming to an end. I understand, Paul,
19 that you have some reservations about trying to
20 introduce hard limits in, for example, in
21 commercial footprint. If we can do some work on
22 that and provide some clarification, is that
23 something that you would still consider for an
24 amendment for this first submittal of the
25 Bylaws?

1 MR. RUSSELL: I think we're in the hearing
2 process right now considering amendments to
3 these Bylaws. That's our statutory duty. So,
4 yes, but it's going to be this Board that's
5 going to make the decision on it. And part of
6 that decision may be not that we disagree with
7 the idea, but it might have more to do with the
8 process that we're looking at in terms of trying
9 to come to grips with ramifications of it.

10 MR. SAPPERN: I understand. Thank you.

11 MR. RUSSELL: Any comments, feedback from
12 the Board? No feedback from me.

13 Well, I thank everybody for coming tonight,
14 and I'll entertain a motion to adjourn. Well,
15 so I will say that I think if I didn't explain
16 this earlier, we accepted these Bylaws as
17 written on February 27th. Right, Keith?

18 MR. ARLUND: Yes, sir.

19 MR. RUSSELL: And that enters into a
20 150-day hearing process. So while that's
21 happening, these Bylaws are in place for any
22 current permitting. If for some reason we
23 extend again beyond our 150-day period, we
24 revert back to the Bylaws that were in place
25 before these were written.

1 MR. ARLUND: 2005 to 2008.

2 MR. RUSSELL: 2005 to 2008. So if we make
3 minor amendments, the Selectboard can accept
4 those amendments and would then again have to
5 have a public hearing. As long as it falls
6 within the 150-day period, we would, based on
7 the feedback that we got from public, we would
8 then be able to make a determination at the
9 Board level whether or not we want to authorize
10 these Bylaws, after which there can be a
11 Petition from the voters of the town of Bethel
12 to hold a vote on these as opposed to accepting
13 our word. So if within that, and did you have a
14 chance to --

15 MR. ARLUND: I'll just read the operative
16 language. "The Bylaw shall be adopted by a
17 majority of members of the legislative body at a
18 meeting that is held after the final public
19 hearing." So we're talking about at some point
20 in time you will schedule a final public
21 hearing. They become effective 21 days after
22 that decision unless a Petition is filed within
23 20 days by five percent of the voters.

24 MR. RUSSELL: To hold an Australian ballot?

25 MR. ARLUND: Have a vote.

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1 MR. RUSSELL: It says vote, but basically,
2 this can be held up, extended, however. I mean,
3 I don't think the vote would be necessarily that
4 we have to include certain language, but there
5 are ways for this to be, if the Bylaws are
6 unacceptable to a broad base of people, then
7 they won't be accepted by the community.

8 MR. KRAUS: I don't think it's in anybody's
9 interest to hold them up.

10 MR. RUSSELL: Well, I'm not taking any of
11 this personally. I'm just expressing the time
12 limits that we're dealing with so everybody
13 understands them.

14 So the next thing for us to do is get the
15 transcript of this meeting. Try to define
16 whether or not there are specific issues that we
17 want to or can address, whether or not they can
18 be addressed easily, and whether or not we can
19 hold a final hearing at which point we will
20 decide whether we're going to accept the Bylaws.
21 And that will be happening over the next couple
22 months. So now, I'll entertain a motion.

23 MR. BRIGHAM: So moved.

24 MR. RUSSELL: Seconded?

25 MR. VALLEY: Seconded.

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MR. RUSSELL: All in favor of adjourning?
Thank you. Thank you, everybody.

(Hearing adjourned at 7:29 p.m.)

C E R T I F I C A T E

1
2 I, Cynthia Foster, Registered Professional
3 Reporter and Notary Public, do hereby certify that
4 the foregoing pages, numbered 2 through 62, are a
5 true and accurate transcription of my stenographic
6 notes of the Town of Bethel Public Hearing on
7 Proposed Bethel Unified Bylaw taken before me on
8 April 17, 2017, for use in the matter indicated on
9 the title sheet, as to which a transcript was duly
10 ordered;

11 I further certify that I am neither
12 attorney nor counsel for, nor related to or employed
13 by any of the parties to the action in which this
14 transcript was produced, and further that I am not a
15 relative or employee of any attorney or counsel
16 employed in this case, nor am I financially
17 interested in this action.

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Cynthia Foster, RPR
Comm. expires: 2/10/19

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