



PLANNING & ZONING DEPARTMENT

PLANNING BOARD AGENDA

PLANNING BOARD 1ST MONTHLY MEETING & PUBLIC HEARINGS ON PROPOSED AMENDMENTS TO ZONING ORDINANCE LAND USE PLAN ORDINANCE (LUPO)

(SIGN ORDINANCE & FLOODPLAIN ORDINANCE)

WEDNESDAY, January 4, 2023 – 6:00 PM

Planning Board Public Meeting

*Lincoln Town Hall, 148 Main Street, Lincoln NH

*Hybrid meeting available both in person with social distancing & masks & via Zoom Meeting Platform to allow for town wide participation. A quorum of the Planning Board member must be physically present at the meeting. Although there is space in the large conference room for 8-12 guests in addition to the Board members with social distancing, the public is encouraged to participate remotely using ZOOM.

Join Zoom Meeting

<https://us02web.zoom.us/j/81700766161?pwd=WUFKR2N1Zk9xSzI1bVFPRWVzbyt4UT09>

Meeting ID: 817 0076 6161

Passcode: 179696

Find your local number: <https://us02web.zoom.us/u/kblNuPaMIG>

Or dial by your location 1-929-205-6099 US (New York)

(See also town website www.lincolnnh.org for same link, meeting ID and passcode.)

I. CALL TO ORDER by the Chairman of Planning Board (PB); announcement of excused absences, if any, and seating of alternates(s), if necessary.

II. CONSIDERATION of meeting minutes from:

- **December 28, 2022 (Wednesday)**

- Chairman James Spanos, Vice Chairman Joe Chenard, Selectmen's Representative OJ Robinson, Member Stephen Noseworthy, Member Paul Beaudin (via Zoom). Alternate Mark Ehrman (excused).

III. CONTINUING AND OTHER BUSINESS (Staff and Planning Board Member/Alternates).

A. WORK SESSION. NO PUBLIC PARTICIPATION.

Planning Board will hold first of two (2) public hearings on the following proposed amendments to the zoning ordinance (Land Use Plan Ordinance [LUPO] and proposed Site Plan Review Regulations Amendments:

1. Proposed Amendments to Land Use Plan Ordinance (LUPO) to make the Sign Ordinance portion of LUPO comply with the two (2) US Supreme Court cases re: regulation of signage:

- a. Clyde Reed et. al. v. Town of Gilbert Arizona, 576 U.S. 155 (2015), 135 S Ct 2218 (2015) to make all of the provisions of the sign ordinance "content neutral"; and
- b. City of Austin v. Reagan National Advertising of Austin, LLC, 142 S. Ct. 1464 (2022) the more recent US Supreme Court case having do with off premise signage.

Proposed changes to the Sign Ordinance are substantial and include numerous amendments need to be made to make the Sign Ordinance conform to these two US Supreme Court cases. Proposed amendments to the following:

- a. **LUPO, Article IV-B Sign Regulations**
- b. **LUPO, Article V General Regulations, Section G. Home Businesses, Paragraph 2, having to do with signage for home businesses.**

[Proposed Amendments, if recommended by the Planning Board, to be voted on at the Annual March Town Meeting on March 14, 2023.]

- 2. **Proposed Amendments to Land Use Plan Ordinance (LUPO) to make the Floodplain Development Ordinance portion of LUPO (identified by NH Office of Planning and Development of the NH Office of Strategic Initiatives on September 16, 2022 as nonconforming), comply with the requirements of the National Flood insurance Program.**

New floodplain maps are being produced by FEMA. Whenever new maps are produced by FEMA, the agency requires that communities who are members of the National Flood Insurance Program (NFIP) have ordinances that are fully compliant with the NFIP regulations. The amendments are proposed by FEMA and NH Office of Planning and Development of the NH Office of Strategic Initiatives.

[Proposed Amendments, if recommended by the Planning Board, to be voted on at the Annual March Town Meeting on March 14, 2023.]

