

APPROVED

PLANNING BOARD
PLANNING BOARD 2ND MONTHLY MEETING
WEDNESDAY, January 25, 2023 – 6:00 PM
***Lincoln Town Hall, 148 Main Street, Lincoln NH**

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

Join Zoom Meeting

<https://us02web.zoom.us/j/81700766161?pwd=WUFKR2NlZk9xSzI1bVFPRWVzbyt4UT09>

Meeting ID: 817 0076 6161

Passcode: 179696

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

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

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

I. CALL TO ORDER by Chairman James Spanos

Members Present: Chairman James Spanos, Selectmen's Representative OJ Robinson, Member Paul Beaudin, II, Vice Chairman Chenard (arrives at approx. 6:45, 39 minutes after the start of the meeting)

Excused: Vice Chairman Chenard (arrives 39 min. late), Stephen Noseworthy, Alternate Mark Ehrman.

Staff Present: Town Manager Carina Park (via Zoom), Deputy Fire Chief Ryan Fairbrother (via Zoom)

Staff Excused: Planner Carole Bont

Guests Present:

- **Kevin J. Barry**, nonresident, (**ABUTTER & CONDO ASSOCIATION [HOA*] Representative**) of 1 Marsh Hen Cove, St. Helena Island, SC 29902, co-owner with Alicia M. Barry of 12 Forest Pine Spur #B (Map 114, Lot 080000-12-00015) a duplex unit in "The Pines at Forest Ridge". A member of the Board of Directors for The Pines at Forest Ridge Condominium Association, Inc. This is a condo association registered in Grafton County Register of Deeds, but the association but not yet part of Forest Ridge Property Owners' Association – the Master Association (FRPOA) (via Zoom).
- **Norman Bartlett**, resident, 136 Pollard Road, PO Box 255, Lincoln, NH 03251-0255, owner of 136 Pollard Road (Map 114, Lot 074).
- **Danielle T. Black**, resident, (**Employer is ABUTTER**), 37 School Street, Lincoln, NH 03251, owner of 37 School Street (Map 113, Lot 107), and Property Manager for

abutter Coolidge Homeowners Association a/k/a Coolidge Falls homeowners Association, PO Box 1086, Lincoln, NH 03251.

- **Susanne (Susan) A. Chenard**, resident of 11 Liberty Road, Lincoln NH 03251 (Map 107, Lot 061) and Realtor for Loon Reservation Service, 264 Main Street, Suite 12, PO Box 785, Lincoln, NH 03251-0785, and owner of 19 Maple Street (Map 118, Lot 069). Alternate member of the Zoning Board of Adjustment (via Zoom).
- **Roger C. Harrington**, resident, 131 Pollard Road, PO Box 386, Lincoln, NH 03251-0386 and co-owner with Sarah A. Harrington of 131 Pollard Road (Map 114, Lot 003).
- **Kevin McNamara**, nonresident, (**AGENT FOR APPLICANT Mariann Goodrow**, 71 Maltais Farm Road, Lincoln, NH 03251 for Maltais Farm Road #LO [Map 107, Lot 010] and 71 Maltais Farm Road [Map 107, Lot 011]) of 1595 Easton Valley Road, Franconia, NH 03580-5414, owner & principal broker, RE/MAX in the Mountains, 264 Main Street, P.O. Box 175, Lincoln, NH 03251-0175 and contractor/owner of Pemi Valley Custom Homes.
- **Michael (Mike) J. Norris**, nonresident, (**ABUTTER & CONDO ASSOCIATION [HOA*] Representative**) (Forest Ridge Board) of 23 Virginia Road, Reading, MA 01867, co-owner with Leanne Norris of 16 Pine Bluff Terrace Unit #A in "The Pines at Forest Ridge" (Map 114, Lot 080000-05-00008) (via Zoom). A member of the Board of Directors for The Pines at Forest Ridge Condominium Association, Inc. This is a condo association registered in Grafton County Register of Deeds, but the association but not yet part of Forest Ridge Property Owners' Association – the Master Association (FRPOA) (via Zoom).
- **Frank Pasciuto**, resident, 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, 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.
- **David Yager**, nonresident, (**AGENT FOR APPLICANT & INVESTOR IN OWNER LLC/APPLICANT**) of 57 Flanagan Drive, Framingham, MA 01701, principal for DLNR Family Limited Partnership, 57 Flanagan Drive, Framingham, MA 01701, owner of 10 Hemlock Drive (Map 121 Lot 007) (via Zoom) and

