

**MINUTES OF WORKSHOP
HELD BY THE PLANNING AND ZONING COMMISSION
SEPTEMBER 18, 2017**

ROLL CALL:

Members Present: Eric Prause, Chairman
Andy Kidd, Vice Chairman
Michael Stebe, Secretary
Jessica Scorso
Timothy Bergin

Alternates: Patrick Kennedy
Jay Stoppelman
Teresa Ike

Also Present: Gary Anderson, Director of Planning
Renata Bertotti, Senior Planner
Matthew Bordeaux, Environmental Planner/Wetlands
Agent

Time Convened: 8:30 P.M.

PRD REGULATIONS

Mr. Anderson stated that, at the PRD application meeting for CHR on North Main Street, there was a discussion revolving around changing the regulations to specify what applicants need to provide, i.e., whether the application is referred to as a zone change or a change to the preliminary plan. He specified that there is a need to codify what the process is and clarify the regulations.

Mr. Stebe commented that the issue was changing from single-family housing to a multi-family structure.

At the end of the PRD regulations, Mr. Anderson stated, there is a section referring to minor changes in the approved detailed plan that may be made with the concurrence of the Chairman and the Director of Planning. Perhaps after that verbiage, he said, there should be a notation regarding a proposed major change to the preliminary plan that includes changes to the layout or building type. He said the application process for that should be specifically outlined. He stated that Attorney O'Neil had some thoughts on how to word that and whether it would be worthwhile thinking about rescinding the zone change if construction does not commence within a certain period of time. For example, Mr. Anderson stated, Fairway Crossings on the East Hartford line has not been constructed, and he asked whether it would make sense for that property to revert to the previous zoning designation if development does not occur.

Mr. Stebe noted that the original developers of the CHR parcel recently came back to the Commission for an extension.

Mr. Stebe assumed there would also be a time limit for the start of construction.

Ms. Bertotti replied there would not be a time limit on the PRD plan.

Ms. Bertotti said the detailed plan of development expires within five years if not built, so the development rights granted with the original PRD zone approval stay with that parcel forever, she reported. Those do not go away unless the preliminary plan is re-approved as something different.

Mr. Stoppelman commented that the idea behind the PRD is to have more control over a project being approved. Changing the nature of the project should return the previous zoning designation because inherently the Commission is approving the project as well as the PRD zone, he stated. Mr. Stoppelman said the Commission is not approving larger multifamily buildings when it is approving duplexes.

Ms. Bertotti stated that the essence of the question is not so much whether the preliminary plan is important, but how the zoning regulations would hold up in court as written, because the change of a preliminary plan is not a zone change. The Commission has the right to review an application under the criteria of either a site plan or a special exception. This is not a special exception use, so the Commission would be looking at a site plan review. The zoning regulations are written in such a way that a zone change is tied to the preliminary plan. They always go together, so the Commission does have the right and ability to review it as it would a zone change application. That is where the regulations should be clarified, she explained.

Mr. Prause asked Attorney O'Neil if he had any input since the earlier discussion.

Attorney O'Neil stated that he took a look at the zoning regulations and some of the related case law. The PRD zone is a floating zone, and when the Commission approves a zone change, it is superimposing that floating zone on an otherwise different zone, he stated. Hand in hand with approving the zone change is the plan that is going to go with it, Attorney O'Neil explained, and they are not separate and distinct. The Commission does not approve the zone change to a PRD zone and just leave it there and then sometime later an application is submitted. The zone change and the plan go hand in hand. Therefore, if an application comes in with a request for a zone change to a PRD zone with a specific plan, the Commission is reviewing it for compatibility with the property and the context of where the property is. Attorney O'Neil said if the applicant comes in with a major change and a different plan, it must go back to step one. The argument that there is no zone change to apply for was the difficulty, because they were not technically applying for a zone change. He stated that, in his opinion, the Commission should act as if the previous PRD had not occurred and his suggestion to Mr. Anderson and Ms. Bertotti was that the regulations need to reflect that. Certainly language could be inserted to clarify that, he said. Staff also considered having an expiration date after which the zone reverts back to what it was, Attorney O'Neil stated, explaining in the zoning regulations that an applicant cannot receive a PRD zone with a specific plan, and then let it sit for a period of time, and then provide a completely different plan with the intent of the Commission merely reviewing it as it would a site plan.

