

APPROVED

**PLANNING BOARD MINUTES
PLANNING BOARD 2ND MONTHLY MEETING & PUBLIC HEARING**

Wednesday, September 27, 2023 – 6:00 PM

Planning Board Public Meeting

*Lincoln Town Hall, 148 Main Street, Lincoln NH

*Hybrid meeting available both in person & via Zoom Meeting Platform to allow for town wide participation. A quorum of Planning Board members 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, the public is welcome to participate remotely using ZOOM. Planning Board Meetings can be attended in-person at the Town Hall Building. Recordings of all Planning Board meetings can be found at www.youtube.com (Lincoln NH Planning Board Meeting 09-27-2023). Zoom access is for your convenience; use at your own risk. If any technical difficulties or if ZOOM should go down, the meeting will NOT be rescheduled.

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Meeting ID: 817 0076 6161

Passcode: 179696

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

I. CALL TO ORDER by the Chairman James Spanos

Planning Board Members Present: Chair James Spanos, Vice-Chair Joseph Chenard, Selectmen's Representative OJ Robinson, Member Stephen Noseworthy, Member Paul Beaudin

Planning Board Member Excused: Alternate Mark Ehrman and Alternate Danielle Black

Staff Present: Town Manager Carina Park (via Zoom), Planner Carole Bont

Consultant: Jason Dennis, Esq. (Hastings Law Office, PA) (via Zoom)

Guests Present:

- **David W. Beaudin**, nonresident, with an address and co-owner with Mary Conn of 240 Eastside Road, North Woodstock NH 03262. (Via Zoom).
 - Lincoln Water Plant Operator
- **Mark Bogosian**, nonresident, (**APPLICANT and ABUTTER**) d/b/a:
 - **FC-Loon, LLC**
 - 367 Main Street, Falmouth, MA 02540
 - **Longfellow Design Build**
 - 367 Main Street, Falmouth, MA 02540
 - **Longfellow Design Build**
 - 866 Main Street, Osterville, MA 02655
 - **Longfellow Design Build NH**
 - 9 Riverside Terrace Drive 2C, Lincoln, NH 03251
 - **Loon Slopeside, LLC**
 - c/o Longfellow Design Build NH, 9 Riverside Terrace Drive 2C, Lincoln, NH 03251
 - Owned by Loon Slopeside, LLC

- **Main Street Lincoln Investments, LLC**
 - 866 Main Street, Osterville, MA 02655
 - **New Hampshire Adventures Real Estate, LLC**
 - Mailing Address: 850 Main Street, Falmouth, MA, 02540
 - Principal Office: 481 US Route 3, Lincoln, NH 03251
 - **New Hampshire Restaurant Group, LLC**
 - 367 Main Street, Falmouth, MA 02540
 - **New Hampshire Waterpark Adventures LLC**
 - Mailing Address: 850 Main Street, Falmouth, MA, 02540
 - Principal Office: 481 US Route 3, Lincoln, NH 03251
 - **South Peak, LLC & South Peak Resort**
 - 367 Main Street, Falmouth, MA 02540
 - **The Rapids at South Peak LLC**
 - 866 Main Street, Osterville, MA 02655
 - **Waterside Companies LLC**
 - 850 Main Street, Falmouth, MA 02540
- **Mark Bogosian, nonresident, (APPLICANT and ABUTTER) d/b/a and owning the following properties:**
 - A. South Peak Resort Holdings:**
 1. Mark Bogosian, a developer who owns the following under his own name, **Mark Bogosian** c/o Longfellow Design Build, Inc., 866 Main Street, Osterville, MA 02655:
 - **43 Crooked Mountain Road** (Map 121, Lot 011) (0.56 Acres)
 2. Mark Bogosian, a developer who owns the following property under the name “**Loon Slopeside, LLC**”:
 - **9 Riverside Terrace #2C**, (Map 118, Lot 039001-02-0000C) (sold 6/2/2023 to Anthony J. Reo (Book 4802/Page 041) for \$715,000)
 3. Mark Bogosian, a developer who owns the following properties d/b/a “**FC-Loon, LLC**”). At the time of his purchase of the main South Peak Resort development; he also purchased the FC-Loon LLC and therefore now owns “FC-Loon, LLC” and its assets:
 - Crooked Mountain Road #100 (Map 118, Lot 018)
 - Crooked Mountain Road #101 (Map 118, Lot 019)
 - Crooked Mountain Road #102 (Map 118, Lot 020)
 - Crooked Mountain Road #103 (Map 118, Lot 021)
 - Crooked Mountain Road #104 (Map 118, Lot 022)
 - Crooked Mountain Road #105 (Map 118, Lot 023)
 - Crooked Mountain Road #106 (Map 120, Lot 001)
 - Crooked Mountain Road #107 (Map 120, Lot 002)
 - Crooked Mountain Road #108 (Map 120, Lot 003)
 - Crooked Mountain Road #109 (Map 120, Lot 004)
 - Crooked Mountain Road #110 (Map 120, Lot 005)
 - Crooked Mountain Road #111 (Map 120, Lot 006)
 - Crooked Mountain Road #112 (Map 120, Lot 007)
 - Crooked Mountain Road #113 (Map 121, Lot 049)
 - Crooked Mountain Road #114 (Map 121, Lot 051)
 - Crooked Mountain Road #115 (Map 120, Lot 022)
 - Crooked Mountain Road #116 (Map 120, Lot 021)
 - Crooked Mountain Road #117 (Map 120, Lot 023)

- Crooked Mountain Road #118 (Map 120, Lot 024)
- Crooked Mountain Road #119 (Map 120, Lot 025)
- Crooked Mountain Road #120 (Map 120, Lot 026)
 - (Added after purchase of FC-Loon, LLC)
- Crooked Mountain Road #121 (Map 120, Lot 027)
- Crooked Mountain Road #122 (Map 118, Lot 035)
 - (Added after purchase of FC-Loon, LLC)
- Crooked Mountain Road #123 (Map 118, Lot 036)
 - (Added after purchase of FC-Loon, LLC)
- Crooked Mountain Road #124 (Map 118, Lot 037)
 - (Added after purchase of FC-Loon, LLC)
- Crooked Mountain Road #125 (Map 118, Lot 038)
- 24 Crooked Mountain Road (Map 121, Lot 021)
 - (Added after purchase of FC-Loon, LLC)
- South Peak Road (Map 121, Lot 060)
 - (Added after purchase of FC-Loon, LLC)
- South Peak Road (Map 121, Lot 071)
 - (Added after purchase of FC-Loon, LLC)
- ~~South Peak Road (Map 117, Lot 128)~~
 - ~~(Added after purchase of FC-Loon, LLC)~~
 - sold 10/3/2022 to Lot PR8 LLC, 55 Hosmer Street, West Boylston, MA 01583 for \$370,000 – assessed for \$195,700.