- 3. **Proposed Amendments to the Site Plan Review Regulations (SPR) to make the Lincoln's Floodplain Development Ordinance portion of the Site Plan Review Regulations (identified by NH Office of Planning and Development of the NH Office of Strategic Initiatives on September 16, 2022 as noncompliant), comply with the requirements of the National Flood insurance Program.**

Amendments are proposed by FEMA and NH Office of Planning and Development of the NH Office of Strategic Initiatives.

[Proposed Amendments, to be adopted by the Planning Board, after public hearing.]

Proposed Amendments are available in the Town Offices at 148 Main Street from 8:00 AM to 4:00 PM.

IV. NEW BUSINESS

A. Request for an Extension => SITE PLAN REVIEW approval

#SPR 2020-20 M118 L064 & L065 – Mark D. Stiles, Trustee, S&A Offices Realty Trust/Saber Mountain Properties, LLC – Multi-Use Building

Applicant: Attorney Mark D. Stiles d/b/a:
 1. It's An I-M, LLC
 PO Box 1113
 North Marshfield, MA 02059; and
 2. Flow State LLC
 PO Box 1113
 North Marshfield, MA 02059

Agent: Joshua M. McAllister, PE
 HEB Engineers, Inc.
 2605 White Mountain Highway
 North Conway, NH 03860

Properties and Property Owners:

- 1. **Map 118, Lot 064** – 153 Main Street with a 1971, 1.75 Story Single Family Home used as an office, in the Village Center (VC) District.
 - a. Owned by Attorney Mark D. Stiles d/b/a It's An I-M, LLC.

- b. Purchased 3/19/2021 (Book 4613/Page 953) [from former owner Saber Mountain Properties II, LLC].
2. **Map 118, Lot 065** – 155 Main Street with a 1985 1.75 Story Single Family Home used as an office, in the Village Center (VC) District.
 - a. Owned by Attorney Mark D. Stiles d/b/a Flow State.
 - b. Purchased 3/19/2021 (Book 4613/Page 956) [from former owner Saber Mountain Properties I, LLC].

Project Approved:

On January 13, 2021, the Planning Board voted:

A. “To waive the density requirements for this project.” (4-1).

Rationale: The Town’s Master Plan states, “The Town’s Zoning Ordinance should provide for some flexibility and design for residential units and mixed use in established commercial areas particularly in the Village District”. The Town’s LUPO allows for flexibility in density as soon as a project meets all of the other zoning requirements. All other zoning requirements are met.

AND

B. TO APPROVE application for Site Plan Review Approval to

1. Voluntary lot merger of two (2) adjacent lots;
2. Demolition of two (2) buildings (one on each of the adjacent lots); and
3. Replacing the two (2) buildings with the construction of a three-thousand-five-hundred-eighty-six square foot (3,596 SF) multi-use building consisting of:
 - a. retail and residential uses:
 - i. Three (3) commercial units totaling two-thousand-four-hundred-sixty square feet (2,460 SF) are proposed on the ground level;
 - ii. Three (3) apartment units on 2nd level; and
 - iii. Three (3) apartment units on 3rd floor.

WITH THE FOLLOWING CONDITIONS:

1. Demonstrate they have sufficient water and sewer infrastructure to the satisfaction of Town Engineer Raymond Korber;
2. Remove the snow from the parking lot within 48 hours of a storm;
3. A stormwater management plan approved by the Town Engineer Raymond Korber; and
4. Roof runoff mitigation plan approved by Town Engineer Raymond Korber.

Requests for Extension:

1. On October 27, 2021, the Planning Board granted an extension to January 13, 2023.
2. Attorney Mark D. Stiles is requesting a second extension to January 4, 2024.

(No Mylar recorded yet.)