Mr. Prause commented that, in his opinion, it is similar to a Historic Zone. In the Historic Zone, the Commission has more leverage about what is actually allowed, he noted. If an applicant is in a Historic Zone, they cannot just make a change; they would need to meet the design criteria of the zone.

Ms. Bertotti reported that, in the Historic Zone, it is called a Historic Zone Site Plan and all development there must be approved. The Commission does not have the legal right to consider things outside of what is written in the zoning rules, she explained. Ms. Bertotti stated that a special exception may be more appropriate, because such application consider neighborhood impacts. She said that, in looking at major changes to the preliminary plan, the Commission is considering how they would impact traffic, real estate values, neighborhood compatibility, etc.

Mr. Kidd asked Attorney O'Neil if the notion of the PRD being a floating zone is important to the conversation regarding enforceability, or if there is more ability to enforce an expiration date or the substantial change to the character of the application to go back to square one because it is a PRD.

Attorney O'Neil explained that the characterization of the PRD zone as a floating zone is extremely important. In approving a floating zone, the Commission is taking a piece of property in what was previously some other zone and superimposing a floating zone onto the existing zone. Necessarily, the plan to be approved goes hand in hand with that floating zone, he said. Attorney O'Neil explained that if an applicant applies for a zone change to a PRD zone with a specific plan and it is approved, and then several years later the applicant comes in with a completely different plan, the question really is whether the Commission would have approved that plan at the time that they made the initial application for the PRD zone.

Mr. Kidd commented that he understands that and agrees. He wondered if the nature of the PRD Zone was different from, for example, changing from Rural Residence to Residence A Zone.

Attorney O'Neil replied that it is different.

Mr. Kidd stated that it seems to be more in line with the ability to remove, with these regulations, the zone change or revert back to the previous zone. He noted that he has always had trouble with the PRD zone. It seems as though an applicant can propose to build more units on a small property with only site plan review, which is not the intent of a PRD, he stated. In his opinion, it should be more inclusive of mixed use.

Mr. Anderson reported that the Commission has a wide purview over the adoption of the PRD zone. In his opinion, the Commission needs to be convinced that a proposed PRD is a better development plan than leaving the zone as is.

Attorney O'Neil agreed and stated that, from what he has read, the Commission has broad discretion in these areas with regard to the PRD zone and the application for a zone change. And for the reasons cited, the Commission would want to take a look at a new plan because it would not necessarily be something that would have been approved at the original time of the application.

Ms. Bertotti inserted that the conditions could change and 10 years later that plan that was approved previously would no longer be valid.

Mr. Bergin questioned whether there is a financial guarantee exercised during the development of a PRD multi-family.

Ms. Bertotti sought to clarify whether he meant a financial guarantee in the form of bonding for projects.

Mr. Bergin reported that he reviewed the application process for PRD, which notes that a financial guarantee to ensure the timely and adequate completion of any site improvements will be conveyed to or controlled by the municipality and should be required.

Ms. Bertotti explained that, once construction commences, there are specific rules as to when the Town can take financial guarantees, all related to ensuring building permits and acceptance of public improvement standards. The Town can charge for erosion and sediment control measures once an applicant files a construction plan to actually do that, she stated. Generally, she said, the Planning Department would not be allowed to ask for a financial guarantee that something will be built within a certain time frame; once construction begins, the Town can then bond to make sure the applicant will complete it.

Mr. Kennedy interjected two suggestions: 1) Make some provision for the reversion of the zone to prior zoning if the approved plan does not happen, and 2) Make multi-family housing and perhaps other uses special exception uses rather than permitted uses.