AGENT for APPLICANT & Investor in Mount Coolidge Construction, LLC that owns:

- a. Woodland Loop Land Only – Map 114, Lot 080 (Common Areas)
- b. 7 Forest Pine Spur #B (Map 114, Lot 080-000-10-00017)
- c. 7 Forest Pine Spur #A (Map 114, Lot 080-000-10-00018)
- d. 3 Forest Pine Spur #B (Map 114, Lot 080-000-08-00019)
- e. 3 Forest Pine Spur #A (Map 114, Lot 080-000-08-00020)

And **(INVESTOR IN ABUTTER LLC)** in **NEWCO, LLC** of 3 Amalia Drive, Nashua, NH 03063 that owns:

- a. Woodland Loop – Master Lot – Map 115, Lot 003-000-CL-00000
- b. 2 Forest Ridge #Parcel – Map 114, Lot 076-000-CL-00000
- c. 2 Forest Ridge #Parc[el] – Map 114, Lot 082-000-CL-00000
- d. Woodland Loop – Map 114, Lot 077-000-CL-00000
- e. Twin Tip Terrace (formerly Woodland Loop) – Map 114, Lot 078-000-CL-00000
- f. Parcel 2 Forest Ridge (13.52 Acres) – Map 114, Lot 079-000-CL-00000
- g. Woodland Loop – Map 114, Lot 081-000-CL-00000
- h. 123B Woodland Loop – Map 114, Lot 082-000-02-00041
- i. 111B Woodland Loop – Map 114, Lot 082-000-08-00053
- j. 111A Woodland Loop – Map 114, Lot 082-000-08-00054

II. CONSIDERATION of meeting minutes from:

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

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

Motion to accept by Member Beaudin

Second by Selectmen's Representative O.J. Robinson

All in favor

- **January 4, 2023 (Wednesday)**

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

Motion to accept by Selectmen's Representative O.J. Robinson

Second by Member Beaudin

All in favor

III. CONTINUING AND OTHER BUSINESS

- A. Planning Board held first public hearing on proposed amendments to the zoning ordinance (Land Use Plan Ordinance [LUPO] & proposed Site Plan Review Regulations Amendments on January 4, 2023. A second public hearing was scheduled for January 25, 2023, if needed. No changes were made based on public input at the first public hearing, so no second public hearing is needed. There will be no second public hearing.

IV. NEW BUSINESS

A. Request for Release of Bond => SITE PLAN REVIEW approval

- **#SPR 2014-09 M114 L080 – New Jefferson Holdings, LLC, The Pines at Forest Ridge (12 duplexes)**
- **#SPR 2020-11 M114 L080 – Mt. Coolidge Construction, LLC, The Pines [Detention] Ponds**
- **#SPR 2022-22 M114 L080 – Mt. Coolidge Construction, LLC, Request for Release of Bonds**

Notice is hereby given in accordance with RSA 676:4 & 676:7, Applicant has requested Town release cash bond based on Owner/Applicant's engineer's 2020 estimate of construction costs for project, including a 15% contingency. Bond posted in 2020 to cover the costs of all on-site improvements (i.e., the construction, drainage and associated site work) at "The Pines" at Forest Ridge. Applicant completed construction of the detention ponds. Engineer submitted "as-built plan" survey & Construction Control Affidavit. Town Engineer reviewed as-built plan survey. Upon hearing applicant possibly met conditions of approval, Planning Board will hold a public hearing to see if the conditions of approval have been met & whether cash bond may be released. Should a decision not be reached at the public hearing, this application will stay on the Planning Board agenda until such time as it is either approved or disapproved.

Engineer: Marc Burnell, P.E.
Horizons Engineering, Inc.
34 School Street Littleton, NH 03561

Applicant/Property Owner:

Estate of Richard (Rick) Elliott & Jared Elliott & Jennifer Nye Elliott
Amarnath d/b/a Mt. Coolidge Construction, LLC
3 Amalia Drive
Nashua, NH 03063

Jennifer Elliott Nye Amarnath d/b/a
Mt. Coolidge Construction, LLC
Richard K Elliott Family, LLC
32 Hartwell Brook Drive
Nashua, NH 03060

Jared R. Elliott d/b/a
Mt. Coolidge Construction, LLC
Richard K Elliott Family, LLC
32 Hartwell Brook Drive
Nashua, NH 03060

Owner's Agent:

Heidi J. Barrett-Kitchen, Esq.
Donahue, Tucker & Ciandella, PLLC
Mt. Coolidge Construction, LLC
Towle House, Unit 2
164 NH Route 25
Meredith, NH 03253

Owner's Manager:

Jared R. Elliott
365 Depot Street
Belmont, NH 03220

Applicant's Representative:

Michael Shepard, Esq.
The Shepard Law Firm, P.C.
Mt. Coolidge Construction, LLC
160 Federal Street
Boston, MA 02110

Applicant's Representative:

David Yager
57 Flanagan Drive
Framingham, MA 01701

The Pines Condo Assn:

The Pines at Forest Ridge Condominium Association, Inc.
Kevin J. Barry, President
1 Marsh Hen Cove
St. Helena Island, SC 29902

Property: The Pines at Forest Ridge, (Map 114, Lot 080), Property is located in the Rural Residential (RR) District.

Project: In 2020, Mount Coolidge Construction LLC (Applicant) requested modification of Site Plan Review (SPR) approval for The Pines at Forest Ridge which included ponds associated with Stormwater Management to convert a micro-extended detention basin and infiltration basin (dry pond) into a wet pond near Building 1 on Lincoln Tax Map 114, Lot 080. Mount Coolidge Construction applied for and received (on April 24, 2020) an Alteration of Terrain (AoT) permit from New Hampshire Department of Environmental Services (NHDES) for the modification of the existing microextended detention pond (MPI) and infiltration basin (INFI) to a wet pond. The modifications did not propose any additional impervious area to the existing AoT 1445 (expired), and will disturb approximately 15,000 square feet.

Approval with Conditions: On July 22, 2020, the Planning Board granted the Application for Modification of the Site Plan Review approval for “The Pines at Forest Ridge” with the following conditions:

1. **The Owner/Applicant shall provide bonding** payable to Town for all on-site improvements (i.e., the construction, drainage & associated site work), in order to ensure that Owner/Applicant will complete all site work in accordance with the plans. In the event the bond is called by the Town, Planning Board shall schedule & hold a public hearing to consider revocation of the Site Plan Approval per RSA 676:4-a. No further work may proceed on site, & no further Land Use Authorization Permits shall issue without Planning Board approval in the event the bond is called & the above-referenced revocation proceedings are initiated. The amount of the bond shall be based on the Owner/Applicant’s engineer’s estimate of construction costs for the project including 15% contingency. Applicant can request release of the bond once all conditions have been met from the Planning Board. The bond shall be released at the discretion of the Planning Board after a public hearing.
2. **A maintenance bond of \$35,000 shall be provided.** Once the detention ponds have been constructed in accordance with the approved plans, the maintenance and operation of the ponds and associated stormwater management features shall be the responsibility of The Pines at Forest Ridge Condominium Association (“The Pines CA”). See letter from Richard K. Elliott, President of the Pines CA, to Carole Bont and the Lincoln Planning Board dated July 6, 2020. Maintenance and operations shall be in accordance with the approved Stormwater Inspection and Maintenance Manual for The Pines at Forest Ridge (“Inspection and Maintenance Manual”). In the event that The Pines CA lacks proper authority to take on the responsibility and exercise the power necessary to maintain and operate the ponds; then, unless and until such time as the Pines CA does have all necessary authority, the declarant (“MCC”), its successors or assigns shall be fully responsible for the maintenance and operation of the ponds. There shall be a bond
3. **The project shall be completed by November 30, 2020.** Between November 30, 2020, and 2023, the Planning Board met many times with representatives of Mount Coolidge Construction, LLC to discuss the detention ponds. The ponds have not been compliant until possibly now, in 2023.

Presentation: David Yager gives a presentation as to why he believes the bond should be released. He starts by explaining that the pond at The Pines at Forest Ridge has been completed, per the Town's specifications, and the Control Affidavit is complete and has been signed by the Town's engineer. Chairman Spanos asks if all conditions have been met. Mr. Yager replies "yes". Mr. Yager is looking to have the Construction and Maintenance bonds released.

Discussion: The Planning Board reviews their documents and do not have a letter from Town Engineer, Ray Korber to confirm that he has signed off on the project. The Planning Board discusses the history of the project and the homeowner's association (HOA*) which does not want to take over responsibility for the ponds.