B. CONCEPTUAL => SITE PLAN REVIEW

#CON 2022-24 M118 L039 – Mark Bogosian d/b/a South Peak, LLC & FC-Loon, LLC – Fireside Condos

Applicant: Mark Bogosian d/b/a (1) South Peak, LLC and (2) FC-Loon, LLC

Agent: Jon L. Warzocha, P.G.
 CEO/Senior Hydrogeologist
 Horizons Engineering, Inc.
 34 School Street
 Littleton, NH 03561

Owner: **South Peak, LLC**
367 Main Street
Falmouth, MA 02540

Properties:

Map 118, Lot 039 (South Peak Road) (95.71 Acres) General Use (GU) District

Owner: **FC-Loon, LLC**
367 Main Street
Falmouth, MA 02540

Properties:

Map 118, Lot 038 (Crooked Mountain Road #125) (0.36 Acres) General Use (GU) District

Map 118, Lot 037 (Crooked Mountain Road #124) (0.38 Acres) General Use (GU) District

Map 118, Lot 036 (Crooked Mountain Road #123) (0.40 Acres) General Use (GU) District

Map 118, Lot 035 (Crooked Mountain Road #122) (0.44 Acres) General Use (GU) District

Map 120, Lot 027 (Crooked Mountain Road #121) (0.35 Acres) General Use (GU) District

Map 120, Lot 026 (Crooked Mountain Road #120) (0.54 Acres) General Use (GU) District

Map 120, Lot 025 (Crooked Mountain Road #119) (0.35 Acres) General Use (GU) District

Map 120, Lot 024 (Crooked Mountain Road #118) (0.41 Acres) General Use (GU) District

Map 120, Lot 023 (Crooked Mountain Road #117) (0.37 Acres) General Use (GU) District

Proposed Project:

- Reconfigure some, if not all, of the single-family home lots that have been subdivided along Crooked Mountain Road that are now owned by FC-Loon, LLC, as listed above and merge those lots back with Map 118, Lot 039.
- Develop a condominium development with a total of 41 units called “Fireside at South Peak” consisting of access, roadways and utility, water and sewer infrastructure, erosion and sediment control plans, vehicle turning templates, and:
 - 5 triplexes (Units 1-15)
 - 12 duplexes (Units 16-21, 23-36, 38-41)
 - 2 single family homes (Units 22 and 37)

Located just to the west of the recent 6 lot South Peak Resort subdivision.

C. CONCEPTUAL =>OUTDOOR SEATING/BAR AT PEMI BASE CAMP

#CON 2022-25 M121 L050 – Mark Bogosian d/b/a South Peak, LLC & NH Restaurant Group, LLC – Pemi Base Camp at 75 Crooked Mountain Road – outdoor bar and seating

In 2004, the Planning Board granted Site Plan Review approval to erect the Pemi Base Camp which was limited to 176 seats. In 2007, a Building Permit was issued for Loon Mountain Recreation Corporation to erect a 40’X101’ temporary fabric structure for 176 seats to serve as a temporary ski base lodge facility for the South Peak expansion area (for Loon Mountain Ski Area) until a more substantial ski base lodge could be constructed.

Over time, the number of people served at the Pemi Base Camp restaurant may have exceeded the 176 seats and a storage container was placed on the deck and used to serve drinks and provide food for outdoor seating. Occupancy permits from the Fire Chiefs at the time and subsequently, state liquor permits were issued for well in excess of 200 people. In 2021, Mark Bogosian d/b/a South Peak, LLC purchased the property and then took over the operation of the Pemi Base Camp d/b/a NH Restaurant Group, LLC.

Bogosian intended to continue the same scale of operation as before with some improvements. However, the Town and Bogosian recently discovered there was no Site Plan Review approval for any additional indoor seating or the outdoor seating and bar. At some point between 2007 and the present, the restaurant operation at the Pemi Base Camp expanded to include outdoor seating without Site Plan Review approval. Due to the short notice and short ski season, Mark Bogosian would like to get approval to continue to operate the expanded facility for this ski season and then apply for Site Plan Review approval for the expansion to continue the outdoor seating operation at the Pemi Base Camp in the temporary fabric building for the next couple of years to until he is ready to build a proper base camp.

V. PUBLIC PARTICIPATION AND OTHER BUSINESS: Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate.

VI. ADJOURNMENT