4. Mark Bogosian, a developer who owns the following properties d/b/a “**South Peak LLC**”) as purchased from CRVI South Peak TRS, Inc. All properties currently owned by South Peak, LLC, 367 Main Street, Falmouth, MA 02540 are as follows:

- **South Peak Road** (Map 118, Lot 039) (95.71 Acres)
- **Parcel 2 #LO** (Map 118, Lot 040) (93.93 Acres)
- **Parcel 1 #LO** (Map 119, Lot 003) (32.1 Acres)
- **LO SS East Branch River** (Map 119, Lot 004) (53 Acres)
- **179 South Peak Road** (Map 121, Lot 028) (0.76 Acres)
 - Added after purchase from CRVI South Peak TRS, Inc.
- **170 South Peak Road** (Map 121, Lot 046) (0.46 Acres)
- **Crooked Mountain Road #LO** (Map 121, Lot 050) (0.56 Acres – site of Pemi Base Camp)
 - Added after purchase from CRVI South Peak TRS, Inc.
- **139 South Peak Road** (Map 124 Lot 040) (0.72 Acres)
 - Added after purchase from CRVI South Peak TRS, Inc.
- **144 South Peak Road** (Map 124, Lot 046) (0.72 Acres)
 - Added after purchase from CRVI South Peak TRS, Inc.
- **South Peak L/O** (Map 124, Lot 066) (28.28 Acres)

B. Village Shops:

1. Mark Bogosian, a developer who owns the following properties d/b/a “**Main Street Lincoln Investments, LLC**”) as purchased from Village Shops, ICH. Property currently owned by Main Street Lincoln Investments, LLC, 866 Main Street, Osterville, MA 02655 is as follows:

- **25 South Mountain Drive #16** (Map 118, Lot 046) (3.47 Acres)

C. The Rapids:

1. Mark Bogosian, a developer who owns the following property d/b/a **The Rapids at South Peak, LLC**, 866 Main Street, Osterville, MA 02655 the development known as “The Rapids” was purchased in 2022 from Weston (Wes) Graves & Russell (Russ) Cooley d/b/a Lincoln South Mountain Partners, LLC:

- **Main Street #LO** (Map 118, Lot 003) (Has 3 Billboards: Indian Head Resort, Century 21 & RiverWalk.) purchased in 2022-07-01. For \$4,200,000.

D. The Paper Mill Dump Site (just north of the Town Offices):

1. Mark Bogosian, a developer who owns the following properties d/b/a **Main Street Lincoln Investments, LLC** 866 Main Street, Osterville, MA 02655 purchased from Thaddeus Presby d/b/a T&T Mtn Investments, LLC who subdivided the property into three lots; subdivided lot (Map 118, Lot 002) was known as Main Street #D LO. Bogosian d/b/a Main Street Lincoln Investments, LLC purchased 2 of the 3 newly subdivided lots (Map 118, Lot 002.1) and (Map 118, Lot 002.2) in 2022-06-24 for \$1,200,000. Lots have toxic waste on the lot buried by the papermill:
 - **A portion of Main Street #D LO** (Map 118, Lot 002001 [1.42 Acres]
 - **A portion of Main Street #D LO** (Map 118, Lot 002002) [0.95 Acres]

E. The Pemigewasset River Base Camp – Loon Mountain Recreation Corporation owns the Building Only. Mark Bogosian d/b/a South Peak LLC owns the land underneath the building, AND...

1. Mark Bogosian is ALSO doing business as a caterer operating out of the Pemi Base Camp now d/b/a **NH Restaurant Group, LLC**, 367 Main Street, Falmouth, MA 02540 and on 11-16-2022 requested a Restaurant Beverage/Wine license at 75 Crooked Mountain Road (the Pemi Base Camp building) owned and operated by Loon Mountain Recreation Corporation on land owned by Mark Bogosian d/b/a South Peak, LLC. He is providing catering services in the temporary structure on:
 - **75 Crooked Mountain Road** (Map 121, Lot 050) (0 Acres – Pemi Base Camp building only) owned by the Loon Mountain Recreation Corporation.

F. Alpine Adventures

1. Mark Bogosian is also d/b/a Alpine Adventures. Alpine Adventures was purchased by Mark Bogosian d/b/a **New Hampshire Adventures Real Estate, LLC**, 850 Main Street, Falmouth, MA 02450, on 5/26/2023 (Book 4802, Page 433) for \$1,290,200 from N.L.I., Inc., formerly owned by ten (10) investors including: OJ Robinson & Jeffrey C. Woodward d/b/a N.L.I., Inc. and prior to that N.L.I., LLC, PO Box 67, Lincoln, NH 03251-0067.
 - **41 Main Street** – Alpine Adventures (Map 112, Lot 052) Store/Shop (0.11 Acres).
 - **43 Main Street** – House (Part of Alpine Adventures (Map 112, Lot 053) House, (0.79 Acres).
 - **45 Main Street** – (Part of Alpine Adventures) (Map 112, L054) (0.22 Acres) includes portions of climbing structure, & 2 ½ story mixed use buildings (Alpine Adventures retail downstairs, apartment(s?) upstairs).

G. Whales Tale Waterpark

1. Mark Bogosian is also d/b/a Whales Tale Waterpark. Whales Tale Waterpark real estate was purchased by Mark Bogosian d/b/a **New Hampshire Adventures Real Estate, LLC**, 850 Main Street, Falmouth, MA 02540 [and the business was purchased by Mark Bogosian d/b/a New Hampshire Waterpark Adventures, LLC and d/b/a Whales Tale Waterpark, LLC]. The real estate and the business were formerly owned by ten (10) investors including OJ Robinson & Jeffrey C. Woodward d/b/a N.L.I., Inc. and prior to that N.L.I., LLC, PO Box 67, Lincoln, NH 03251-0067.
 - **481 US Route 3** (Map 105, Lot 027) sold on 5/26/2023 (Book 4802, Page 428) for \$3,838,733).
 - Mailing Address: 850 Main Street, Falmouth, MA, 02540
 - Principal Office: 481 US Route 3, Lincoln, NH 03251

- **James (Jim) F. Burns**, resident (**AGENT FOR APPLICANT MARK BOGOSIAN D/B/A SOUTH PEAK, LLC AND FC-LOON LLC**), and co-owner of the following four (4) properties:
 - James F. Burns & MacKenzie Gaudet, 36 LaBrecque Street, Lincoln, NH 03251 owns the following:
 - 36 LaBrecque Street (Map 113, Lot 021)
 - James F. Burns & MacKenzie Brigid Gaudet, 36 LaBrecque Street, Lincoln, NH 03251 owns the following:
 - 23 Hummingbird Road #1 (Map 114, Lot 027000-0L-00089)
 - James F. Burns & MacKenzie Brigid Gaudet d/b/a Black Sheep Properties, LLC, 36 LaBrecque Street, Lincoln, NH 03251 owns the following:
 - 34 Franklin Street (Map 113, Lot 010)
 - Franklin Street #LO (Map 113, Lot 009)
- **James (Jim) F. Burns**, 36 LaBrecque Street, Lincoln, NH 03251 (via Zoom) **Acting as:**
 - A. Business Development for South Peak Resort, now owned by:
 - Mark Bogosian d/b/a FC-Loon, LLC, 367 Main Street, Falmouth, MA 02540; (30 Lots); and
 - Mark Bogosian d/b/a South Peak, LLC, 367 Main Street, Falmouth, MA 02540 (6 Lots).
 - B. Manager of The Village Shops Shopping Center, purchased by:
 - Mark Bogosian d/b/a Main Street Lincoln Investments, LLC, 866 Main Street, Osterville, MA 02655 where Longfellow Design Build Osterville, 866 Main Street, Osterville, MA 02655 is also located.
 - C. Business Development for Longfellow Design Build owned by:
 - Mark Bogosian d/b/a Longfellow Design Build, 367 Main Street, Falmouth, MA 02540.
 - D. Business Development for Longfellow Design Build NH, owned by:
 - Mark Bogosian d/b/a Longfellow Design Build NH, located at 9 Riverside Terrace Drive 2C, Lincoln, NH 03251 (property owned by Mark Bogosian d/b/a Loon Slopeside, LLC) (Map 118, Lot 039001-02-0000C).
- **Susanne (Susan) A. Chenard**, resident (via Zoom)
 - of 11 Liberty Road, Lincoln NH 03251 (Map 107, Lot 061)
 - Owns the following:
 - 19 Maple Street (Map 118, Lot 069).
 - Realtor for Loon Reservation Service, 264 Main Street, Suite 12, PO Box 785, Lincoln, NH 03251-0785
 - Alternate member of the Zoning Board of Adjustment.
- **John (Jack) Daly**, resident
 - of 186 Black Mountain Road, Lincoln, NH 03251
 - Co-trustee with Donna Daly of John & Donna Daly Living Trust, PO Box 450, Lincoln, NH 03251-0450 which owns the following:
 - 186 Black Mountain Road (Map 130, Lot 097)
 - Board of Selectmen member invited by Planning Board to attend
 - ZBA member
- **Adam Fischer**, nonresident (via Zoom)
 - Managing Partner, Orsorno Capital, 1045 Mission Street, Apt 486, San Francisco, CA 94103-5818 (via Zoom)
- **“iPhone13”** – is an unidentified participant #1 who named their computer handle, “iPhone13” (via Zoom).