***NOTE:** *The Pines at Forest Ridge Condominium Association, Inc. is a Condominium Association (CA) and not a Homeowners' Association ("HOA"). Throughout this hearing speakers mistakenly referred to the CA as an HOA. At all times when the speakers reference an HOA they mean a Condominium Association.*

Maintenance Bond issue is discussed and Mr. Yager explains that developer turned over the association to the HOA* in July 2020. He adds that for the last two and a half (2 ½) years the pond has worked fine and the only changes that were made were recently was the raising of the head wall by six (6) inches. The Town's engineer signed off on the changes, the survey, the Construction Control Affidavit. There have been substantial rain and snow events through all seasons and there has been no turbidity in the water, no overflows and everything is working as designed and approved by the Town.

Construction Bond: Mr. Yager states the Construction Bond was for the proper construction of the pond and since that has been completed all the way down to the guard rail there is no reason to hold the Construction Bond any further.

Inspection Reports: The Planning Board discusses if there are or have been any inspection reports. Mr. Yager explains that the inspection reports have been delivered to the HOA*. There were two (2) inspections done last year (Spring and Fall). He clarifies for the Planning Board that inspections are to be done every six (6) months, per the approved Maintenance Manual.

Construction Control Affidavit: Member Beaudin is concerned that Town Engineer Ray Korber is not present at this meeting to confirm he signed off on the project. Town Manager Carina Park joins the discussion and confirms that Ray Korber has signed off. The Town has the Construction Control Affidavits and the As-Built Plans. She states that

they have met the intent that the Planning Board set out when adjustments were needed to repair the pond. Mr. Korber has signed off that the ponds are constructed in the manner that the Planning Board requested and according to the engineer's calculations, that are on the plan, and the pond will withstand weather conditions. She discusses the conditions set by the Planning Board and she is most concerned with documentation regarding the transfer of the pond to "The Pines HOA*". Member Beaudin would like to know who the responsible party will be if the pond fails. Town Manager Carina Park adds that the ownership issue is in question.

Conditions: The Planning Board discusses the details of the conditions that were set for the Construction Bond and the Maintenance Bond to get clarification (see above).

**Motion to open the Construction Bond issue for public comment by Member Beaudin
Second by Selectmen's Representative O.J. Robinson
All in favor**

Roger Harrington asks how the six (6) inch increase to the headwall was constructed. Mr. Yager explains that a concrete barrier on the bottom of the outflow pipe was put in as Horizons Engineering designed and Town Engineer Ray Korber approved. Mr. Harrington asks about the pipe and how they intend to keep it from getting plugged. Mr. Yager replies "maintenance". He adds that it is all spelled out in the Maintenance Agreement.

Mike Norris of The Pines CA, states that he feels there hasn't been enough time to determine if the pond is going to operate as planned. Speaking for The Pines HOA*, he adds that they don't want to be stuck with something that has to be fixed later.

Norman Bartlett of Pollard Rd., speaks about his concerns as he lives directly downstream from the detention pond, which runs through his property, and receives all the drainage from the pond. He would like to know how they determine the pond is working fine. He has noticed that the brook has been running steady all year and, in the past, would only run during the snow melt in the Spring.

Mr. Yager responds to Mr. Bartlett's questions. He explains that the pond was designed and approved by the Town to make sure that the run-off from Forest Ridge (developed and undeveloped land) was the same prior to construction and post construction. The pond was designed based on the engineering calculations and was approved. Mr. Yager doesn't know why the brook is running and doesn't know where the water comes from as he doesn't have a geological survey in front of him. The pond was built as intended and approved by the Town. There have been many measures taken, at the expense of the

developers, to ensure the residents didn't experience flooding. There are no untoward situations that occur from development of an approved development in Lincoln.

Norman Bartlett comments that he hasn't seen any work related to the brook and wonders what the pond is supposed to do. He has looked at the pond and it is always full.

Mr. Yager replies that it has been full and it has had only a few feet of water in it. It was engineered for the reasons the Town asked them which was to prevent stormwater from increasing off-property so that the off-property flow was no different than before construction. It was built and constructed to specification.

Member Beaudin joins the discussion and is concerned about who is going to be responsible if this pond doesn't work and causes issues for people living downstream. Chairman Spanos replies that the owners of the pond would be responsible and would need to work with engineers and contractors to fix the problems. It is not the Town's duty to determine if an engineer or contractor is responsible for a failure. Member Beaudin suggests holding on to the bond to be sure that the pond operates as it was designed.

Kevin Barry of Forest Pine Rd., President of The Pines CA, discusses an email that the HOA* board sent to the Town. In the email they discuss a one (1) year warranty period to ensure the detention pond is functioning properly, in good order and inspected accordingly. They also outline concerns they have about new construction.