Mr. Anderson said including special exception uses might defeat the purpose of the PRD zone, because we are then asking an applicant to submit two applications for a multifamily use, a PRD zone and then a special exception application. In his opinion, the PRD should require one application.

Mr. Kennedy said wherever there is a PRD Zone, permitted uses are going to be those that the Town is comfortable with anywhere in a PRD zone, but there may be a PRD zone where the Commission is agreeable to single-family use but not multi-family use.

Mr. Anderson asked, playing devil's advocate, whether it would ever go the other way, or if single-family is always the preferred housing type.

Mr. Kennedy questioned whether there are any circumstances in a PRD zone where single-family housing would not be something sought, and assumed not. The broader point is, whatever the Commission desires the permitted uses to be would be fine, but whatever uses the Commission is not sure about should be made special exception uses.

Mr. Prause asked about the expiration and how that would be quantified. He wondered if it would be that no work has been done on the site, noting that there are many PRDs that come in stages and do not get completed for decades.

Ms. Bertotti replied that it was her understanding that a PRD zone went together with the preliminary plan. Once a property is zoned, that zone remains, and that also provides certain development rights. If a property is rezoned from Residence A to Residence B, certain rights are given by issuing that zone change, and the same is true with the PRD zone. If the PRD is granted with the preliminary plan, it is those specific things that are granted with that; they do not go away unless something changes. A detailed plan of development is a construction plan, and that expires in five years unless the owner requests an extension.

Mr. Stebe inquired, when requiring the five years on the PRD, whether those years begin at breaking ground, e.g., if a curb is broken to open up space, ground has been broken and the PRD timeline begins.

Ms. Bertotti stated she has never heard of a zoning district reversal, though she may not have worked in a community with that requirement.

Mr. Kennedy pointed out that the question would be whether any town has done it and whether it stood up in court.

Attorney O'Neil reported that that had been discussed. He said he has come to the conclusion, based on the discussion, that there is agreement that something should be done with the regulations to prevent confusion, both for the applicants and the Commission.

Attorney O'Neil commented that, to show how unclear the law can be, with regard to Mr. Kennedy's comment about the special permit, he read from Fuller: "A zoning commission avoids some of the pitfalls and objections to the floating zone by combining it with a special permit requirement. Whether this would be upheld in the courts is unclear and arguably the enabling statute does not allow a combination of these devices. Once the floating zone regulations have been adopted, cases are upheld applying the use and the regulations to a particular parcel of land with a special permit. However, as a practical matter, a zoning commission can accomplish substantially the same thing without the same objections and problems by a conventional change of zone followed by an application for a special permit for a use permitted in the new zone. Most floating zones involve commercial or multi-family uses. When an application is made to designate a particular parcel as a floating zone, the zoning commission has broad discretion to deny even though it meets the existing regulations for the zone." He stated that the Commission needs to work with the Planning Department to craft some language that addresses the problem and meets the requirements of the law.

Mr. Prause asked if other towns have equivalents to PRDs.

Ms. Bertotti responded that there are a number of communities that have an equivalent regulation.

Mr. Anderson commented that the statute calls out floating zones specifically.

Mr. Prause asked if those towns generally tie a plan to the zone, and if the plan changes it has to be resubmitted.

Mr. Anderson inquired if the statute requires that.

Attorney O'Neil responded that he does not know if the statute requires it, but that was the case in every case that he read and in Fuller; they all went together.

Mr. Prause understood that they can be joined together. He questioned whether or not it can be changed and rezoned, going through a full zoning approval.

Ms. Bertotti stated that conditional zone changes are not overtly allowed through state statute. However, when a Commission approves a floating zone with a preliminary plan, that is essentially what is done – it approves a zone with the condition that it meets everything on that preliminary plan.

Mr. Anderson concluded that this is an example where the Town needs to craft the best regulation it can. There is never any guarantee that it will never be challenged.