- **Andrea S. Karpinski, nonresident, (via Zoom)**
 - Of 217 Spofford Road, PO Box 324, Auburn, NH 03032-0324
 - Lincoln Financial Group, 150 N Radnor Chester Rd Ste A305, Wayne, Pennsylvania, 19087
- **Derek D. Lick, Esq. nonresident (ATTORNEY FOR APPLICANT MARK BOGOSIAN D/B/A SOUTH PEAK, LLC AND FC-LOON LLC)**
 - *Formerly with Sullivan & Hollis, now with Orr & Reno, 45 South Main Street, P.O. Box 3550, Concord, NH 03302-3550.*
 - Attorney for Applicant Mark Bogosian d/b/a South Peak Resort developer
- **Scott P. Miccile, P.E., nonresident, (via Zoom) (AGENT/ENGINEER FOR APPLICANT MARK BOGOSIAN D/B/A SOUTH PEAK, LLC & FC-LOON, LLC)**
 - **Scott Miccile, P.E.,** Civil Engineering & Land Development Director for Longfellow Design Build, Inc., 367 Main Street, Falmouth, MA 02540.
 - In-house Engineer for Applicant Mark Bogosian d/b/a South Peak Resort developer
- **Andrew Nadeau, LS, PLS, nonresident (AGENT/SURVEYOR FOR APPLICANT MARK BOGOSIAN D/B/A SOUTH PEAK, LLC AND FC-LOON LLC)**
 - President, Principal Surveyor of Horizons Engineering, Inc., 34 School St., Littleton, NH 03561
 - Surveyor for Applicant Mark Bogosian d/b/a South Peak Resort developer
- **Frank Pasciuto, resident, 16 Valley View Lane, PO Box 192, Lincoln, NH 03251-0192 and**
 - Co-owner with Virginia Marie Pasciuto, of 16 Valley View Lane, PO Box 192, Lincoln, NH 03251-0192 (Map 114, Lot 046) and
 - Co-owner with Virginia Marie Pasciuto of 10 Green Ridge Road #2 (Map 113, Lot 067000-02-00004) with address of 58 Norman Road, Melrose, MA 021676.
- **Virginia (“Ginie”) Marie Pasciuto, resident, 16 Valley View Lane, PO Box 192, Lincoln, NH 03251-0192 and**
 - Co-owner with Frank Pasciuto of 16 Valley View Lane, PO Box 192, Lincoln, NH 03251-0192 (Map 114, Lot 046) and
 - Co-owner with Frank Pasciuto of 10 Green Ridge Road #2 (Map 113, Lot 067000-02-00004) with address of 58 Norman Road, Melrose, MA 021676.
- **Paul Rogers, resident, 9 Riverside Terrace #2E, PO Box 758, Lincoln, NH 03251-0758.**
 - Co-Trustee with Maureen E. Parkin, of Rogers-Parkin Family Trust, 9 Riverside Terrace #2E, PO Box 758, Lincoln, NH 03251-0758, owners of:
 - 9 Riverside Terrace #2E (Map 118, Lot 039001-02-0000E)
- **Jon Warzocha, P.G., nonresident, (AGENT/ENGINEER FOR APPLICANT MARK BOGOSIAN D/B/A SOUTH PEAK, LLC AND FC-LOON LLC)**
 - CEO of Horizons Engineering, 34 School Street, Littleton, NH 03561
 - Working for Applicant Mark Bogosian d/b/a South Peak Resort developer.
- **Robert (Robby) Welsh, Jr., nonresident, (APPLICANT)**
 - **d/b/a Welsh Realty Apartments,** 143 Central Street, PO Box 147, Woodsville, NH 03785-0147 and
 - **d/b/a Jettison, LLC,** PO Box 147, Woodsville, NH 03785 with father Robert (Big Bob) Welsh, Sr.
 - Jettison, LLC is owner of the subject property and manufactured homes listed under his father’s name below.

- **Robert (Big Bob) Welsh, Sr., nonresident, (APPLICANT)**
 - **d/b/a Welsh Realty Apartments**, 143 Central Street, PO Box 147, Woodsville, NH 03785-0147 and
 - **d/b/a Jettison, LLC**, PO Box 147, Woodsville, NH 03785 with his son Robert (Robby) Welsh, Jr.
 - **Jettison, LLC** is owner of the land that supports the density associated with the Manufactured Housing Park:
 - **Manufactured Housing Park Lot:** Map 108, Lot 037 US Route 3 #LO – vacant land (1.3 Acres) used as the land to support a Manufactured Housing Park.
 - **Jettison, LLC**, is owner of six (6) of the nine (9) existing manufactured homes located on the lot that initially supported twelve (12) manufactured homes on the Manufactured Housing Park land.
 - **Manufactured Homes located on the Manufactured home Park Lot include:**
 - M108 L037-MH-00001 owner: Jettison LLC - 8 Mayford Lane
 - ~~M108 L037-MH-00002 owner: Marleen Caron – 5 Burts Way~~
 - M108 L037-MH-00003 owner: Jettison LLC - 13 Burts Way
 - ~~M108 L037-MH-00004 owner: Cheung Kwai Chow – 1 Burts Way~~
 - M108 L037-MH-00005 owner: no manufactured home
 - ~~M108 L037-MH-00006 owner: Denis Mulleavey – 10 Mayford Lane~~
 - M108 L037-MH-00007 owner: Jettison LLC - 7 Burts Way
 - M108 L037-MH-00008 owner: Jettison LLC - 7 Mayford Lane
 - M108 L037-MH-00009 owner: Jettison LLC - 6 Burts Way
 - M108 L037-MH-00010 owner: no manufactured home
 - M108 L037-MH-00011 owner: Jettison LLC - 11 Mayford Lane
 - M108 L037-MH-00012 owner: no manufactured home

Chair Spanos excused Planning Board alternates Mark Ehrman and Danielle Black.

I. CONSIDERATION of meeting minutes from:

A. September 13, 2023 (Wednesday)

1. Chair James Spanos, Vice-Chair Joseph Chenard, Selectmen's Representative OJ Robinson, Member Stephen Noseworthy, Member Paul Beaudin

Motion to approve meeting minutes.

Second. All in favor

I. CONTINUING AND OTHER BUSINESS

A. South Peak Resort Revised Master Plan: Planning Board Discussion of South Peak Resort Master Plan and whether to accept proposed revisions to the 2007 South Peak Resort Master Plan

1. Board of Selectmen invited to attend; not a joint board meeting.

Presentation: Applicant Mark Bogosian and his Attorney Derek Lick

Dwelling Unit Counts and Bedroom Counts

Applicant Mark Bogosian presented Dwelling Unit Counts prepared by the developer South Peak, LLC, which were handed out to the Planning Board members by Planner Carole Bont.

Applicant Bogosian said he was looking to the Planning Board for clarification based on input received

previously from the Planning Board (PB) and Board of Selectmen (BOS). In an effort to continue to get back information, Bogosian would like to make sure South Peak, LLC “provides as many details as possible from an association standpoint”. We will be doing self-monitoring with regard to what has been built. What is being proposed to be built. He will continue to update those numbers as they continue to come in.

1. How many units have been built to date?
2. How many units have been proposed to be built?
3. What changes are proposed? For example, are we changing a single-family lot into a duplex or a multi-family building? Or are we just doing renovations or adding a bedroom.