Chairman Spanos comments that is a matter between Mr. Yager and The Pines HOA* and not a Town or a Planning Board issue. Mr. Yager and Mr. Norris discuss their disagreement as it relates to the Maintenance Bond.

Member Beaudin thinks it would be prudent to hold the Construction Bond until some time has passed to insure the pond is working properly and not affecting people living downstream.

A member of the audience asks about a fence around the pond. Selectmen's Representative O.J. Robinson explains that there were lengthy discussions by the Planning Board regarding a fence or a guard rail. Ultimately, the Planning Board decided they did not want a fence around the pond but did want a guard rail along the road side.

Motion to close public comment on the Construction Bond by Member Beaudin
Second by Selectmen's Representative O.J. Robinson
All in favor

Construction Bond Discussion:

Stormwater Management Ordinance (SMO) is discussed. Selectmen's Representative O.J. Robinson comments that the development of Forest Ridge began some time around 1986 and the SMO came into effect in around 2015 therefore a huge portion of the development occurred prior to the SMO. The SMO requires that the post-construction run-off from any site in not increased by the development. The problem at Forest Ridge is that for about thirty (30) years the SMO didn't exist and the Town had no way to regulate the run-off and flow into the brook. The issue before them is just a portion of the entire Forest Ridge Development. The Planning Board Site Plan Review approval for The Pines at Forest Ridge said the developer was required by the SMO to retain water in a rain event so the water builds up in the pond and decreases the storm run-off.

Selectmen's Representative O.J. Robinson states his opinion that the Construction Bond was to ensure the detention pond was built to the engineer's plans and it doesn't take a year, two or five years to determine that. Both engineers (design and Town) have agreed that the pond has been constructed as planned and has met all criteria. The Town should now release the Construction Bond. The Maintenance Bond is a whole different issue.

Motion to release the Construction Bond by Selectmen's Representative O.J. Robinson
Second by Chairman Spanos for discussion purposes
Vice Chairman Chenard does not want to vote as he did not participate with the previous discussion

Motion to release Construction Bond Discussion: Member Beaudin disagrees and is not in favor of releasing the Construction Bond. He feels that after reviewing the construction of the pond it is also important to review the performance of the pond. He adds "just because it was built the way it was designed doesn't mean that it's going to work that way". He feels it would be prudent to give it some time to be sure it does operate the way it was designed. The Planning Board discusses the history of the problems with the pond and how they should proceed.

Member Beaudin suggests they wait for the Spring season to pass before they release the Construction Bond to be sure the pond is functioning properly. Mr. Yager replies that no one has complained, for the last two (2) years, that the pond created any problems for the people downstream. He states that they have met all the requirements of the Construction

Bond set by the Town and the bond should be released. The Planning Board discusses the history of the changes that were made since the Summer 2022. Mr. Yager states that he thinks “the Town has a legal and fiduciary responsibility to the bank to release it’s bond based on the performance of the Construction Bond and construction and approval by the Town authority”.

Chairman Spanos asks the Planning Board to vote on the above motion to release the Construction Bond.

Two (2) in favor (Chairman Spanos, Selectmen’s Representative O.J. Robinson, one (1) against (Member Beaudin), one (1) abstention (Vice Chairman Chenard)

Motion carries

Maintenance Bond

Presentation: Mr. Yager explains that the Maintenance Bond was put in place to ensure the pond was properly designated with a maintenance plan. The maintenance plan was adhered to and as soon as The Pines common land was turned over to the owners (in July 2020), the maintenance of that pond would become part of The Pines HOA* responsibility. He notes that the contractor (Rick Elliott d/b/a Mt. Coolidge Construction, LLC) has been maintaining the pond for the past three (3) years. He explains that it made sense for the contractor to maintain the pond as it was not properly constructed until now. There have not been any complaints regarding the pond’s turbidity, overflows, storm run-off. The pond is working fine. There has been relatively little maintenance and there are only a few things that need to be maintained. Legally, through the process of recording the documents to turn over the association to the property owners of the 24 duplex units at The Pines, the pond is owned by The Pines HOA*.

Discussion: Chairman Spanos asks if there is a dispute between Mt. Coolidge Construction, LLC and homeowners of The Pines HOA*. Mr. Yager answers that he doesn’t know how it can be in dispute as “it” was legally turned over to the HOA*. He feels that “they have followed the legal statutes of when how and why the HOA*, and all the responsibilities that come with that should be turned over to the residents of any HOA* in the State of New Hampshire.” He continues and says “that it’s our position that the homeowners are now responsible for the maintenance of the pond”.

