

Town of Lincoln Planning Board – Meeting Minutes
February 10, 2010 – 6:00 pm

Planning Board

Present: Chairman Pat Romprey, Vice Chairman Joe Chenard, Selectmen's Representative Peter Moore, John Hettinger, Alternate Charlie Cook and Alternate Tom Adams.

Staff Present: Town Manager Peter Joseph and Administrative Assistant Brook Steiner.

Others Present: Liz Lambregtse, Kristin Clouser, Justin Daigneault, Russ Cooley, Walter Rogers, Alan and Marion Malkasian, Ken Smith, Robert Duval, John Warzocha, Chester Kahn.

I. CALL TO ORDER by the Chairman Pat Romprey; announcement of the excused absences of Deanne Chrystal and Jim Spanos. Joe Chenard steps down as Vice Chairman and is seated in the audience.
Tom Adams and Charlie Cook are seated as alternates.

II. CONTINUATION of an application for Subdivision submitted by Andrew Nadeau for Lincoln South Mountain Partners, LLC (Tax Map 118, Lot 003)
Proposal: Seeks approval to divide existing parcel of land into parcels.
Planning Board: Acceptance of the Completed Subdivision Application.
Public Hearing: Approve or Disapprove the Completed Subdivision Application and

CONTINUATION of an application for Site Plan Review submitted by Andrew Nadeau for Lincoln South Mountain Partners, LLC (Tax Map 118, Lot 003)
Proposal: Seeks approval to construct 5 buildings with twelve (12) units in each building.
Planning Board: Acceptance of the Completed Site Plan Review Application.
Public Hearing: Approve or Disapprove the Completed Site Plan Review Application.

MOTION: John Hettinger made a motion to reopen the Public Hearing of the Planning Board at 6:00PM. Charlie Cook seconded the motion. Motion carries unanimously.

Justin Daigneault, Project Engineer for Horizons Engineering, Inc. (HE) appeared before the Board and introduced John Warzocha, Professional Hydrogeologist for HE. Mr. Warzocha gave the Board a copy of the January 29th Soil and Groundwater Sampling Results for the Rapids Site test pits. He explained that the three test pits were done under the direction of William Willey, Public Works Director. The Town retained Eastern Analytical, Inc. (EAI) to collect the samples.

Mr. Warzocha explained that in general, the results were typical of what you see in the combustion byproducts in coal ash and/or wood ash as it is all over the place on the site. The groundwater samples were analyzed for volatile organic compounds (VOC) and polynuclear aromatic hydrocarbons (PAH). The PAH's detected in the water are most likely related to the ash detected throughout the site. Results of the soil samples did not indicate detection of target VOC and PAH at concentrations exceeding the applicable State of New Hampshire Soil Standards. One metal, beryllium, was detected at concentrations slightly exceeding the applicable State soil standard in samples collected from test pits 1 and 3. NH Department of Environmental Services (DES) is requiring that the owners address the issue in the form of an Ash Management Plan to be reviewed and approved by DES prior to the start of construction.

Town of Lincoln Planning Board – Meeting Minutes
February 10, 2010 – 6:00 pm

Pat Romprey wanted to ensure that this data would be submitted to DES. Mr. Warzocha stated that the first two reports had already been submitted. Mr. Romprey asked about the third report and Mr. Warzocha replied that it would be submitted to DES. Mr. Romprey stated that DES is the governing body over hazardous materials and that the applicant would do whatever DES requires in proceeding. John Hettinger would like a copy of the Ash Management Plan submitted to the Board.

Chester Kahn addressed the Board and stated that he thought that at the last meeting the Board directed Peter Joseph to have third party independent testing done on these sites. He added that this letter of opinion is from HE signed by an HE engineer. The letter is based on HE's interpretation of the lab results. Peter Joseph replied that the Board would be getting a final letter and quality control report from EAI. Mr. Warzocha stated that his numbers are EAI's numbers and the bottom line is that the State of NH will review the results and have the final say.

Kristin Clouser, Counsel for Kahn and Fairways, had a question in respect to the Determination. She stated that if she recalled from the last meeting, there was an additional requirement that a third party provide for the location of where the test pits should be done and the amounts that should be dug based on the plans. Peter Joseph replied that the test pits were determined by him and the Public Work Director based on the layout of the buildings.