According to Applicant Bogosian, before they purchased the South Peak Resort development, there were one hundred seventy (170) dwelling units already constructed. In his opinion, that is the starting point for the Master Plan.

Applicant Bogosian said that getting a detailed bedroom count is a lot more complicated than he anticipated. For example, the Town records (i.e., property tax assessment cards) say Bogosian has a 9-bedroom house. He assures the PB he has only five (5) bedrooms in his house. Bogosian said “the Town records are showing a lot of discrepancies” that they need to dive into.

[Note: Actually, the property tax assessment card for Mark Bogosian says his house at 43 Crooked Mountain Road (Map 121, Lot 011) has a total of 9 “rooms” which include 5 bedrooms and 5 ½ bathrooms.]

Applicant Bogosian said as president of the HOA, the HOA can track the number of bedrooms in the houses that are being proposed. However, the HOA does not know how any bedrooms have been created to date.

Applicant Bogosian said they are also paying much more attention to the site development and the landscaping and areas not to be disturbed. You will notice driving through the South Peak development now, there is a lot more caution tape much more accurately laid out. In addition, the HOA has added new restrictions that require South Peak builders to do things in manner that shows they, at South Peak Resort, share the Towns' common theme, “Let’s build this out to be a beautiful project.” We are also trying to retain all of the attributes that Lincoln has.

Applicant Bogosian said he wants to make clear what that bedroom count is something he as the developer is still working on by contacting homeowners and trying to get up-to-date information.

Chair Spanos asked “Does your [homeowners’] association have any authority to inspect houses?”

Applicant Bogosian’s Answer- “Yeah. It’s a little gray.” “We’ve approved it. We’ve signed off on it. Now we’d like to go in there and see everything.” A lot of people are happy to oblige, however, some who are not in the area will question why. We need to make sure we coordinate that as we move forward.

Applicant Bogosian assured Planning Board that going forward, “they” [the developer and HOA] will do a better job of tracking buildings completed, buildings under construction, buildings removed, buildings permitted and buildings proposed. They also will keep an eye on construction quality, retaining walls, time of construction, what’s being done, that Land Use Authorization Permits are being issued by the Town prior to commencing work, and after the construction is complete, that the contractors receive a sign off from the Town (i.e., a Land Use Compliance Certificate); much more onsite management.

Master Plan

Applicant Bogosian said re: the Master Plan for South Peak Resort. He will not be giving his Master Plan presentation again. He will be answering questions from that presentation.

8-Lot Subdivision

Looking at the handout showing the number of dwelling units for the recently approved eight (8) lot subdivision on Crooked Mountain Road (8 CMR) proposed on 7/12/23, Chair James Spanos asks why the handout only shows a "Unit 1" or only one (1) new dwelling unit is proposed to be created. What does that mean? There are eight (8) lots in that subdivision.

Applicant Bogosian replies he has created only one (1) new lot because originally (with the prior owners) the Planning Board approved seven (7) lots for that same area along Crooked Mountain Road. With the new eight (8) lot subdivision in the same area, the lot lines for each of the seven (7) pre-existing lots were adjusted and then they created just one (1) additional new lot in that same area. Bogosian said every time that is a new subdivision, he will create a new spreadsheet as a backup.

18-Lot Subdivision

Member Beaudin asks if this eight (8) lot subdivision is part of the additional lots Bogosian presented to the Planning Board that run along the river and by the pump house?

Applicant Bogosian replies that the eight (8) lot subdivision is part of the eighteen (18) lot subdivision. Those were eighteen (18) new additional lots that were created and approved. Then Bogosian removed some lots.

41-Unit Fireside Subdivision

Applicant Bogosian says from the existing approved subdivided lots he then removed three (3) lots as part of that project to create the forty-one (41) unit Fireside Subdivision. Fireside then created forty-one (41) new, additional units.

Then the eight (8) lot subdivision was seven (7) lot line reallocations with one (1) additional lot on that stretch of Crooked Mountain Road.

Member Beaudin asks shouldn't it be stated that they removed certain lots for dwelling units as part of the September 28, 2022 subdivision and write down what lots for dwelling units were removed so it's on record.

Applicant Bogosian agrees and said he could do the tax maps "in reference" and continue to update. Bogosian said he is also going to duplicate all records for the Town to ensure all records held by him and the Town are in sync.

Water Storage Tank

Member Beaudin requests an update on where the water tank is as far as installation and when it will come on line.

Selectmen's Representative and Chair OJ Robinson answers that the revised location for the water storage tank has been approved by the US Forest Service. The revised location is in the same general area as the original site; however, the new location is more level than the original site, requiring less disturbance. The engineers will be working on the rough design for the revised roadway and utilities up to the revised site and revisions for erecting a tank on that site.

Applicant Bogosian comments that South Peak, LLC's easements and cojoined effort with the Town allows South Peak, LLC to accommodate the shift in location, requiring less cutting of timber, less fill and/or moving the road.

Bedroom Count/Water Capacity/Basis of Design

Member Beaudin asks a follow up question about bedroom counts as it pertains to the Town's commitment to provide adequate water capacity for the South Peak Resort development.

Applicant Bogosian answers, in the Basis of Design, it's not the bedroom count that is the primary concern, it is the adequacy of the water flow to the higher elevations. His current focus for development is currently on lots in within the lower elevation until the water storage tank is installed.

Water Storage Tank

Member Beaudin asks additional follow up questions. Currently the Town is operating two (2) water storage tanks and neither of the tanks has been installed or has worked as designed. His concern is that the water storage tank needs to go in as designed and that the water in that tank needs to support the development the Town has approved and/or permitted to be constructed.

Applicant Bogosian answers, the conjoined effort of the Town and South Peak LLC is creating a better tank for the community and is crucial for all future projects, including the South Peak Resort project.

Member Beaudin would like to know what happens if the new water storage tank doesn't perform as designed.

Vice Chair Chenard provides the example of the Forest Ridge water storage tank that didn't perform well and how the design company put the tank in at an elevation that was too high. Consequently, the Town has had to pay to keep the water pumping for twenty (20) years. Parameters can be put in place if needed.

Master Plan

Member Beaudin asks Bogosian if he realizes that there has been, in fact, revisions to the original South Peak Resort Master Plan.

Applicant Bogosian responds there is no revision. He is not altering the 2006 Master Plan. He just wants to have more of a question and answer on the existing 2006 Master Plan for South Peak Resort, confirming that he intends to follow the 2006 Master Plan.

Member Beaudin asks a follow up question regarding the forty-one (41) unit Fireside project. The original Master Plan indicated that the area near the ski barn/shed across from the Riverside Terrace was supposed to be an area of low-density development. However, with the Fireside project it is now actually an area of very high-density development. Consequently, the densities for other areas throughout the development must have changed too.

Applicant Bogosian replied that he is still operating under the 2006 Master Plan and will continue to remedy discrepancies in the amount of desired green space from previous developers.

Member Beaudin wants to make sure the South Peak LLC's changes to the Master Plan are transparent to all of the owners within the South Peak Resort, the abutters and the general public. He asks if the property owners who purchased lots or homes in South Peak before Bogosian purchased the remainder of the development are even aware of the changes made by Bogosian d/b/a South Peak LLC. Are those owners notified of proposed changes or are they even aware that there are changes?

Applicant Bogosian responds that every Planning Board meeting he attends is a public meeting. Public meetings give everyone an opportunity to discuss the matters. The original 2006 Master Plan is only the basis

for their South Peak Resort design; it is not the exact design of South Peak Resort. Furthermore, because of the size of the development, the Attorney General's office has specific disclosure requirements that everyone has to be provided. Every time the subdivisions within the development are updated, he goes back to the NH Attorney General's Office (AG) to notify the AG of those changes in the form of disclosures.

Member Beaudin follows up and asks, does that AG's notification include notification to the current residents at South Peak.

Applicant Bogosian responds that every purchaser is obligated to be given that disclosure. These disclosures must be signed off and given back before a real estate closing can happen.