Member Beaudin reviews the conditions of the Maintenance Bond. The Planning Board discusses. They determine that they do not have a letter or evidence that the pond was turned over to The Pines HOA*. Mr. Yager explains that in the notice that was sent out to the public, states specifically “see letter from Richard Elliott to Carol Bont and the

Lincoln Planning Board dated July 6, 2020". He says the Town should have a letter turning over the association to the residents, on file.

Town Manager Carina Park and Mr. Yager discuss the letter and whether it is sufficient. She wonders if a legal document needs to be drafted and recorded at the Grafton County Registry of Deeds. The Planning Board discusses the need to have an official document showing the pond has been turned over to The Pines HOA*.

Motion to open public comment by Member Beaudin
Second by Selectmen's Representative O.J. Robinson
All in favor

Mike Norris from The Pines Condo Association ("The Pines CA") joins the discussion and states that when Mt. Coolidge Construction, LLC, did the transfer to The Pines HOA* in July 2020 it wasn't through some normal course of events where construction of the project was complete and they were now the owners. They were approached by Rick Elliott and his legal counsel for Mt. Coolidge Construction, LLC (Heidi Barrett-Kitchen, Esq.), as it had been five (5) years since the start of the pond construction. He states, members of the association were forced to form an HOA* led by property owners and "it" (i.e., common land) could no longer be held as an association which it previously was and managed by Rick Elliott (d/b/a Mt. Coolidge Construction, LLC). The Pines HOA* was formed and Mr. Elliott was a member of the Pines HOA* until his death in April 2020.

Mr. Norris states that construction is not complete and there are ongoing punch lists of things that were not done. The pond's maintenance manual specifies that loam, seeding, and things around the culverts to prevent run-off are to be completed but they are not. There is still construction going on and four (4) duplex units in The Pines at Forest Ridge are still not completed. The top coat on the paved roads have not been completed as promised by the developer. The HOA* is concerned that the unfinished units and their construction could impact the integrity of the pond and they would be responsible for the clean-up. The HOA* doesn't want to transfer the maintenance of the pond until all construction has been completed.

Chairman Spanos asks why the association included Mr. Elliott as a member. **Mr. Norris** replies that at the time it seemed to make sense because Mr. Elliott knew all of the details surrounding the pond.**

*[**NOTE: Mt. Coolidge Construction, LLC, is still a member of the association because Mt. Coolidge Construction, LLC still owns two (2) approved but unbuilt duplexes for a total of four (4) unbuilt condominium units.]*

Kevin Barry joins the discussion. He joined the HOA* board in the Summer 2022 and he feels that as a board they are trying to work and understand where the development is going as it is still a construction site. He wonders if the unfinished units are going to be completed and who is the investor or is the development considered complete. He adds that the board wants to work with all parties involved but have been unable to get clarity on the situation. Chairman Spanos replies to Mr. Barry and understands his concerns but reminds him that the discussion is regarding the ponds only. Mr. Norris is concerned that with continued construction of the units and road construction it could impact the pond and then the HOA* would be responsible not the contractor. Mr. Barry notes that this is a very difficult situation that homeowners in the Town of Lincoln have to deal with.

Frank Pasciuto comments that from a taxpayer standpoint he feels that the Town should not release the Maintenance Bond until there is clear ownership of the pond and its maintenance.

Danielle Black is curious if the original plan for the pond was based on a certain number of houses constructed in the area. Chairman Spanos replies that it was based on The Pines at Forest Ridge development. She notes that there are four (4) units that are not complete and talks about planting trees and plants as a way to help absorb water. Her opinion regarding the release of the Maintenance Bond is to keep the bond in place until construction is completed.

**Motion to close public comment by Member Beaudin
Second by Selectmen's Representative O.J. Robinson
All in favor**

Selectmen's Representative O.J. Robinson expresses his opinion on releasing the Maintenance Bond and is not in favor of releasing it for a number of reasons. Member Beaudin agrees with Selectmen's Representative O.J. Robinson and would like to see evidence of ownership.

Mr. Yager suggests the Town read the reason for the bond for the maintenance of this pond and be certain that the reasons that they are voting not to release the bond are clear and substantiated on the reasons declared and agreed to, to initiate this bond and when this bond should be released. He states that "all of the requirements to release this bond have been met". He goes on to say that there is a very simple procedure in the maintenance manual on how to maintain this pond. There is a maintenance schedule and the amount of money that is in the bond is enough money to maintain the pond for more than twenty-five (25) years. He feels that they are in excess of reasonable and they are happy to work with the HOA*, not as a developer but as the bank. He feels there comes a time when responsibility needs to be transferred and they have been transparent and above board. Since July 2020 none of the construction materials, equipment, work or not, have affected the operation of maintenance of the pond.