Robert Duval stated that the DES has a lot to do as well as many projects and reports to review. They will not necessarily take the time to come to this town. He would like a third party expert involved in the hazardous waste determination. He added that he thinks there is a difference between a layperson and an expert coming in and choosing the test sites. DES will check the information presented to them but Mr. Duval does not think they are in any position to make sure the site is safe.

Mr. Warzocha stated that proper protocol was followed according to the industry standard of characterizing a site. Mr. Duval reiterated that they would like another third party review and that this would give the abutters a level of comfort that enough tests have been completed and an additional evaluation, other than the evaluation done by the applicant's experts will have been done. Pat Romprey asked Mr. Kahn who would be paying for this evaluation. Mr. Kahn replied that it would be at his expense and that he had already contacted a consultant, Haley & Aldrich, to conduct an additional site assessment. Mr. Kahn has multiple concerns including the old town dump and the power plant. He would like to request from the owners permission for Haley & Aldrich to walk the site.

Mr. Romprey stated that he has no issue with Haley & Aldrich reviewing the data however; the owner does not have to let them walk the site. He added that he is not inclined to push this beyond DES as they are the authoritative body. Russ Cooley stated that he would ask his partners whether they minded an additional consultant walking the site.

Marion Malkasian questioned what the Ash Management Plan would cover. Mr. Warzocha replied that it would cover the whole site for phase two. He added that HE had a follow up meeting with DES and DES approved of the characterization that had been done. DES has to approve the Ash Management Plan before the project can move forward. Peter Joseph stated that DES was satisfied with the plan HE had done before and that HE went above and beyond the phase two ESA of what DES required. Mr. Warzocha confirmed that this was the case and that DES did not require any more test pits at this time.

Town of Lincoln Planning Board – Meeting Minutes
February 10, 2010 – 6:00 pm

John Hettinger brought up the fact that a groundwater management permit is required. Robert Duval stated that the groundwater permit really deals with the protection of groundwater and has nothing to do with the project. He added that in this case because of the ash, with the Ash Management Plan being required, it would give the abutters a level of comfort that they are being protected. Mr. Joseph stated that he would converse directly with DES and see if they would like to attend a meeting to address the issues. Mr. Romprey stated that the Board understands the concerns of the abutters however, a private entity cannot overrule a DES ruling. Mr. Warzocha added that the owners are more than willing to address any concerns of DES. Russ Cooley agreed. The developer had nothing further to present.

Peter Joseph informed the Board that they had received letters from Alan and Marion Malkasian and from Liz Lambregtse. The letters were read into the minutes and are to be attached to the approved copy of the meeting minutes.

Justin Daigneault responded to the letters by saying that, in regards to the perpetual open easement, it was not included in the density and to note sheet thirteen of the plans which shows that area was not included. He added that the tennis courts are not being moved even though they haven't been used for a few years. Mr. Romprey questioned whether the recreational easements would remain in tact. Mr. Cooley replied that yes they would. Mr. Romprey questioned whether the utilities have been addressed and Mr. Cooley replied that they had.

Mr. and Mrs. Malkasian, Mr. Kahn, Mr. Rogers and Ms. Lambregtse expressed concerns with the lack of parking as well as heavy traffic and large construction vehicles constantly using the road and creating an unsafe situation. Mr. Cooley mentioned that the road is built according to subdivision regulations and is a standard 24 feet wide. He has measured the width in several places. Tom Adams pointed out that the parking situation is an existing problem and has nothing to do with the new developers. Mr. Cooley commented that this new development should not be a surprise to anyone because it was on everyone's deed when they purchased their property. He suggested that the Board conduct a site visit. Tom Adams agreed and said it should be done during Massachusetts' vacation week which would be the peak of traffic and parking congestion. The Board agreed to conduct a site visit on Tuesday, February 16th at 3:00PM. Mr. Romprey stated that the Board would do their utmost to address the safety issues on Bunker Lane.