Planner Bont asks if only the new buyer receives that disclosure versus existing owners.

Applicant Bogosian responds that it's only every time someone purchases a lot.

Planner Bont provides an example. For example, if someone purchased a lot in 2007, they received disclosures through the AG's office that were specific to Master Plan of the development that time. In 2023, would owners of units in the Riverside Condominiums receive notification that the density for the land directly across the street from Riverside Terrace could change from a low-density area with a few single-family homes spread out to a densely packed forty-one (41) unit Fireside project? Did those existing unit owners receive notice from Bogosian and the AG's Office about that proposed change or will only new buyers receive notice?

Applicant Bogosian said he notifies buyers that the buyer is buying into a community that is evolving. There is a tremendous amount of oversight within South Peak to include a declarant control period where changes or alterations can happen. Then it would be a revisit to the planning board, requiring checks and balances. These buyers are buying into a multi-use development that will be changing over time.

Member Beaudin says that he doesn't believe that an approved Master Plan is intended to be "generalistic". He does not believe Bogosian is correct. Although the Master Plan is a document that can be changed, when you look at the developer agreement with the Town, the Master Plan is like "the bible you have to go by" so that these matters are fully disclosed whenever people buy a lot. For example, the Master Plan states that there were going to be sidewalks on every road. However, there is not one sidewalk up there. Member Beaudin said he wants to make sure that Applicant Bogosian does not change the Master Plan unless he comes to the Planning Board for approval. Changes to the Master Plan affects both South Peak residents and those in Town because it involves important matters like water, sewer and traffic.

Traffic Study Updates

Member Beaudin brings up the problem with backed up traffic on Main Street/NH Route 112/Kancamagus Highway. Beaudin acknowledges that not all of the backed-up traffic in Lincoln is created by South Peak; however, the traffic studies that were done in 2006 cannot be accurate for today's circumstances. Something has changed in Town or up at South Peak because the traffic is not great from Loon Mountain on down to the exit 32 exit and entrance ramps. All agree that the 2006 traffic study did not anticipate the traffic problems in 2023 when less than half of each approved projects has been fully completed. This is why the members of the Planning Board should continue to request an updated traffic study.

Applicant Bogosian said he understands and expects to hear the Planning Board continue to make these requests as he commits to other projects, like "The Rapids". However, in Bogosian's opinion, he and his predecessors have fulfilled their obligations to the Town with the South Peak Resort project (i.e., including the 2006 traffic study) and will continue to abide by their development agreement.

Vice Chair Chenard recommends that should the Town perform an updated traffic study, that the Town should also involve Forest Ridge Resort as Forest Ridge is going to build an additional 200-300 new units that have

already been approved, but not yet constructed.

Applicant Bogosian advises he should and will contribute to overall traffic studies for new projects not already approved.

Master Plan

Member Beaudin confirms with Applicant Bogosian that in Bogosian's opinion, Bogosian is going off the 2006 South Peak Resort Master Plan.

Bogosian reassures the Planning Board that he is keeping within the character and feel of the South Peak Resort Master Plan of 2006.

Town Engineer Ray Korber reports that things change over time and the whole purpose of having to continually refer back to the Site Plan Review approval and the Subdivision approval for everything else that comes before the Planning Board. From his perspective, the Planning Board's job is to look at that new proposed project and to ask themselves, "Okay, is this project clearly within the bounds of the overall performance standards that we approved within the Master Plan for elements such as traffic, water and sewer, or does this proposed new project go beyond that approval?" Is the density there generally the same as the Master Plan.

Vice Chair Chenard tells Member Beaudin that even though the density of certain phases may change, the overall density has not.

Traffic Study

Member Beaudin asks Applicant Bogosian if he would be willing to commit to a new traffic study tonight.

Applicant Bogosian said he is willing to commit to *contribute* to a traffic study.

Attorney Derek Lick, Applicant Bogosian's attorney, states that his client, Mark Bogosian, has met all his traffic study obligations! Period! End of sentence! His client has met all mitigation measures that were required in 2006. The developer at the time did that mitigation. The Town has confirmed those mitigation measures were sufficient ***all the way to full build out***. His client is under zero obligation to do a traffic study. And mind you, the Town cannot force his client, in any respect to the South Peak Resort development, to do another traffic study.

Member Beaudin asked Town counsel, Attorney Jason Dennis, to confirm.

Attorney Dennis, in reading the amendment, agrees it does say the developers have met their obligation. Unless there is some material change in circumstances that would trigger a statutory ability to deviate from that, but he doesn't think that's the case. Attorney Dennis does agree that the developers have met that obligation.

Attorney Dennis continued that, that if any site plan application is either too inconsistent with the general Master Plan or does not stand on its own merit, the Planning Board has the ability to vote to deny it.

Applicant Bogosian recommends that, in an effort of cooperation, if they can close the book on this South Peak Resort Master Plan discussion and have another discussion with any other developers in town where they can come together and contribute, help fund traffic studies, master planning for the town, street-scaping, parking, discussions on employee housing, affordable housing and not continuing to harp on the South Peak Resort Master Plan.

Selectmen's Representative OJ Robinson suggests that if the Planning Board wants to have further discussions about the traffic that the Board should have that discussion at a different Planning Board meeting or at a Board of Selectmen's meeting. Tonight's meeting is about the South Peak Resort Master Plan. A discussion on traffic at this point is not related to the South Peak matter.

Memorandum Recommending Approval of the Master Plan

Member Beaudin refers to the Memorandum dated ~~June 28, 2023~~, August 21, 2023, from the Technical Review Committee comprised of Town Manager Carina Park, Planner Carole Bont, Town Attorney Jason Dennis and Town Engineer Ray Korber, PE). In the Memorandum the TRT Committee recommended the Planning Board formally vote on accepting (or reaffirming) the 2006 Master Plan. Member Beaudin advises if the Planning Board is going to accept the Master Plan, he needs the following:

1. First, he would at least want to see the Master Plan in its entirety.
2. Second, when looking at the total of 1,018 approved dwelling units for South Peak Resort, he wants to know if each of those 1,018 are supposed to be four (4) bedroom units. Is the Town's control over the total of 1,018 units? Or is the Town's control over the project based on the total for water and sewer capacity as set forth in the Basis of Design?

Chairmen Spanos advises the Town's control pertains to both. First, there is the cap of a total of 1,018 dwelling units in any configuration for South Peak Resort. Second, the developer cannot exceed what has been allocated by the Board of Selectmen to them for the water and sewer capacity based on their Basis of Design.

The Planning Board had more discussion about the number of dwelling units vs. the number of bedrooms used by the Applicant's engineers in calculating how much water and sewer capacity would be needed for South Peak Resort and comparing that capacity to what the South Peak Resort development has already used to date.

Geologist for Applicant, Jon L. Warzocha, P.G., from Horizons Engineering, Inc., states that the Master Plan only mentions dwelling units; it does not mention how many bedrooms are in each unit. And if an issue were to come up about water flow, that would be discussed at future Site Plan Review hearings. Planner Bont presented all the paperwork that, put together, creates the Master Plan. It includes the text, the original Master Plan submission along with a revised page creating the Master Plan package.

Member Beaudin continues to request that the Town and/or the applicant put together in a binder all of the components of the Master Plan together for easier reading.

Applicant Bogosian advises the Planning Board that he can confirm that he has already provided them with the 2006 Master Plan in the "cleanest version".

Member Beaudin feels the Development agreements and the 2006 Master Plan go together.

Applicant Bogosian and his attorney assured the Planning Board that the first Developer Agreement was created over a year later, after the South Peak Resort development had already been approved and therefore, is unrelated to the original Master Plan.

Member Beaudin suggests a little more research if the Master Plan and the Development Agreement are separated.

