

*Planning Board Minutes
November 14, 2007*

PUBLIC HEARING

*Lincoln Town Hall
Conference Room
Main Street, Lincoln, New Hampshire*

Present: Chairman Pat Romprey, Member John Hettinger, Clerk Jim Spanos, Vice Chairman Joe Chenard, Selectmen's Representative Peter Moore, Alternate Deanne Chrystal and Alternate Edwin Fredie

Staff Present: Stacey Boyce – Administrator. Ted Sutton – Town Manager

Others Present: Chester Kahn, Liz Lambregtse, Susan Chenard, Leon DePalma, Brent Drouin, Wes Graves, Russ Cooley, Mike Norman, Mrs. Fredie and Dan Duris

6:07 PM CALL TO ORDER by Chairman Romprey; announcement of excused absences, if any, and seating of alternates(s), if necessary.

Chairman Romprey called the meeting to order and welcomed those present. Full quorum present. Alternate Cook was excused.

6:07 PM CONSIDERATION of Draft Meeting Minutes for October 24th, 2007

Member Hettinger made a **motion** to approve the minutes of October 24th; seconded by Selectmen's Representative Moore. Vote was unanimous. Alternate Chrystal abstained, as she was not present for the meeting.

6:09 PM CONTINUATION of application for Site Plan Review submitted by Michael Norman for Alex Ray (Tax Maps 4 & 17, Lots 7.1 & 39)
Proposal: Seeks approval to expand the existing restaurant to include the construction of a new 2-story, 34-room inn, associated driveways and utilities.
Planning Board: Acceptance of the Completed Site Plan Review Application.
Public Hearing: Approve or Disapprove the Completed Site Plan Review Application.

The applicant requested a continuance to the next scheduled meeting. Mr. Sutton said there is a meeting scheduled for December 7th between the applicant and town engineers to review the site plan, parking and other issues that were discussed at a previous meeting.

Selectmen's Representative Moore made a **motion** to continue the public hearing on this application until December 12th; seconded by Vice Chairman Chenard. Vote was unanimous.

6:11 PM **CONSIDERATION** of an application for Subdivision/Site Plan Review submitted by Steve LaFrance for Lincoln South Mountain Partners (Tax Map 16, Lot 310)
Proposal: Seeks approval to construct a 78-unit resort residential development on 25 acres of land, associated driveways and utilities.
Planning Board: Acceptance of the Completed Subdivision Application.
Public Hearing: Approve or Disapprove the Completed Subdivision Application.

The applicant did not have any further information to present to the Board. Chairman Romprey asked Selectmen's Representative Moore to read into the minutes the proposed conditions that were drafted between the Town and applicant's lawyers. Mr. Sutton noted that LSMPs would be working on a soil plan to address any possible issues with the soil on the parcel of land.

Alternate Freddie asked Mr. Sutton to go over the soil management plan, as he didn't see it listed on the list of conditions. Mr. Sutton said that is part of the DES conditions.

Alternate Freddie asked if given the uneven history of this application are the conditions and the DES stipulations enough. Chairman Romprey said a few months ago he was not comfortable with the application but now he is.

Clerk Spanos asked if item #6 listed on the conditions, regarding not turning the roads over to the Town, would be added to the condo documents. Mr. Cooley said yes it would be.

Member Hettinger made a **motion** to open the public hearing; seconded by Vice Chairman Chenard. Vote was unanimous.

Mr. DePalma feels the conditions should state that even after the dike is fixed if there is any flooding the Town of Lincoln can't be held liable. It was noted that was taken care of in condition #7.

Mr. Sutton reviewed the steps he has taken with FEMA over the last year on what is needed regarding the dike to potentially repair it. Mr. DePalma still does not feel there is adequate coverage for the Town regarding any potential flooding, even though the Town's attorney worked for many hours drafting up these conditions. Mr. DePalma feels it should be written clearly that under no uncertain terms should the Town be held liable for any flooding in the Town.

Alternate Chrystal said you can't infringe on someone's property rights. There are full-blown perpetuities that come into play, which is probably why the conditions were written the way they were. She said you can't put any restrictions indefinitely on someone's property speculating what might happen – it goes against the whole rule of perpetuity.

Mr. Sutton stated these concerns have already been expressed to the attorneys and more than one attorney has assured us that the coverage expressed in the conditions is what is allowable to the fullest extent of the law.

Mr. Kahn said he believes the confusion is because there are two separate issues. He said the first is about an approved development on this land, which is indemnifying the town, in case the water comes over from the dike. The town owns the dike, not the developer, so it is the town's responsibility to repair the levy if it is deemed in need of repair, in his opinion. The developers are aware of the dangers of the levy as it exists now and are still willing to go in and develop on this property.

Mr. Kahn said the other issue would be if the levy were to fail today and there were a flood, who would be responsible? Even though the town is responsible for the levy LSMP is indemnifying that they are not going to hold the town responsible for any damage to their property.

Mr. DePalma stated there was no mention of the log dam that is on LSMP property. He wanted to know if there should be some condition regarding that and whose responsibility it would be. Mr. Sutton said the dam is on LSMP's property it is their responsibility.