Attorney O'Neil interjected that, in his opinion, throughout the State of Connecticut this cannot be the first instance that this issue has come up, so Staff can work through various professional organizations, as well as CMAA to find out if there are any communities that have addressed this issue.

Mr. Stebe responded that, if it is an administrative level change, that will not hit anything that the Commission is looking at, but it may reach the point where Mr. Anderson and the Chair say it is beyond their purview. If language is added stating that any significant change must go back to the full Commission, the Commission will review the changes and how those changes have altered the preliminary plan. He suspected that he and Mr. Kennedy are puzzled about the last phrase in the preliminary plan; i.e., if the preliminary plan is changed, the zone is changed. He stated that phrasing should be inserted.

Mr. Kennedy commented that the real question is what the property is zoned. An amorphous situation is what caused the issue and that must be clarified.

FARMING REGULATIONS

Mr. Anderson stated that farming regulations were discussed prior to his tenure, and the Commission has had various discussions about definitions. He noted that Mr. Bordeaux has information from the State definition which, in the past, the Commission has deferred to. The opinion in the Zoning Board of Appeals (ZBA) meeting was that the State definition must be referenced in the regulations, or another definition could be used. In Mr. Anderson's opinion, just defining farming and agriculture is not going to solve this issue. The current issue is that an applicant successfully persuaded the ZBA to agree that, because something is an agricultural use, it is allowed. The Commission and the Planning Department must create a way to trigger something to come before the PZC at some point, Mr. Anderson conveyed. He stated that one solution discussed was perhaps allowing certain accessory uses by special exception, i.e., health and recreation, which is the way the Zoning Enforcement Officer defined goat yoga. A suggestion was perhaps to have an agricultural overlay zone that somebody could apply for one time and have certain uses that they could do, but they would have to come before the Commission and show a plan.

Mr. Bordeaux stressed that Planning is looking for direction from the Commission. The problem with identifying a series of potential accessory uses as a special exception uses or subject to special permit, he noted, is that the Town will never delineate all potential uses, he surmised. At the same time, as outlined in the Plan of Conservation and Development, the Town wants to preserve its agricultural land, and make agriculture economically viable, which requires some creativity and flexibility, he explained. Mr. Bordeaux noted that some communities have identified farms by size, or helped to identify farms by size. Another idea is having a floating zone, similar to a PRD; an applicant would outline their proposal and then the Commission can address impacts. If a use is deemed close enough to an agricultural activity and seems to be a viable enterprise, he described, that would be accessory to what traditionally would be viewed as a farm and how it would impact the neighborhood. Mr. Bordeaux suggested considering whether there would be adequate utilities and service provided. He noted the difficulty has been that the Town has no definition of farming or agriculture. The State definition lists accessory uses, which are all traditional, such as growing and producing crops and animals, he noted. The definitions get into aquaculture, according to Mr. Bordeaux, but in no way do they get into recreational uses.

Mr. Kennedy sought to understand how farm stands are handled and if the Town has a specific regulation for them.

Ms. Bertotti explained that farm stands are allowed in the Rural Residence zone. They are listed as a permitted accessory use, only in the Rural Residence zone.

Mr. Kennedy surmised that this is a farm stand, basically, and farmers can have a store, and yoga is similar. There can be yoga without it being a health club, he reported, and there needs to be a regulation spelling out accessory uses to actual agricultural uses, maybe with the understanding that every fad cannot be anticipated.

Mr. Anderson questioned where the line would be drawn, given the example if goats are brought to an amusement park, would that then be considered an agricultural fair.

Mr. Kennedy retorted that the Town must draw up a regulation stating the where the line is.

Mr. Bergin questioned what some of the things are that either the Town or the Commission seeks to regulate about the activity. By virtue of the activity occurring on a farm, he believes that somewhat regulates the activity they are going to be doing, e.g., they are not going to start selling or repairing cars. Mr. Bergin wondered if the focus should be on parking and the impact to utilities and traffic. He noted that there is a farm in Bolton that has a yoga instructor come and do yoga at sunset. He said he was trying to clarify where that line is between a formalized use that needs to be captured in zoning regulations, and a use that happens every now and then.