Mr. Cooley brought up the easement for the bike path. He mentioned to the Board that when he held a meeting with the abutters only a few of them attended and all parties agreed upon an easement to put a bike path in the open space running along Bunker Lane. Mr. Cooley has also spoken with the Village Core Committee about this project. Mr. Adams would like to see some space set aside for parking a few cars. Mr. Cooley replied that he owns both sides of the river and that the swimming hole can be accessed from the other side. He was not planning to include any parking spots. There was further discussion regarding easements to the swimming hole. Tom Adams would like to see the details of the project's landscaping. Mr. Cooley agreed to provide the Board with a detailed landscaping plan.

MOTION: John Hettinger made a motion to close the public hearing at 7:25PM. Tom Adams seconded the motion. Motion carries unanimously.

Town of Lincoln Planning Board – Meeting Minutes
February 10, 2010 – 6:00 pm

Recess

Mr. Romprey called a five minute recess.

Peter Joseph explained to the Board that in the brief discussions he has had with Town Counsel, he was advised that if the Board continues this meeting until the last Wednesday of the month and if there are still unresolved issues at that meeting, the Board will be beyond their 60 day requirement. Mr. Kahn stated that he would agree to an extension beyond the 60 days. John Hettinger questioned when the third party engineers would have their report completed. Mr. Duval stated that the results would be in prior to the next meeting.

Mr. Romprey brought it to Mr. Cooley's attention that the Town is still investigating whether there are Town easement rights concerning the trail. The Board is unsure about whether the easements were ever eliminated. Mr. Cooley replied that he does not contest this but it is his opinion that the easements are maintenance related. Peter Joseph commented that the Town has recorded plats that show recreation easements. He added that the State of New Hampshire was firm on the easements being included when that land was divided from the paper mill. The matter is questionable to the Town and there are several attorneys looking into it. The Town will advise Mr. Cooley when they what the determination is.

Mr. Romprey asked Mr. Cooley whether he was aware that he had to file with DES regarding the alteration of terrain. Mr. Cooley is aware of this. Mr. Daigneault added that they plan to file according to the current FEMA lines. Mr. Romprey stated that the project would be in a flood plain, below flood level. Mr. Hettinger added that they will not be able to get flood insurance. Mr. Daigneault replied that as far as the buildings are concerned, the project would be conforming to the new FEMA levels.

Mr. Romprey commented that he wants to make sure everyone is on the same page. Regarding the sewer, he advised Mr. Cooley that he needs permission to hook up to it from several parties including RiverGreen, The Links, individual homeowners and The Fairways. Mr. Cooley is aware of that.

Regarding the road conditions, Mr. Romprey made it clear that Mr. Cooley is aware he will have to work on the road and will have to take out a bond. Mr. Romprey stated that at the next Board meeting, the list of conditions would be reviewed as well as safety concerns addressed. However, everything is subject to the pending court case.

III. CONSIDERATION of the Draft Meeting Minutes of 12/09/09, 01/06/10, 01/13/10 and 1/27/2010.

Peter Moore stated that he is not able to approve the minutes until he has had a chance to fully review them. The Board agreed to approve the minutes at their next meeting. Minutes are available to the public in draft form if requested.

MOTION: Peter Moore made a motion to table the minutes of 12/09/09, 01/06/10, 01/13/10 and 01/27/10 to be approved at the next Planning Board meeting. Charlie Cook seconded the motion. Motion carries unanimously.

Town of Lincoln Planning Board – Meeting Minutes
February 10, 2010 – 6:00 pm

The next meeting will be held on February 24, 2010.

MOTION: Tom Adams made a motion to continue the meeting and reconvene at 6:00PM, February 24, 2010. John Hettinger seconded the motion. Motion carries unanimously.

Chester Kahn wanted it noted in the minutes that he objects to having the meeting on February 24, 2010 as the Chairman is not able to be present at that meeting and it is his opinion that the Chairman should be present to uphold the continuity of the project.

IV. CONTINUING & OTHER BUSINESS

Town Warrant

MOTION: Tom Adams made a motion to recommend three articles for the Town Warrant John Hettinger seconded the motion. Motion carries unanimously.

V. ADJOURNMENT

MOTION: Tom Adams made a motion to adjourn at 8:00PM. John Hettinger seconded the motion. Motion carries unanimously.

Dated: February 24, 2010

Pat Romprey, Chairman