Selectmen's Representative Robinson makes a motion to accept the specific documents listed in the August 21, 2023 Memorandum from Technical Review Team re: the 2016 South Peak Resort Master Plan; add to that the what's labeled the "June 2023 Update" which is comments to the Master Plan; and consider that whole package the 2006 Master Plan. (See attached August 21, 2023 Memorandum.)

No one seconded the motion.

Green Space or Open Space

Chair Spanos asked a question about the green space requirement.

Applicant Bogosian's Attorney Derek Lick explained that was answered at the last meeting and summarized the discussion again. His client is committed to creating eleven (11) acres of deeded green space.

Motion to Open the Meeting to Public Comment

Seconded. All in favor.

Public Comment:

A community member from Riverside Terrace wanted to clarify the density discussion. He reports that he is an original buyer of a dwelling unit in Riverside Terrace. He clearly understood that changes would be occurring over the years. However, he feels it is confusing to listen sometimes when density is discussed. He is also confused about the Town's concerns about water capacity at the site as he can't imagine there would ever be an issue since all units would never all be occupied at the same time to cause issues.

Another community member from Riverside Terrace said he is still confused about the 1,018 units and who is responsible if the developer gets to the limit of the approved water and sewer capacity before all 1,018 units are built.

Member Beaudin answers, from reports that Applicant Bogosian has discussed earlier, there is plenty of water capacity for what has been developed at South Peak Resort already. Furthermore, Applicant Bogosian is committed to coming back to talk to the Planning Board about the difference in his water needs versus the Town's water capacity as he applies for additional approvals to build the rest of the 1,018 units.

The Riverside Terrace member had a second question. With the other developments going on, if the Town makes commitments to provide water and sewer services to them also, is there a danger that the water will be halted due to the Town approving too many developments? Then what happens?

Selectmen's Representative OJ Robinson advises that as each plan is approved, the Town has established a first-come, first-serve policy as the basis for approving water use. There are several vested projects that have been assured that the Town will provide water and sewer services. The water and sewer capacity calculations take into account all approved units whether they've been built yet or not.

Motion to close public comment

Seconded. All in favor.

Motion made to accept the documents listed in the [August 21, 2023 Memorandum] already read off by Selectmen's Representative OJ Robinson as making up the 2006 South Peak Master Plan and accept the June 28, 2023, supplement comments.

Motion was seconded by Vice Chair Chenard.

Member Beaudin requests that both the PB and developer sign the notebook/package as part of the motion.

All in favor. None opposed.

Short Recess granted at 2.5 hours into the Planning Board meeting

IV. NEW BUSINESS

A. Second Conceptual – Adding Manufactured homes to Pre-Existing Manufactured Home Park:

- 1. Owners:** Robert Welsh ("Big Bob) and Robert Welsh, Jr. ("Robby") d/b/a Welsh Realty Apartments, 143 Central Street, PO Box 147, Woodsville, NH 03785-0147 and d/b/a Jettison, LLC, PO Box 147, Woodsville, NH 03785. Jettison, LLC is owner of the Subject Property.
- 2. Subject Parcel:** Map 108, Lot 037 US Route 3 #LO – vacant land (1.3 Acres) used as the land to support a Manufactured home Park. The subject lot is located in:
 - a. Base flood elevation (formerly known as the 100-Year Flood Hazard Area or flood plain);
 - b. Shoreland Protection Area; and
 - c. General Use District where the front, side and rear setbacks are fifteen feet (15') from the property boundary line.

B. Manufactured homes located on the Subject Parcel:

- a. M108 L037-MH-00001 owner: Jettison LLC - 8 Mayford Lane
- b. ~~M108 L037-MH-00002~~ owner: ~~Marleen Caron - 5 Burts Way~~
- c. M108 L037-MH-00003 owner: Jettison LLC - 13 Burts Way
- d. ~~M108 L037-MH-00004~~ owner: ~~Cheung Kwai Chew - 1 Burts Way~~
- e. M108 L037-MH-00005 owner: no manufactured home
- f. ~~M108 L037-MH-00006~~ owner: ~~Denis Mulleavey - 10 Mayford Lane~~
- g. M108 L037-MH-00007 owner: Jettison LLC - 7 Burts Way
- h. M108 L037-MH-00008 owner: Jettison LLC - 7 Mayford Lane
- i. M108 L037-MH-00009 owner: Jettison LLC - 6 Burts Way
- j. M108 L037-MH-00010 owner: no manufactured home
- k. M108 L037-MH-00011 owner: Jettison LLC - 11 Mayford Lane
- l. M108 L037-MH-00012 owner: no manufactured home

The Manufactured Home Park (formerly known as the “LaRue Trailer Park”) was created prior to the adoption of the Land Use Plan Ordinance in 1986. The oldest Building Permit is from 1987 to add a 9-foot by 8-foot (9’x8’) addition to a pre-existing manufactured home.

There is some evidence in the file that at one time the intention was to have twelve (12) manufactured homes in the park. At this time and for many years there have been less than twelve (12) manufactured homes.

Under the Land Use Plan Ordinance, those spots have been “abandoned” because they have not been in existence for over one (1) year.

Welshes proposal to add more manufactured homes for a total of twelve (12) manufactured homes in the park.

In 2021, the Welshes came in for a conceptual meeting with the Planning Board CON 2021-02 M107, Lot 037.

Presentation by Robert Welsh Sr. & Robert Welsh Jr. d/b/a Welsh Realty Apartments and Jettison, LLC

Discussion of manufactured home park on US Route 3, owned by Jettison LLC. The manufactured home park is located off Burts Way and Mayford Lane. Currently there are eight (8) manufactured homes and Robby Welsh owns six (6) of those with two (2) sites that are rented lots, but not the homes themselves.

There is a time crunch because the Welshes lost a duplex in Woodsville because the building burned down. They would like to reinvest that insurance money within one (1) year. Otherwise, the insurance money will be treated as income. They would prefer to reinvest that money in Lincoln rather than Woodsville.

Applicant Robert Welsh Sr. (“Big Bob”) said there are no concrete pads with storm ties to support any of the manufactured homes, which are now required by the State of NH. All new manufactured homes require concrete pads with storm ties.

A copy of the tax map was presented to show the proposed locations for the new manufactured homes. The Welshes say all of the twelve (12) sites currently have existing water and sewer hookups and electrical meters in the park. The infrastructure is pre-existing.

Is There an Increase in the Number of Manufactured Homes?

Member Beaudin confirms that the owners are not increasing the number of manufactured homes on the lot.

Applicant Robert Welsh, Jr. confirms they are not increasing the number of homes on the lot.

Applicant Robert Welsh, Sr. adds they are increasing the number of manufactured homes that are currently there on the site, but not increasing the number of homes overall that were on the site when he purchased the property years ago.

Planner Bont adds that it’s been several years since those additional manufactured homes were there onsite. The homes were removed years ago and were not replaced within the required one (1) year.

Applicant Robert Welsh, Sr. adds that over the years manufactured homes been pulled out and not replaced.

Member Beaudin requests the total number.

Applicant Robert Welsh, Jr. requests to increase the number of manufactured homes from the current eight (8) to twelve (12).

Vice-Chair Chenard gives the history of the lot that once included a cabin, gas pumps and an underground tank being on the property as well. These have since been removed.

Member Beaudin asks if there is a time limit to replace a manufactured home once it has been removed? Planner's response is yes. From the time someone removes a manufactured home, they have one (1) year to replace it. This is the section of the Land Use Plan Ordinance that Lincoln uses to allow the replacement of manufactured homes.

Section C. NON-CONFORMING USES. A non-conforming use may be continued, subject to the requirements set forth in this Section:

4. A non-conforming structure or building which is damaged or destroyed by natural cause, such as fire or other calamity beyond the control of the owner or occupant, may be repaired or rebuilt and any non-conforming use of the structure or building may be resumed, if the following conditions are met:
 - a. Repair or rebuilding must be completed within one year after the damage or destruction occurs, unless an extension is allowed by the Board of Selectmen for good cause shown;
 - b. The structure or building shall occupy the same footprint as the damaged or destroyed structure or building and its height and volume may not be expanded or extended.
 - c. Repairs or reconstruction shall be conducted pursuant to a properly issued land use permit, and site plan review where applicable, and shall conform to all applicable building, plumbing, electrical and other code and water and sewer regulation requirements.