Mr. Anderson explained that the No. 1 issue regarding goat yoga was parking and traffic.

Ms. Bertotti, in replying to Mr. Bergin, stated there may be other uses. Eventually goat yoga will lose its appeal, she believes, but there will likely be other uses that come up. There could be a farm brewery, which also has the potential of generating a tremendous amount of traffic. Ms. Bertotti concurred with Mr. Bergin that the Town is concerned with generation, not so much the use. Whether use is related to agriculture or occurring on a farm is not so much a problem, according to Ms. Bertotti. It would be unlikely that there would be noxious industry or car repair business, she stated, but it will be some sort of other attraction that in itself may not be bad, as long as it is controlled for traffic and parking.

Mr. Bergin suggested that it would be somewhat counterintuitive to try to reduce the amount of people who visit and patronize farms. In his experience in visiting farms, they do not traditionally have large paved parking areas.

Ms. Bertotti suggested the Town could reduce the requirements for parking in those situations.

Mr. Bergin interjected that he has seen events on farms where fields are utilized that can accommodate temporary parking.

Mr. Anderson reported that there has been some discussion internally of the definition of a corn maze. If deemed agricultural, regulating a corn maze, in his opinion, seems a little over the line.

Mr. Prause wondered if there would be a problem with people parking on the street.

Mr. Anderson reported that a corn maze is a generally-accepted use of a farm and if the Town is informed by the Zoning Enforcement Officer that it is not an allowed use because it does not meet zoning requirements, the public would react negatively.

Ms. Bertotti said another aspect to think about is that farmers, in her experience, do not have a favorable reaction to being regulated, so regulations that require a tremendous amount of review and a lot of requirements would need to be simplified. If the Town decides to proceed with the site plan route instead of special exception, then impact cannot be considered, which defeats the purpose, she noted. If

the Town follows the special exception route for some of these uses, Ms. Bertotti explained, we have to think of a way to not require an A2 survey.

Ms. Scorso agreed that Mr. Bergin is onto something in regards to how much parking would be needed, and perhaps in the definition it could state that the Town requires X number of spaces or something along those lines. She felt that apple picking could involve a large crowd, and a corn maze and syrup production could fit in as well, with uses that allow parking and utilities.

Mr. Stoppelman surmised there are only two farms left in town that are active.

Mr. Anderson explained that it depends on how you define farm, but in his opinion, there are more than that.

Mr. Stoppelman answered that he was referring to the Lydall Street farm and Botticello.

Ms. Bertotti pointed out that when Lydall Street came before the Zoning Board, they said they are a Connecticut-registered farm. The farm has certain exemptions for the tax code because under State regulations there are certain things you can do to register for tax relief, she noted, so that may be what they meant. She noted that, when a farm is registered, they have to limit their activities to certain farming activities.

Mr. Bordeaux stated that is part of the difficulty. What are traditionally known as farms have horses and grow crops, he said.

Ms. Bertotti reminded the Commission that one-third of the town is zoned Rural Residence.

Mr. Bordeaux continued that agricultural activity is permitted in the Rural Residence zone. An individual who does not have a farm could have goat yoga by just bringing goats to the property, he said. A Rural Residence property does not have to be large.

Ms. Bertotti explained that a Rural Residence property must be 30,000 square feet.

Mr. Bordeaux disagreed that it is anything like a farm stand where you traditionally pull off the side of the road, make your purchase and leave.

Mr. Stoppelman pointed out that Botticello is a large farm stand.

Mr. Bordeaux corrected that Botticello is not a farm stand; it is a store.

Mr. Stoppelman noted that he recently spoke with Don Fish who had a Farm Day in Bolton with 5,000 people.

