

**APPROVED**

**LINCOLN PLANNING BOARD  
PUBLIC HEARING AND MEETING MINUTES**

Wednesday, July 28, 2021 – 6:00 PM  
Lincoln Town Hall, 148 Main Street, Lincoln NH

**This hybrid meeting will be available both in person with social distancing and via the Zoom Meeting Platform to allow for town wide participation. There is room in the room for between 8 and 12 guests in addition to the Board members. The public is encouraged to participate remotely using ZOOM by going to:**

Join Zoom Meeting

<https://us02web.zoom.us/j/84616079665?pwd=QkVmTTRKUHZZQ2dlc0srSVhJSFNKZz09>

Meeting ID: 846 1607 9665

Passcode: 524870

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

(See also town website [www.lincolnnh.org](http://www.lincolnnh.org) for the same link, meeting ID and passcode.)

**I. CALL TO ORDER** by the Chairman of Planning Board Jim Spanos;

**Present:** Chair James Spanos, Vice Chairman Joe Chenard, Selectmen's Representative O.J. Robinson, Member Stephen Noseworthy, Member Paul Beaudin, Alternate Mark Ehrman (attending remotely via Zoom)

**Excused:** Vice Chairman Joe Chenard (arrived later)

**Staff Present:** Recording Secretary Judy Sherriff, Fire Chief & Code Enforcement Officer/Health Officer/Zoom Host and Moderator Ronald Beard

**Staff Excused:** Planner Carole Bont

**Town Consultants Present** Town Engineer Ray Korber (via Zoom)

**Guests:**

- **Cathy Furtak Conway, P.E.,** (nonresident) (APPELLANT MARK GALLANT'S ENGINEER) Horizons Engineering, Inc., 34 School St., Littleton, NH 03561;
- **Richard (Rick) Elliott,** nonresident, (APPLICANT/PROPERTY OWNER) Developer of Forest Ridge Resort, d/b/a Mount Coolidge Construction, LLC with Jared Elliott, and Manager of Mount Coolidge Construction, LLC of 3 Amalia Drive, Nashua, NH 03063 and owner of:

Woodland Loop Land Only – Map 114, Lot 080 (Common Areas)

**and d/b/a (ABUTTER) NEWCO, LLC** of 3 Amalia Drive, Nashua, NH 03063 and owner of:

Woodland Loop – Master Lot – Map 115, Lot 003-000-CL-00000

2 Forest Ridge #Parcel – Map 114, Lot 076-000-CL-00000

Woodland Loop – Map 114, Lot 077-000-CL-00000

Woodland Loop – Map 114, Lot 078-000-00-00000

Parcel 2 Forest Ridge (13.52 Acres) – Map 114, Lot 079-000-CL-00000

Woodland Loop – Map 114, Lot 081-000-CL-00000

2 Forest Ridge #Parcel – Map 114, Lot 082-000-CL-00000

123B Woodland Loop – Map 114, Lot 082-000-02-00041

123A Woodland Loop – Map 114, Lot 082-000-02-00042

121B Woodland Loop – Map 114, Lot 082-000-03-00043

121A Woodland Loop – Map 114, Lot 082-000-03-00044

119B Woodland Loop – Map 114, Lot 082-000-04-00045

119A Woodland Loop – Map 114, Lot 082-000-04-00046

111B Woodland Loop – Map 114, Lot 082-000-08-00053

- **Mark W. Gallant**, nonresident, (APPELLANT), 39 Cypress Avenue, Shrewsbury, MA 01545 co-owner with Eileen C. Gallant of Valley View Lane #LO (Map 114, Lot 049002-00-00000).
- **David Yager**, nonresident, (INVESTOR IN OWNER LLC - APPLICANT) of 57 Flanagan Drive, Framingham, MA 01701, (VIA ZOOM) principal for DLNR Family Limited Partnership, 57 Flanagan Drive, Framingham, MA 01701, owner of 10 Hemlock Drive (Map 121 Lot 007) and

Investor in Mount Coolidge Construction, LLC that owns:

Woodland Loop Land Only – Map 114, Lot 080 (Common Areas)