Member Beaudin follows up, if the replacement manufactured homes meet all of the zoning requirements, does it matter? Would all of the replacement manufactured homes requested, meet all of today's zoning requirements?

Encroachment Into the Setback Areas

Planner Bont mentioned that several of the existing and former manufactured homes encroach into the fifteen-foot (15') setback areas. Planner Bont shows a tax map of the lot to the Welshes to show them that a fifteen-foot (15') area from the property boundary line in the General Use (GU) District has to be kept clear of structures, acting like a buffer between their property and the neighbors' properties. The Welshes agree that won't be an issue with the new manufactured homes they want to put in.

Portion of the Lot Within the Area of Special Flood Hazard or 100 Year Floodplain Development District

Planner Bont points out more than one of the home sites is within the "Area of Special Flood Hazard" or what was formerly known as the 100-year Floodplain Development District. Planner Bont asks the Welshes if they have a topographical survey. Perhaps with a survey, a surveyor can show that the buildings are at a high enough elevation that the buildings would not be within the "Area of Special Flood Hazard" or 100 Year Floodplain Development District.

Robert Welsh, Sr., reports the manufactured homes will be staying in the "Area of Special Flood Hazard" and they will just buy flood insurance.

Planner Bont advises she can't issue a Land Use Authorization Permit to build in that case. She cannot issue a Land Use Authorization Permit to build any buildings within the "Area of Special Flood Hazard" unless the building meets all of the FEMA requirements for buildings in the "Area of Special Flood Hazard". For example, they might have to put the building on stilts to keep the living space above the flood elevation. They might have to make sure none of the mechanicals are within the "Area of Special Flood Hazard". She does not

want to jeopardize the ability of all of the other property owners in Town to get federally subsidized flood insurance. If she gives a Land Use Authorization Permit to build within the floodplain and there is a flood causing damage, *all of the homeowners within the Town of Lincoln* could lose their flood insurance and no homeowners within the Town of Lincoln would be qualify for benefits under the federally subsidized flood insurance.

Planner Bont can issue a Land Use Authorization Permit to upgrade or fix up a pre-existing manufactured home up to a certain percentage of its current market value. However, she cannot issue a Land Use Authorization Permit for a new building unless it meets all of the FEMA Construction Requirements. If the building is new, it would have to comply with all of the requirements of FEMA's construction requirements for building within the "Area of Special Flood Hazard" or one hundred (100) year flood plain. A surveyor would be required and would have to be presented to FEMA.

Section D – FLOODPLAIN DEVELOPMENT DISTRICT.

Item II – Permits:

All proposed development in any special flood hazard areas shall require a permit.

Item III – Construction Requirements:

The Board of Selectmen or designee shall review all land use permits applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

1. be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
2. be constructed with materials resistant to flood damage,
3. be constructed by methods and practices that minimize flood damages, and
4. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Vice-Chair Chenard gave history on how that land used to not be in the one hundred (100) flood plain until US Route 3 was upgraded by NH DOT.

Welshes agree to get a surveyor.

Chairman Spanos requests to move on. He asks the Welshes what they need tonight. Do they need Site Plan Review approval or just Land Use Authorization Permits for the new manufactured homes?

Member Beaudin responds if the homes will be out of the setback areas, and they meet the Floodplain Development District requirements they only need Land Use Authorization Permits.

Lot Coverage for Commercial Properties

Planner Bont advises when you are looking at manufactured homes you have to consider lot coverage. Planner Bont confirming lot coverage. Discussion was had about required two (2) parking spaces for each lot. Planner Bont advises lot coverage cannot be over seventy percent (70%) lot. Lot coverage is on the dimensional chart.

(Between 2:50:21-2:52:13- into the meeting, too many people were talking and recorder could not understand enough about what they were saying to even take notes.)

Property Tax Assessment Cards – 8 Sites or 12 Sites

Member Beaudin overhears discussion about tax bills and asks if they've been paying taxes on the manufactured homes that weren't even there.

Welshes advise that his property tax assessment card references all twelve (12) lots. Selectmen's Representative OJ Robinson looks at the property tax assessment card that references twelve (12) manufactured home sites on a total of one and three tenths (1.3) acres for a total assessed value of one hundred twenty-nine thousand dollars (\$129,000.00). It is specifically delineated that there are twelve (12) sites on the one (1) lot. Selectmen's Representative OJ Robinson advising the Welshes have to exclude the roadways in order to calculate the lot coverage ratio – roadways are not included, even if they are dirt. Rob Sr. confirms they are covered.

Member Beaudin discusses the current eight (8) manufactured homes on the sites and if they increase the number of manufactured homes to twelve (12), what the abutters are going to think. Chairman Spanos advises that if the Welshes' proposal meets all of the requirements of the Land Use Plan Ordinance, the Planning Board and the Town can't say "no".

Short-Term Rentals or Long-Term Rentals or Selling the Homes

The question was asked if they would be renting or selling the homes. Robert Welsh, Jr, reports there is no plan to do short-term rentals or Airbnbs. They do year-round rentals with one (1) year leases to start. They can do month to month after one (1) year. Their goal is not to provide short-term rentals.

Floodplain Development District

Vice-Chair Chenard brings up the flood plain again. Robert Welsh, Sr., reports that there is only one (1) proposed new home that is involved with the Area of Special Flood Hazard and they will either put an "as built" on the home or not put it in if they can't get it out of the flood plain.

Discussion continued about the time sensitive nature of the need for the Land Use Authorization Permits and that a surveyor will be needed if this twelfth (12th) home is included. Welshes advise it's hard to find a surveyor that's available. Discussion was to only do eleven (11) manufactured homes – adding three (3) – and do a Site Plan Review approval for the twelfth (12th) – adding a fourth (4th) home – at a different time.

Selectmen's Representative OJ Robinson asks if the surveyor is needed for the Site Plan Review or is it just the Land Use Authorization Permits? The Land Use Authorization Permit needs a surveyor to ensure it's not in the setback areas or floodplain areas, the Shoreland Protection Area and to verify lot coverage. Chair Spanos asks if Land Use Authorization Permits will suffice.

Discussion continued about surveyors are hard to find and reminder of existing water/sewer and meters.

Selectmen's Representative OJ Robinson reminds the Welshes that they will need to come in with a demonstration on a survey that the fourth (4th) manufactured home that have not been built yet to ensure they meet requirements. Member Beaudin adds that if they can't meet the requirement, they won't be able to get it.

Member Beaudin made a motion that the Welshes do not need Site Plan Review approval for the additional manufactured homes as their property assessment cards already indicate there are twelve (12) manufactured home sites on the lot.

No second.

More discussion about the details requiring the need for a surveyor and about a Land Use Authorization Permit. Planner Bont advises she'll still need a survey with his application.

Vice-Chair Chenard notes that this will help with the need for long term rental housing.

Robert Welsh, Jr., asks on the application about the water and sewer tap fees even though there is already existing infrastructure there. Planner Bont advises they'll have to pull out the old property tax assessment cards for whatever manufactured home was there and since removed. Depending on what was on the card, the Welshes will then get credit for what was removed.

Member Beaudin re-motions that the Welshes do not need Site Plan Review approval for the additional manufactured homes. Vice-Chair Chenard seconds. All in favor, none opposed.