Mr. Stebe commented that they get approvals, special permits and transportation. They go along the lines of what East Catholic would do for their carnival. The complicating factor, he stated, is that something that would attract 20 or 30 people at a time is drastically different than something that attracts three or four people at a time. He questioned what a corn maze would be. There are places with mazes that are ancillary to the picking or the larger store or something along those lines, he noted. Mr. Stebe reiterated that what the Town is looking at would be an individual that seeks to add something where people come in and do an activity for an hour or two with a moderate number of people, and the ability to do that should not be heavily regulated. He conjectured that the Town could inform an applicant that

someone from the Town would go out and look at where they will park 20 cars and how they will take care of those 20 extra people. Many such locations are on the smaller two-lane roads without shoulders or a ditch for a shoulder and an individual cannot pull off the side of the road, he described. In his opinion, there is no reason why an individual would have to pave or drop a few tons of rock to show where parking would be.

Ms. Bertotti commented that the fire marshal will disagree with him.

Mr. Stebe noted that someone could go out and have the individual show where they plan to park people and look at the soil to see if it will support the car.

Mr. Kidd questioned, other than the ambiguity in the regulation, the recreation and the agriculture together, if there was another reason why Mr. Davis issued the cease and desist order.

Mr. Anderson reported that it was based on a complaint.

Mr. Kidd asked about the nature of the complaint.

Mr. Anderson replied that it was based on a complaint from a neighbor that there were a large number of vehicles for this use and that it is a farm and not a commercial operation.

Mr. Kidd reiterated that there was an actual issue, to which Ms. Bertotti agreed. So any commercial-type activity that generates a certain level of traffic or parking requirements at some level would trigger a need for a special exception in any zone, he commented.

Mr. Anderson responded that is a good place to start.

Mr. Bordeaux expressed there could be a category of uses such as health and recreation, not just petting or going to learn.

Mr. Kidd wondered what would be left out when putting in categories.

Ms. Bertotti questioned why this would be called a commercial activity; on what would that be based, he asked.

Mr. Stebe explained that, with regular farming, there are a regular handful of people who show up every day to work the farm or work the stable, a fairly small number. In this instance, that small number is augmented by an extra 20 people coming in for this activity, whether labeled a service, a class or commodity, he said, which is changing the nature of the operation and it hinges on the parking for it. For an individual with a farm employing five people coming every day to work it, only those five cars would need to be parked, but when bringing in people on a regular basis, another 15-20 cars would need space in addition to the employees' cars.

Ms. Bertotti shared that a possibility would be to proceed the same as with most other things. There would be a threshold, she stated. If the use requires more than 60 parking spaces, that would require a special exception, even a restaurant in a zoning district that permits restaurants. She reported that she is not confident in arbitrary numbers and this would have to be researched.

Mr. Bordeaux explained that that would be outside and the zoning regulations are based on number of seats or spaces and the size of the building.

Ms. Bertotti wondered how to define an outside activity.

Mr. Anderson replied that it is his understanding that the original goat yoga was in Oregon. It exploded in popularity and had to be moved because it did not meet the zoning.

Mr. Stebe stated that whatever the extra use is does not matter; it would be any additional use.

Ms. Bertotti suggested that any use that requires parking above X spaces would require a special exception. On a farm, she mentioned, there could be waivers for parking which does not have to be paved or allowances for outside parking.

Mr. Stebe interjected that this could be written in.

Mr. Bergin questioned seasonal activity, i.e., whether there would need to be an application for hay rides. Ms. Bertotti noted that that could be just one day. Mr. Bergin added that it could also be over a period. He said he did not think they do goat yoga in the winter. There could be levels to this where people would not be required to go through an entire application, he said.

Mr. Kidd commented that if there is an issue, there is an issue. Even if a farm has been doing hay rides but there is a parking problem, something should be done about it, he added.