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

Woodland Loop – Master Lot – Map 115, Lot 003-000-CL-00000

2 Forest Ridge #Parcel – Map 114, Lot 076-000-CL-00000

Woodland Loop – Map 114, Lot 077-000-CL-00000

Woodland Loop – Map 114, Lot 078-000-00-00000

Parcel 2 Forest Ridge (13.52 Acres) – Map 114, Lot 079-000-CL-00000

Woodland Loop – Map 114, Lot 081-000-CL-00000

2 Forest Ridge #Parcel – Map 114, Lot 082-000-CL-00000

123B Woodland Loop – Map 114, Lot 082-000-02-00041

123A Woodland Loop – Map 114, Lot 082-000-02-00042

121B Woodland Loop – Map 114, Lot 082-000-03-00043

121A Woodland Loop – Map 114, Lot 082-000-03-00044

119B Woodland Loop – Map 114, Lot 082-000-04-00045

119A Woodland Loop – Map 114, Lot 082-000-04-00046

111B Woodland Loop – Map 114, Lot 082-000-08-00053

111A Woodland Loop – Map 114, Lot 082-000-08-00054

## II. CONSIDERATION of meeting minutes from:

- **July 14, 2021**
  - (Chairman James Spanos, Board of Selectmen's Representative O.J. Robinson, Member Steve Noseworthy, Member Paul Beaudin and Alternate Mark Ehrman)

**MOTION TO SKIP July 14, 2021 MINUTES.**

**Motion: Member Robinson. Second. Member Beaudin**

**All in favor.**

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

**A. SPR 2020-11 M114 L080 Mt Coolidge Cn LLC - The Pines Detention Ponds**

**Site Plan Review Status Update Applicant/Developer/Property Owner requesting a site visit to inspect the rebuilt detention area at the Pines. Applicant signed an escrow agreement.**

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

**Applicant/Property Owner:**  
Richard (Rick) Elliott d/b/a Mt. Coolidge Construction, LLC  
3 Amalia Drive  
Nashua, NH 03063

**Applicant's Representative:**  
Michael Shepard, Esq.  
The Shepard Law Firm, P.C.  
160 Federal Street  
Boston, MA 02110

**Re: Application for Site Plan Review Approval**

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

**Project:**

Modification of the Site Plan Review 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 micro-extended detention pond (MP1) and infiltration basin (INF1) to a wet pond. The modifications do not propose any additional impervious area to the existing AoT 1445 (expired), and will disturb approximately 15,000 square feet.

## **NOTICE OF DECISION**

### **APPROVAL GRANTED 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 which is payable to the Town for all on-site improvements (i.e., the construction, drainage and associated site work), in order to ensure that the Owner/Applicant will complete all site work in accordance with the plans.** In the event the bond is called by the Town, the Planning Board shall schedule and hold a public hearing to consider revocation of the Site Plan Approval per RSA 676:4-a. No further work may proceed on site, and no further Land Use Authorization Permits shall issue without Planning Board approval in the event the bond is called and 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 which includes a 15% contingency, which equals a total of \$82,167.00. The 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 (“MMC”), its successors or assigns shall be fully responsible for the maintenance and operation of the ponds. There shall be a bond so long as MCCC is responsible for the maintenance and operation of the ponds.
3. **The project shall be completed by November 30, 2020.**

Although the deadline to complete the ponds was November 30<sup>th</sup> and the ponds were well under way on that date, the ponds and the ponds’ landscaping were still not “substantially complete” as of December 9, 2020. Mr. Elliot stated his intention was to purchase and position sod now so that the sod will germinate in the early spring. Furthermore, riprap and sod will be installed “as appropriate” down to the waterline. Mr. Elliot stated substantial completion would be done by the end of the next week (December 18<sup>th</sup>). Town Manager was expressed concern about the steepness of the incline down to the ponds and was concerned for life safety. Mr. Elliot stated that additional sloping would be done to create less of an incline into the ponds.