Mr. Norris asks to respond to Mr. Yager and states that there has *not* been transparency or above board and no communication for many years. The maintenance manual implies a finished construction site. It states that in order to maintain the culverts and the pond you should have proper loam, seeding, etc. How can the HOA* maintain the pond if those things were never done, he asks? The HOA* has done some of that work and paid for it out of their funds in a few cases. He wonders about the unfinished units and whether or not they will be completed with the proper loam, seed, etc. If construction starts up again on the unfinished units it may cause issues with the maintenance of the pond. He responds to Mr. Yager's stating that there haven't been any complaints or problems with the pond over the past few years. He disagrees.

Mr. Yager and Mr. Norris disagree with each other and Chairman Spanos tells them that the Planning Board is not going to get into the middle of their private dispute.

Member Beaudin lists two (2) reasons why he doesn't think the Maintenance Bond should be released:

1. The Planning Board doesn't have the letter David Yager referred to from Richard Elliott d/b/a Mt. Coolidge Construction, LLC, that spells out how the transfer of the pond was supposed to take place (i.e., letter from Richard Elliott to Carol Bont and the Lincoln Planning Board dated July 6, 2020).
2. The Planning Board doesn't know if the common land (including the detention pond) for The Pines has been legally transferred to the HOA* or if the HOA* has accepted the maintenance responsibility.

Mr. Yager responds that in the Maintenance Bond it states that once the detention ponds have been constructed, in accordance with the approved plans, the maintenance and operation of the ponds and associated stormwater management features shall be the responsibility of The Pines at Forest Ridge Condominium Association. That is the issue and the only issue.

Selectmen's Representative O.J. Robinson asks Mr. Yager if the Maintenance Manual says anything regarding all of the condos being built, loamed, seeded, no construction vehicles, etc. Mr. Yager replies "not to my understanding, no". He says that normally an association takes over when the development is "substantially complete" and sixteen (16) out of twenty-four (24) would lead you to believe that that's substantially complete. He does not believe that the Maintenance Agreement states that all construction must be complete, but he will look into that with his attorney.

Mr. Yager does not want to leave the homeowners in the lurch and doesn't want the Town to be in between the developer and the homeowners because that's not their place. Mr. Yager promises to meet in person with Mr. Norris to work out a plan that meets the homeowner's approval to be able to maintain and hand off the maintenance of this pond properly, if The Pines at Forest Ridge homeowners feel that they have been treated unfairly. From a developer's and bank's perspective the bond should be released because

that's the legally correct thing to do. He doesn't like the position that either side has found themselves in and doesn't think the Town should arbitrate those issues. He would like to table that discussion and meet with Mr. Norris (on the Board of Directors of The Pines at Forest Ridge Condominium Association, Inc.), Attorney Mike Shepard and Kevin Barry (President of The Pines at Forest Ridge Condominium Association, Inc.) and anyone else that wants to meet to help resolve this amicably but not when they are in legal rights to have the bond released. Mr. Barry agrees that meeting and working out the next steps is a welcomed idea.

Chairman Spanos discusses, with the Planning Board, if they would consider continuing the hearing for sixty (60) days to allow the parties the opportunity to work out their issues. The Planning Board discusses whether to continue or not.

Motion to continue the hearing on the Maintenance Bond to March 8, 2023 by Selectmen's Representative O.J. Robinson
Second by Member Beaudin
All in favor

- B. 71 Maltais Farm Road, M107 L010 and M107 011 Mariann Goodrow –**
Planning Board Determination that the vacant lot described as a "land only" lot Maltais Farm Road #LO (Map 107, Lot 010) is a stand-alone lot that is "buildable" for land use purposes.

Owners Agent:

Kevin McNamara-REMAX in the Mountains
264 Main Street
Lincoln, NH 03251

Property Owner:

Marianne Goodrow
45 Durso Avenue
Lawrence, MA 01843-3735

Properties:

- (1) Maltais Farm Road #LO (Map 107, Lot 010) 0.4 Acres (17,424 SF) in General Residential (GR) District**
- (2) 71 Maltais Farm Road (Map 107, Lot 011) 0.48 Acres (20,908.8 SF) in General Residential (GR) District.**

Issue: Is the vacant lot – Maltais Farm Road #LO (Map 107, Lot 010) 0.4 Acres (17,424 SF) in General Residential (GR) District – a "buildable lot"?