Mr. Stebe suggested adding in a clause that, if tripped, would require a review. He proposed two levels of review; an administrative Town Staff review and, if Town Staff is not satisfied, it can then come to the whole Commission. That may alleviate some of the effort that goes into coming before the Commission or trying to get permits, he noted. Mr. Stebe stated that if there is a threshold, e.g., an applicant is adding a service or a commodity or an educational item and expects to increase the number of people visiting their location by a certain number, then there could be a Town Staff review to determine if it can be accommodated. Mr. Stebe stated if Town Staff determines it requires more action, the proposal would be brought to the entire body.

Mr. Anderson noted it must have some sort of standards.

Ms. Bertotti agreed to the standards. She commented that, if it is a special exception, it is a special exception and requires a public hearing. If a use is permitted subject to special exception, then it must go to the Commission and not to an administrative review. The idea would accommodate a site plan, she stated, and there would be no impact analysis. The Commission is not allowed to consider the neighborhood, Ms. Bertotti reported. The goat yoga issue was whether or not that was considered farming, she added, and predicted the same issue if something is a commercial use. Setting a threshold for parking and writing relaxed regulations would be helpful, Ms. Bertotti stated. The problem for the Town will be tying uses to parking requirements, which will then result in whether or not something is a special exception.

Mr. Anderson said the easiest way is to make it a site plan, which would require meeting our standards; it would then be an administrative review.

Ms. Bertotti questioned what would happen if a farm had 120 people visiting a small farm for beer tasting on a small parcel in a small area.

Mr. Anderson concurred. The general thought was that no one would want to go into an agricultural zone and give up development rights voluntarily, he surmised. The consensus is that an agricultural

zone allows anything agriculture-related and an owner must come before the Commission, Mr. Anderson reported, and the Commission would have one shot at reviewing the plan.

Ms. Bertotti commented that it would be similar to a zone change for Residence B. There would be a list of uses and perhaps their uses would be impactful and require a special exception, she described. In an agricultural zone, there is relief on the number of uses that are permitted, she explained. Ms. Bertotti stated that at some point, the Commission should have a joint workshop with some of the agricultural committee members.

Mr. Bordeaux responded that the committee does not exist anymore. When the committee was in place, he explained, the members consisted of individuals from the Conservation Commission and a couple of farmers for a limited amount of time talking about off-site signage and farm stands.

Mr. Anderson agreed that at some point farmers need to be brought into the conversation.

Ms. Bertotti reported that the ZBA has specifically requested a report on the results of this workshop.

Mr. Prause commented that the decision was odd, as the ZBA ruled that goat yoga is an agricultural use, though in his opinion, it is more a health exercise than agriculture.

Mr. Kidd explained that the reason for the approval were the lack of definitions of farming and agriculture and their opinion that goat yoga is more similar to a petting zoo or pony rides than it is to an exercise class. The Planning Commission would look at it from a different perspective if considering the parking, he said.

Mr. Anderson observed that everything could never be listed.

Mr. Bordeaux responded that if the Commission began with the State definition of agriculture, in his opinion, there could not be an interpretation of that regulation that would include goat yoga.

Ms. Bertotti reminded the Commission that how it was interpreted was because she had included the State definition. The ZBA was told that the Town defers to that definition and after looking into it, the Board's opinion was that goat yoga is more like a pony ride, she explained. The Town does not have zoning regulations for farms and defers to the State regulations in their absence, similar to how group homes are handled, she reported.

Mr. Bordeaux stated that he will perform further research.

Mr. Anderson reported that if the Town is going to use the State definition, it should say so in the zoning regulations.

Mr. Prause questioned whether uses would be as of right or would also require a site plan.

Ms. Bertotti responded it would be as of right.

Mr. Prause added that it may come with a site plan list that is more impactful, which would lead to parking problems.

Mr. Anderson questioned that assumption.

Ms. Bertotti concurred that if a use generates more than so many parking spaces, an applicant would require a special exception application. Her difficulty was that the proposed uses do not have parking requirements, she said.

Mr. Bergin observed that there is a property next to Highland Park Market that sells cut-your-own Christmas trees. He said it is a small lot and he assumed it is classified as a tree farm.