V. 6:00 PM CONTINUING AND OTHER BUSINESS (Staff and Planning Board Member/Alternates).
A. Discussion re: Other possible changes to Land Use Plan Ordinance (LUPO)

Chair Spanos asks if there is any other business

Member Beaudin has business regarding Andrew Goddard's application for Site Plan Review approval. The Planning Board did not take into consideration the basis for granting each of those waivers. He does not know if carefully considering and spelling out the reasons to support each of the waivers would change the result or not, but the Planning Board is supposed to do that. In his opinion, the Planning Board did not do this.

Member Beaudin continued that this requirement was spelled out for the Planning Board in the Memorandum we received from Town Attorney Jason Dennis, Planner Bont and Town Engineer Ray Korber as well as in the RSAs. The authority or power to grant the waivers and the reasons for granting the waivers are supposed to be recorded in the minutes.

(Lots said here, very fast, could not understand enough to record in the minutes.)

Member Beaudin continued that the waiver should properly carry out the spirit and intent of the regulation. Furthermore, there are supposed to be hardships for granting those waivers and Member Beaudin advises the Planning Board never considered any of those.

Chair Spanos disagrees. The section that member Beaudin is talking about is in regard to subdivisions, not a Site Plan Review.

Attorney Dennis advises that when granting waivers, it does apply to subdivisions. However, as a general matter you should put the basis for those in the discussion and in the minutes. It would be a basis for an appeal if there is an aggrieved party. It doesn't mean that the substance is wrong or that the decision would change. It's more of a technical requirement than a substantive requirement.

Member Beaudin follows up by asking if this sets the Planning Board up for establishing a bad precedent? He asks would it be appropriate to right now go through those waivers and explain their vote.

Attorney Dennis agrees however, since Member Beaudin has asked for a re-hearing, if it is granted, then at that meeting, which is noticed, will then hear the full basis to be put in the minutes.

If a re-hearing happens, Chair Spanos asks if all abutters need a re-notice? Attorney Dennis agrees, yes.

Discussion continued about different RSA's that reference either subdivision regulations and site plan regulations and the waivers.

Attorney Dennis discussed RSA 674:44 III Site Plan Review Regulations do need to have minutes record the waiver provision to include hardship.

Member Beaudin asks for Attorney Dennis' recommendation.

Attorney Dennis states that if it doesn't change the outcome, then a vote to deny a re-hearing is okay. And going forward, make note to take into account RSA 674:44 III but going forward it should be part of the procedure.

Member Beaudin makes a motion for a re-hearing in order to address the requirements.

Vice Chair Chenard seconded.

Discussion

Chairman Spanos asks if there is any other discussion.

Selectmen's Representative OJ Robinson reports there were three (3) waivers that were granted, there was no definite reasoning listed in the minutes, would it be appropriate to go back and ask the recording secretary to listen to those three (3) sections and denote what the reasoning was behind the vote? It was said in the meeting, just not recorded in the minutes.

Attorney Dennis agrees that would be an appropriate fix in this scenario. If it's in the recording, then you'd go through the proper amendment of the minutes to include them, and it would satisfy the statute.

Member Beaudin reiterates his request for a re-hearing.

Selectmen's Representative OJ Robinson asks if the re-hearing happens and then the Planning Board decides to deny a waiver, what happens.

Attorney Dennis advises that the applicant would have the right to either seek a re-hearing or they could appeal to ZBA or to Superior Court. The Town wouldn't be liable for damages if changed but the liability would be time and money.

Chair Spanos asks if there are any more questions before they vote.

Two (2) are in favor (Beaudin & Noseworthy). Three (3) are opposed. (Spanos, Robinson & Chenard).

Motion fails.

Motion to adjourn by Chairman Spanos
Second by Selectmen's Representative O.J. Robinson
All in favor.
Meeting adjourned at 9:45 PM.

Respectfully submitted,

Kara Baker
Recording Secretary

Date Approved: November 8, 2023


Chairman Spanos



Memorandum

Date: August 21, 2023
To: Planning Board
From: Technical Review Team (Town Manager Carina Park, Planner Carole Bont,
Town Attorney Jason Dennis and Town Engineer Ray Korber, PE)
RE: South Peak Master Plan

Issue: There has been much discussion across several Planning Board meetings regarding the status of the South Peak Resort Master Plan and whether the draft January 2006 Master Plan is acceptable to the current Planning Board as the guiding document for the build out of the proposed development.

Background: The 2006 South Peak Master Plan was comprised of the following documents. It is noted that some of the component parts have more than one version. The following list represents our best understanding of the "final" version.

1. South Peak Resort on Loon Mountain Lincoln, New Hampshire January 2006 (21 pages).
2. Appendix A
 - a. Sheet 1 Existing Conditions Plan;
 - b. Sheet 2 Master Development Plan;
 - c. Sheet 3 Conceptual Master Plan With Infrastructure Phasing;
 - d. Sheet 4.1 Master Utility/Infrastructure/Drainage Plan;
 - e. Sheet 4.2 Master Utility/Infrastructure/Drainage Plan;
 - f. Sheet 4.3 Master Utility/Infrastructure/Drainage Plan;
 - g. Sheet 5 Conceptual Core Area Amenity Plan;
 - h. Sheet 6 Building D1 Perspective;
 - i. Sheet 7 Building D2/D3 Perspective;
 - j. Sheet 8 Building D4 Perspective; and
 - k. Sheet 9 Building D5 Perspective.
3. Appendix B Traffic Impact and Site Access Study by Stephen G. Pernaw & Company, Inc. (66 pages)

4. Appendix C Master Plan Landscape Design Guidelines SE Group (7 pages – summary only)
5. Appendix D *Draft Architectural Design Guidelines* Oz Architecture (66 pages)
 - a. Residential Design Guidelines Volume I, May 18, 2020 (Revision 2) (85 pages)
 - i. This document was prepared by a prior developer of South Peak Resort, M. Timothy (“Tim”) Clark, President of Cypress Real Estate Advisors, Inc., of Austin, Texas, with no input from the Planning Board. A copy was received by the Town but not through official channels. Was Planning Board input required?
6. Centex Destination Properties South Peak Resort on Loon Mountain, Lincoln NH, Core Area Project Standard Dredge and Fill Permit Application dated November 2, 2006, prepared by Pioneer Environmental Associations, LLC
7. Centex Destination Properties South Peak Resort on Loon Mountain, Lincoln NH, Sutton Brook and Crooked Mountain Brook Channel Restoration Projects, Final Design Report dated March 30, 2007, prepared by Pioneer Environmental Associations, LLC and amended by 5-page letter dated March 30, 2007 from Shelley E. Gustafson, Wetland Scientist of Pioneer Environmental Associations, LLC.

Current Status: On June 28, 2023, South Peak LLC presented an update to the 2006 Master Plan. At this time the Planning Board is contemplating the applicability of the documents as presented.

Staff Conclusions/Recommendations:

- After an extensive file search and review by staff, we believe that the 2006 Master Plan and associated documents represent what was approved or intended to be approved by the Planning Board in 2006.
- In light of that understanding, we recommend that the Planning Board accept the 2006 Master Plan, along with recently submitted updates and other associated documents for the Planning Board’s consideration of future developments to be proposed by South Peak LLC. If the Planning Board agrees, we recommend that the Planning Board take a formal vote on the matter so that there is a record of acceptance of the 2006 Master Plan. If the Planning Board does not agree, we recommend that the Planning Board specify additional requirements that should be met by the developer as it relates to an acceptable Master Plan.
- We recommend that each proposal brought forth by South Peak LLC on June 28, 2023, be benchmarked against the 2006 South Peak Master Plan and that the full weight of the Town’s land use ordinances and policies be applied to each phase or proposal brought by the developer. In short, each proposal should be evaluated on its own merits as a standalone proposal but within the context of the guidelines and limitations set under the 2006 Master Plan and subsequent amendments thereto as approved by the Planning Board. Further, we would advise that all proposals be approved only in accordance with the Town’s land use ordinances and policies, such as the calculation of “useable space” and deeded “open space” as required by the LUPO for each phase of development and not simply because it is part of the Master Plan.