

Town of Lincoln Planning Board – Meeting Minutes
May 11, 2011 – 6:00 pm

Present: Chairman Pat Romprey, Clerk Jim Spanos (arrived late), John Hettinger, Peter Moore, Deanne Chrystal, Charlie Cook (alternate), and Chester Kahn (arrived late)

Staff Present: Planning & Zoning Administrator Michele Alexander, Town Manager Peter Joseph

Excused Absences: Tom Adams

Others Present: Al & Marion Malkasian

I. CALL TO ORDER by Chairman Pat Romprey at **6:02 PM**

Chairman Pat Romprey called the meeting to order.

II. CONSIDERATION of Draft Meeting Minutes for 03/23/11

P.Moore indicated change to page 1, remove “with”, add “going forward”. Remove “because...” page 1.

MOTION: J.Hettinger made a motion to approve the minutes of 3/23/2011 with changes. P.Moore seconded the motion. The motion carried unanimously (5-0-0).

III. CONSIDERATION of Draft Meeting Minutes for 04/13/11

Charlie Cook sat for Jim Spanos

P.Moore noted a change to page 2, fix typo.

MOTION: J.Hettinger made a motion to approve the minutes of 4/13/2011 with changes. P.Moore seconded the motion. The motion carried unanimously (5-0-0).

IV. CONSIDERATION of an application for a Voluntary Lot Merger submitted by Pat Bahr on behalf of MDR South Peak, LLC.

Proposal: The applicant seeks to merge Tax Map Lots 16 and 17 into Tax Map 118 Lot 039.

Planning Board: Acceptance and review of the completed Voluntary Lot Merger.

Public Hearing: Approve or Disapprove the Voluntary Lot Merger.

Pat Bahr, representing the applicant MDR South Peak, presented the submission of the application.

MOTION: P.Moore made a motion to accept the application as complete. J.Hettinger seconded the motion. The motion carried unanimously (5-0-0).

The Board asked for clarification and the reasoning for the Lot Merger. P.Bahr explained that the two lots, 16 & 17, are to be merged into the larger parcel Lot 39 in order to create the subdivision for Pemi River Cabins. P.Bahr clarified that the new sub-division lots will have different lot lines than the current lot lines of Lots 16 & 17. Members of the Board reviewed the previous and proposed lot lines for the Merger.

MOTION: J.Hettinger made a motion approve the application. D.Chrystal seconded the motion. The motion carried unanimously (5-0-0).

Chair announced Chester Kahn joined the meeting, however was recused due to conflict of interest.

V. CONSIDERATION of an application for a Major Subdivision submitted by Horizons Engineering on behalf of MDR South Peak for the Pemi Cabins Subdivision on Tax Map 118 Lot 039.

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Proposal: The applicant seeks to subdivide 36 lots for single-family homes on Tax Map 118 Lot 039.

Planning Board: Acceptance and review of the completed Major Subdivision Application.

Public Hearing: Approve or Disapprove the Major Subdivision Application.

Pat Bahr, representing the applicant MDR South Peak, presented the submission of the application.

M.Alexander, Planning Administrator, indicated to the Board that the application is complete. She explained a peer review of the site plans have been conducted by H.E Bergeron Engineers Inc. (of North Conway, NH), and the most recent response letter from H.E Bergeron Engineers was received at close of business the day of this meeting, therefore the applicant did not had an opportunity to respond. (Letter on file dated May 11, 2011).

P.Joseph explained the May 11, 2011 letter noted outstanding issues, and that MDR South Peak's engineering firm, Horizons Engineering, had addressed all other issues that were brought forth previously in a letter by H.E Bergeron Engineers Inc. (Letter on file dated May 9th, 2011).

The Board reviewed the application and the letter from Horizons Engineering.

MOTION: P.Moore made a motion to accept the application as complete. C.Cook seconded the motion. The motion carried unanimously (5-0-0).

Public Hearing Opened

Al & Marion Malkasian, representing the Links Homeowners Association, spoke. They asked for clarification on the type of buildings, the number of homes, and locations. P.Bahr explained the subdivision would be 36 single-family homes on South Peak Road and a cul-de-sac off of South Peak would be built.

Public Hearing Closed

The Chair addressed Town staff to provide comment on the letter received from H. E. Bergeron.

P.Joseph explained that he had a brief email exchange with H.E Bergeron Engineers Inc. after the letter had been received. He explained that since the Master Plan for the project had been approved in 2006, that NHDES granted a vested rights exemption for the project from the most recent Shoreland Protection Act, therefore the point raised by H.E Bergeron Engineers Inc. in the letter, bulleted item four, is not an issue.

M.Alexander read the prepared staff recommendations for conditions of approval.

Staff recommends the following as an administrative condition precedent, to be met before signature and recording of the plat for the subdivision:

1. The applicant agrees to provide payment directly to H.E Bergeron Engineers for all cost for peer review associated with this application.

Staff recommends the following as administrative conditions subsequent, to be met prior to issuance of a Building Permit:

1. The applicant agrees to adhere to the Town's Flood Plain District Regulations for any portion of the project which does, in fact, fall within the 100 year flood plain. Planning Board approval of the subdivision of land does not imply approval that the conceptual single-family homes indicated on the plans have met the Town's Flood Plain District Regulations. The applicant agrees to provide the Planning Board with a stamped plan from a licensed structural engineer that indicates that the proposed construction of any building located within the flood plain boundaries has been designed in accordance with the Town's Flood Plain District Regulations.

