

For the Honorable Select Board,

In case there is not sufficient time to have updated documents sent regarding the final, approved PHP RFP Committee report that will be discussed on Monday, I am including drafts to indicate the direction in which we seem to be headed.

When and if a final version is voted upon and approved I will make sure to forward it to you.

Thank you,

Rich Osnoss

**From:** Richard Osnoss

**Subject:** Counsel re: remaining acreage

**Date:** March 28, 2023 at 1:56:37 PM EDT

**To:** Andy Goldman

Andy,

Two meetings ago I had brought up, what I felt was, the need to obtain clarity from Counsel regarding the effect of the affordable housing development on the remaining acreage.

The goal there, from the outset, was to allow for “substantial open land for future use by the town”, as indicated on the handout provided at the Annual Town Meeting (Article 25). As you know, Article 5, point 5, states “Design to preserve as much buffering open space as possible/feasible”. The Select Board, and many community members have related that concern during the last year or so, which I have not been able to answer definitively, until today.

You had stated, something to the effect, that it was not pertinent to our Committee, but perhaps it was relevant to the Planning Board.

That resulted in my asking Counsel for a response on the issue.

I could not find the latest schematic (as you know, documents are not always easily found in our email history), so I had sent the last one I had, which indicated using up 13.29 acres rather than the, at least, 13.5 acres that I believe our current plan indicates. Thus, you will see that it was referred to near the bottom of Counsel’s review.

So, it seems to me to be imperative, that when choosing the best path forward, we take Counsel's response regarding future Town uses there into account.

Also, though I have not yet gotten into the nuts and bolts of the update we may or may not decide to send for Town Meeting, it may be important to note that we need to address that issue as we take next steps.

From Rich

See the response below:

On Mar 27, 2023, at 4:07 PM, Ron Rappaport <[rrappaport@rrklaw.net](mailto:rrappaport@rrklaw.net)> wrote:

Rich. See below. It looks like you will need a zoning change to get to where you want to go....

Ronald H. Rappaport Reynolds, Rappaport, Kaplan & Hackney, LLC

-----Original Message-----

From: Michael Goldsmith

Sent: Monday, March 27, 2023 10:11 AM

To: Ron Rappaport

Subject: FW: Peaked Hill Pasture Housing

Ron. Assuming Rich is referring to "remaining acreage" as the acreage not dedicated to the Homesite lots (which, on the plan, is 13.29 acres but Rich assumes is 13.5 acres), that "remaining acreage" cannot be used for other principal uses, as it is "dedicated" to support the rental units. (Section 6.10(A)(2) requires 3 acres for every 2 units.)

Section 6.10(B)(3) states that "[b]uildings may be clustered provided the remaining open space is not further developed, except for appropriate out-buildings." Section 6.10(B)(5) states that "[p]lans for design and siting of all buildings, parking areas, road access, and any other uses shall be subject to Planning Board Review and public hearing prior to approval."

Taken together, I read the above two subsections as providing for limited accessory uses, such as sheds and typical outbuildings as of right, as well as parking facilities. Subsection B(5) mentions "other uses". The Planning Board oversees the siting of the 6.10 housing units and other uses as site plan review board. In my view, I do not think that the 6.10 affordable parcel can support any other accessory housing units, but think it is a reasonable reading of the Zoning By-law as whole that other non-habitable accessory uses under 4.2A, related to the housing units, such as recreational uses provided for by special permit -- a pool or a tennis court -- are likely permissible.

Note: I am not sure why the most recent plan attached to Rich's email calls out the area devoted to the Section 6.10 housing as 13.29 acres. Our memo advised that there was no authority to "round up" and the land dedicated to the nine (9) rental units needed to be 13.5 acres, based on the criteria of 2 units per 3 acres, under 6.10(A)(2).

Michael A. Goldsmith

Director

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