Presentation:

Mr. McNamara distributes information (map?) for the Planning Board to reference. He explains that he has spoken to Lincoln DPW Nate Hadaway about whether municipal water and sewer would be available for development on the vacant lot (Map 107, Lot 010). Mr. Hadaway determined (based on LUPO) that Town water and sewer would be available for that lot.

Mr. McNamara said that the required minimum lot size in the General Residential (GR) District where both lots are located is fifteen thousand (15,000) square feet. The owner wants to add a Right-of-Way (ROW) over her other property (Map 107, Lot 011) to access the vacant lot (Map 107, Lot 010) because otherwise the vacant lot is “landlocked” and therefore considered “unbuildable”. The lots are being sold and the bank has asked that the current owner confirm with the Town that the vacant lot (Map 107, Lot 010) is a “buildable lot”.

Discussion:

The Planning Board reviews the map provided and discuss the details. The Planning Board concludes that the vacant lot (Map 107, Lot 010) is a “buildable lot” and Chairman Spanos will draft a letter and sign it on behalf of the Planning Board stating that the issue was discussed at the January 25, 2023 meeting and the vacant lot (Map 107, Lot 1010) is a buildable lot.

V. PUBLIC PARTICIPATION AND OTHER BUSINESS: No public participation.**A. OTHER BUSINESS****Riverfront Park**

Selectmen’s Representative O.J. Robinson discusses a recent BOS meeting regarding cost issues at the Riverfront Park. A 2017 environmental assessment showed some issues that were going to be mitigated. After more testing, they received notice from the State of New Hampshire what was going to be required. The BOS decided that due to the high cost of mitigation and the lack of grant funding for that mitigation, they would not move forward with the planned Riverfront Park, including the skateboard area, as fast as they would have. They will continue to move forward with the plan but at a much slower pace. The Town is hopeful that they will receive grant monies to complete some studies.

Selectmen’s Representative O.J. Robinson said the BOS talked with the people involved with the skateboard project and they considered some other sites (Kanc Recreation Area [62 Forest Ridge Road, Map 116, Lot 043] and the Father Roger Bilodeau Community Center [194 Pollard Road, Map 113, Lot 054]) that were discussed around 2014. The BOS, Town Manager, and representatives from the Skateboard Group (Friends of Rec) all agree that the Community Center would be the right place to put the Skateboard Park. He describes the location of the Skateboard Park at the Community Center and possible additions for the future,

(i.e., a porta potty). They will have sufficient existing parking and will not be adding lights or fencing. They will only be leveling the land at this time.

Member Beaudin suggests a public hearing for the abutters to have a chance to comment. The Planning Board agrees a public hearing is not required but they would have one as a courtesy. Selectmen's Representative O.J. Robinson explains that the BOS will put this issue on the agenda for the two (2) monthly Monday meetings in February but will not have a formal public hearing. Member Beaudin asks if they could notify abutters as a courtesy. Selectmen's Representative O.J. Robinson wonders if they do notify abutters if that will exempt them from coming in for Site Plan Review.

The Planning Board discusses the procedure for Site Plan Review. They determine that as long as there are two (2) public meetings, the abutters are notified, and there aren't any concerns that the BOS can proceed with the plan.

Pemi Base Camp

Member Beaudin asks about the status of Site Plan Review for the Pemi Base Camp. He is concerned, because the Pemi Base Camp is not in compliance, and as previously discussed Mark Bogosian was to attend tonight's meeting for Site Plan Review. Chairman Spanos explains that as far as he knows there is no application at the Town Hall and Planner Bont has been out. Member Beaudin suggests reaching out to Mr. Bogosian and letting him know that because it is non-compliant they will pull the permit if he doesn't come in for Site Plan Review at the next meeting. Chairman Spanos agrees to reach out to Mr. Bogosian.

Railroad Fencing

Vice Chairman Chenard expressed concern with the lack of a fence behind the recently built hotel and the railroad behind it. Town Manager Carina Park clarifies that the two (2) parties involved are working out the matter between themselves.

VI. ADJOURNMENT

Motion to adjourn by Member Beaudin

Second by Selectmen's Representative O.J. Robinson

All in favor

Respectfully submitted,

Judy Sherriff
Recording Secretary

Date Approved: February 8, 2023


Chairman Spanos