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2. The applicant understands that building in a flood plain carries with it certain risks, costs, and liabilities, which are greater than building in a non flood plain area. The applicant agrees to assume those risks, costs and liabilities.
3. The applicant shall pay the current fees for new buildings in place at the time of building permit application.
4. The applicant shall obtain all applicable State and Federal permits and plan approvals and provide copies to the Town of Lincoln.
5. The applicant will honor applicable agreements contained within the Planning Board approved South Peak Resort Master Plan.
6. The applicant shall supply a performance guarantee in the amount of 100% of the cost of construction of site improvements. Said value shall be determined by the Town of Lincoln. The performance guarantee shall be in place before the sale of any lots. The performance guarantee shall be in the form of an irrevocable letter of credit or equivalent guarantee acceptable to the Town of Lincoln.
7. The applicant accepts full responsibility for maintenance of roadways and infrastructure located on the property.

M.Alexander noted these recommendations, are in addition to the recommendations of the peer review by H.E Bergeron Engineers Inc. She noted that if the Board accepted these conditions, it would address bulleted item one from the May 11, 2011 H.E Bergeron Engineers Inc. letter.

C.Cook asked that “in perpetuity” be added to item 7 of staff recommended conditions, the Board discussed and agreed. M.Alexander noted this change would be in line with the intent of the project Master Plan.

P.Bahr asked the Board if the performance guarantee was a new condition required, as she did not recall this as a condition of approval for previous development in the project. The Chair explained that the Planning Board had determined last year that this became a condition of approval going forward for developments which build roads and infrastructure, and MDR South Peak is the first applicable project that the Board has seen since the performance guarantee decision has been made. P.Joseph concurred that this project is not being singled-out. Issues with other projects in Town led the Planning Board to reevaluate its previous position to not require performance bonds for major projects. Thus, the Board decided it will require performance bonds going forward to protect the Town and property owners. P.Joseph noted the Town of Lincoln Land Use regulations allow the Planning Board to require a performance bond at its discretion.

P.Bahr asked if it is acceptable to break down the request for performance guarantees into the intended phases of the project. The Board and Staff have no issue with that approach, and the Chair suggested the Town work with the applicant to create proposed language for this condition of approval.

The Chair requested the applicant address bulleted items two and three of the May 11th letter. P.Bahr and Horizons Engineering brought the plans forward to the Board to point to and indicate the areas in issue on the plans that the H.E Bergeron Engineers Inc. letter raised and assured the Board these issues will be addressed and corrected on the plans. The Board visually reviewed these issues on the plans.

The Chair asked for staff opinion on the application in terms of the outstanding issues raised in the May 11th letter. M.Alexander responded that the applicant needs to address all of the issues raised in bulleted points two and three to the satisfaction of H.E.Bergeron Engineers Inc., especially the problems identified with the basins, and this requirement should be at minimum a condition of approval.

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The Chair addressed the applicant, announcing that the Board would not approve the application until the issues were addressed and brought back before the Board.

MOTION: J.Hettinger made a motion for a continuance of the application to the next Planning Board Meeting. P.Moore seconded the motion. The motion carried unanimously (5-0-0).

VII. CONTINUING & OTHER BUSINESS (Staff and Planning Board Member/Alternates).

The Chair announced a 15 minute recess at 6:45 pending the appointment with Randy Farwell.

The Chair announced that Jim Spanos arrived at the meeting. Charlie Cook resumed as unseated alternate. Randy Farwell arrived for his appointment with the Board and the Chair resumed the meeting.

A. Appointment with Randy Farwell regarding Alpine Adventures tourist attraction on property owned by Pemi Valley Custom Homes on Tax Map 112 Lot 053.

The Chair asked Randy Farwell to meet with the Board to be kept apprised of the changes made to his tourist attraction Alpine Adventures. The Chair noted that in the approval of the initial tourist attraction regarding the ropes course in June 2009, R.Farwell had indicated to the Board he would keep them notified of structural changes to the ropes course. R.Farwell explained he had made changes and improvements to the rope course to keep the course exciting for patrons. The Chair complemented R.Farwell on the improvements.

The Chair and Board requested an update on the retail location, and parking. R.Farwell indicated the properties share parking, and the retail location sells items associated with the Alpine Adventures experience with the businesses running as one entity.

The Chair asked staff for opinion. P.Joseph noted that the file and meeting minutes for the Alpine Adventures plan approval had been reviewed by staff, and had been discussed with R.Farwell. M.Alexander noted that the Staff recommendation is that the Board utilize this appointment to clarify their expectations for R.Farwell and his businesses moving forward. She also noted that selling tickets for Alpine Adventure at the retail location constituted a Tourist Attraction use of the property according to Lincoln Land Use Ordinances. R.Farwell explained selling tickets had been a customary use of this property in the past. The Board raised no issue with the sale of tickets, but suggested R.Farwell explore the option of changing the retail property to mixed-use to include tourist attraction or merge the lots. P.Joseph noted that these recommendations had been suggested to R.Farwell in the past. R.Farwell expressed the suggestions are not a desirable option for maintaining the value of the properties for re-sale in the future.

The Chair advised R.Farwell going forward that the expectation is he is to notify the Board of any structural changes that would raise concern with abutters in advance of the changes being made.

B. Mike Donahue – Question regarding driveway/street requirements for minor subdivision (3 lots utilizing shared driveway).

Mike Donahue did not attend the meeting.

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C. P.Moore requested staff continue researching the disbanded Pemi River Preservation Society land.

VIII. REVIEW AND COMMENT on the MATRIX REPORTS and OPEN FILES pertaining to:

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

Staff clarified several application details.

IX. PUBLIC INPUT on Specific Issues

No comment was made.

X. ADJOURNMENT:

MOTION: D.Chrysal made a motion to adjourn the meeting. J.Spanos seconded the motion. The motion carried unanimously (6-0-0).

The meeting was adjourned by the Chair at 7:16 pm.

Dated: May 11, 2011

Pat Romprey, Chairman