Ms. Scorso stated a one-time activity should be added to the definition. A farm stand or tree cutting would result in cars going in and out, not necessarily 20 cars at once.

Mr. Bergin considered the recurring nature to be more problematic. He observed that 200 cars showing up on a Saturday morning on a small rural road would be a bigger problem than anything that is happening every other week.

SOLAR REGULATIONS

Mr. Bordeaux reported that Mr. Anderson and he had a brief workshop discussion with the Cheney Commission introducing the solar regulations and sought their opinion on the how that would work in a Historic Zone. There is a meeting soon with the Cheney Commission and the EDC about their purview and the relationship, given that they are an advisory committee to the Planning and Zoning Commission, he explained. The Cheney Commission was very concerned with the impact of solar arrays on the mansions in particular, he said. Mr. Bordeaux observed that there was an understanding of the value and the ways to accommodate arrays elsewhere, i.e., the mills, but the main concern was the mansions. The questions for the Commission, he stated, are whether they would (a) prohibit solar arrays from the mansions outright and limit the Cheney Commission's jurisdiction to the current jurisdiction, and when there is an impact to the façade or the building materials and the mills, the Cheney Commission would provide an advisory review to the PZC, or (b) consider giving the Cheney Commission more authority to have the ability to permit or deny the use of solar arrays.

Mr. Anderson explained that the regulations could state that no application for a solar array will be approved without approval from the Cheney Commission in whatever the Commission defines as the Historic Zone or in the mansion district.

Mr. Stebe noted that there is the Historic Zone and then the landmark zone. The landmark zone, to his recollection, is essentially mansions and the school, and the Historic Zone is the broader area.

Ms. Bertotti replied that the Historic Zone is the smaller area.

Mr. Anderson stated that the Historic Zone is the mansions and the mills, primarily. Knowing that this will probably become an issue, he wanted to get the Commissions' opinion on giving the Cheney Commission purview over more than they normally would.

Ms. Scorso questioned the other landmarks, i.e., the school, the fire house museum, Cheney Hall, and the Cheney Homestead.

Mr. Anderson explained that some members of the Cheney Commission did not feel that solar arrays are appropriate anywhere in the district at all.

Mr. Stoppelman noted that solar arrays were permitted for Fuss & O'Neill.

Mr. Kidd added that those arrays cannot be seen.

Mr. Anderson stated that the solar regulation is nearly complete. The one piece that Planning is struggling with is how to put it in the Historic Zone regulations, he said, though he felt as though the Commission is comfortable with the way that process normally works.

Mr. Stebe reported that there are solar shingles, and perhaps terra cotta tiles could be turned solar. He stated that he does not want to ban solar at this point; the Cheney Commission should have a very clear say in the review. At this time, the PZC receives a small synopsis of their review, he stated. It is up to the Cheney Commission to provide more detail.

Ms. Bertotti requested clarification as, in her opinion, the issue is whether the PZC is willing to have the Cheney Commission approve this vs. just having a recommendation.

Mr. Bordeaux questioned whether the Commission is agreeing to leave the procedure as is.

Mr. Stebe reported that he would highly recommend that the Cheney Commission provide more detail if something is inappropriate; i.e., a very detailed memo as to their objection and the specific objection.

Mr. Kidd pointed out that, when the PZC approved the changed façade on one of the mansions, it took a great deal of time to figure out all the pieces and to get all the information from different perspectives. He agreed that there could have been more objections, and the Commission only heard more in the paper afterwards.

Mr. Bordeaux wondered whether it be worthwhile to include some language in the solar regulations that reinforces the Cheney Commission's advisory role.

Mr. Anderson reported that it is in the Historic Zone regulations already.

Ms. Bertotti conceded that is just the way the Cheney Commission functions.

Mr. Anderson said he got the impression that the PZC would not treat the mills and the mansions any differently.

Mr. Prause closed the workshop at 9:42 P.M.