Mr. DePalma questioned if the map showed the 15-foot bike path. Mr. Sutton said it was on there and showed Mr. DePalma where it was located. Mr. DePalma asked if there was any access from Main Street to the swimming hole area. Mr. Sutton said they were still working on that but there were different people involved for that part of the path. Mr. DePalma questioned an earlier plan where it showed a parking area for the public and said he does not feel that the access that is shown or the distance that will need to be walked by the public to the swimming hole constitutes "public access". Mr. Sutton said the earlier plan was dropped, as a parking area was not something LSMP was willing to provide.

Mr. DePalma feels the Board failed the public by not getting better access to the swimming hole and to have parking.

Mr. DePalma thinks if the developer is not going to give access to the swimming hole they should at least take the building that is currently near the swimming hole and move it so that it opens up the area more. It was noted that the Board is unable to require a developer to move buildings. Mr. DePalma feels the project should not be approved unless the building is moved.

Selectmen's Representative Moore said it would be illegal to say to an applicant that they were denied if they don't provide parking and better access as a condition. Alternate Chrystal said easements are paid for not just granted and the fact that LSMP is giving the town the 15-foot right of way for no cost is generous. Mr. DePalma stated that at an earlier Planning Board meeting it was noted the applicants would grant the easement in exchange for reductions on the water and sewer fees. Mr. Sutton said earlier in the process he was asked if the town would reduce the fees in exchange for the parking area at which time Mr. Sutton had said it was a possibility. Chairman Romprey stated the earlier plan that showed the additional parking was based on duplexes. This is a completely different than plan that which was submitted originally for conceptual review.

Mr. DePalma said there are going to be a number of people that will park at the condos at the Station because there is no designated parking. Mr. Kahn said that is something that currently happens so it will not be any different.

Member Hettinger made a **motion** to close the public hearing; seconded by Vice Chairman Chenard. Vote was unanimous.

Selectmen's Representative Moore made a **motion** to approve the application for Subdivision subject to the 13 conditions read into the minutes earlier; seconded by Member Hettinger. Vote was unanimous.

7:16 PM **CONSIDERATION** of an application for a Waiver of Site Plan Review submitted Gypsy Cafe (Tax Map 16, Lot 085)
Proposal: Seeks approval to enclose an existing deck area to be used for seating.
Planning Board: Acceptance of the Completed Waiver of Site Plan Review Application.
Public Hearing: Approve or Disapprove the Completed Waiver of Site Plan Review Application.

Mr. Duris approached the Board where he explained he would like to enclose an existing deck area to be used for more year round seating. He stated that with business being what it has been he needs the extra seating to make it through the winter. Mr. Duris said the deck would be enclosed with glass windows and siding.

Chairman Romprey said the deck was already on a zero lot line or pretty close. The applicant agreed that was true.

Chairman Romprey questioned the drainage on the abutting properties. Mr. Duris stated his contractor is going to re-route the drainage so it will drain on his own property.

There was a discussion on whether this would have to go before the ZBA as it was dealing with a previously approved variance. After deciding it was something that needed to go to the ZBA, Mr. Duris withdrew his application.

7:28 PM REVIEW AND COMMENT on the MATRIX REPORTS and OPEN FILES pertaining to:

- A. Land Use Subdivision and Site Plan Applications/Approvals
- B. Building Permit Applications
- C. Sign Permit Applications

No comments were made.

7:29 PM CONTINUING & OTHER BUSINESS (Staff and Planning Board Member/Alternates)

Clerk Spanos asked if the Town had any plans to do something with the Shoreline Protection Act. Mr. Sutton said that nothing was being planned at the time. The information was put in the packets for information purposes only. Chairman Romprey said Mr. Sutton should be looking into the Act a little more and that any abutting properties it could affect should be notified for information to see if it is something they want the Town to pursue.

7:35 PM CONTINUING & OTHER BUSINESS (Staff and Planning Board Member/Alternates)

Mr. Sutton asked if the Board instructed Mr. Marien to move his fire pit area or was it ok where it was. It was noted that a suggestion was made to see if there was possibly a better location for the fire pit but that was all.

7:38 PM PUBLIC INPUT on Specific Issues –

Mr. Kahn said he wants to congratulate the Board on the due diligence on the LSMP project. There are a lot of conditions to follow and hopes the Board makes sure they get done.

Mr. Kahn also stated that the start time for construction has been 7:00 am and people are starting with the heavy equipment again at 6:30 – 6:45 am. He feels the time should get changed to 7:30 am. There were mixed reviews on the start time and whether Sundays should be excluded from those times allowed for construction. It was decided to change the start time to 7:30 am and no construction on any of the 7 legal holidays. This will be a recommendation brought to the Board of Selectmen.

8:01 PM CONTINUING & OTHER BUSINESS (Staff and Planning Board Member/Alternates)

Mr. Sutton reminded the Board of the deadline to submit any proposed amendments to the ordinances to meet the State requirements for Town Meeting.

The Board continued to review the proposed new Sign Ordinance.

Member Hettinger made a **motion** to accept the revised Sign Ordinance to submit for public hearing, seconded by Clerk Spanos. Vote was unanimous. Vice Chairman Chenard abstained, as he is the sign permit designee.

10:10 PM ADJOURNMENT

Clerk Spanos made a **motion** to adjourn, seconded by Member Hettinger. Vote was unanimous.

Dated: December 12, 2007

Pat Romprey, Chairman