**The Board planned to conduct a site visit prior to the next hearing set for January 20, 2021.**

Elliott d/b/a Mount Coolidge Construction requested an extension and a public hearing on December 9, 2021. The hearing was continued to January 20, 2021 at 6:00 PM. Due to COVID-19, individual members of the Planning Board will visit the site separately prior to the meeting. Members of the public are invited to do the same.

**At the hearing on January 20, 2021,** Applicant Elliot explained that the detention ponds were not complete. The two (2) 20-inch (20") outfalls have not been raised up three inches (3") yet per the plan because the area was not yet vegetated enough to keep the soils from running off into the stream during the spring rains. After the spring runoff Applicant Elliott will raise those two (2) culverts up three inches (3"). Applicant Elliot will not ask the Board for a site visit or a release of funds until the project is complete and the engineer can sign off on the plan. Elliot's plan was to install temporary stop blocks to the twin culverts until spring when he will reconstruct the culverts to the correct elevations to match the approved plans. When Elliot installs a sidewalk in the spring, he will add vegetation to act as a barrier around the pond to keep young children out of harm's way. The Board will revisit this at their site visit. Mr. Elliot planned to have the project completed after the spring rains. The Board continued the hearing until April 28, 2021. On April 28, 2021, Elliott updated the Planning Board about the status of the work on the ponds. The Board continued the hearing until May 26, 2021. On May 26, 2021, Elliott updated the Planning Board about the status of the work on the ponds. The Board continued the hearing until July 28, 2021.

**Presentation:**

David Yeager was asked by Chairman Spanos for an update on the progress. Mr. Yeager does not have an update but mentioned that the Planning Board should have in their possession a signed Construction Control Affidavit and a signed "As-Built Plan" for the detention ponds.

Town Engineer Korber was asked if he had any comments and he said he believed Mr. Yeager was correct that the items have been received, late this afternoon, but a Town review of the "As-Built Plan" or the Construction Control Affidavit has not occurred yet.

Chairman Spanos asks if any board members have any questions. Member Beaudin asks if the purpose of this meeting is to get an update on the project. Chairman Spanos replies that it could be signed off on but due to the fact that Town Engineer Korber has not had sufficient time to review what has been submitted this afternoon. Town Engineer Korber agrees that it should be discussed at the August 25<sup>th</sup> meeting as he will have been able to review everything.

**MOTION no further discussion, to be continued to August 25, 2021 at 6:00 PM.**

**Member Beaudin, second Member Robinson.**

**All in Favor**

*Chairman Spanos states for the record that Vice Chairman Joe Chenard has joined the meeting in person.*

#### **IV. NEW BUSINESS**

##### **A. SMW 2021-01 M114 L049.2 Gallant. Request for a Waiver of the Stormwater Management Ordinance (SMO)**

Planning Board will hold a Public Hearing to hear a Request for a Waiver of the Stormwater Management Ordinance (SMO) requirement for a Stormwater Management Plan for disturbing more than fifty percent (50%) of the lot in constructing a Single-Family Residence with an attached garage.

Under the Stormwater Management Ordinance (SMO) property owners are required to submit a Stormwater Management Plan if they disturb more than fifty percent (50%) of the lot. The appellants, Mark and Eileen Gallant, 39 Cypress Avenue, Shrewsbury, MA 01545, will disturb more than fifty percent (50%) of the lot at Valley View Lane #LO (Tax Map 114, Lot 049) 0.41 acres near the top of Mansion Hill to construct a Single-Family Residence (SFR) with an attached garage. The lot is in the Rural Residential (RR) District.

Applicants are requesting the Planning Board grant a waiver of that requirement as provided for under Article V, Section E of the SMO.

After submitting Storm Water Management Plan with Land Use Permit application, Town Engineer & Public Works Director (DPW) determined there was water infiltration risk to downhill abutters' property if proposed plan was implemented. Town Engineer & DPW proposed to Appellants' engineer Horizons Engineering to mirror the home, use the driveway as a berm to push rain water to the street, negating a need for a storm water management plan with retention ponds.

**Presentation:** Appellant Mark Gallant and his engineer Cathy Furtek Conway, of Horizons Engineering, Inc. presented. Mr. Gallant discussed that the plans have been presented showing that the retaining ponds have been eliminated, the floor plan for the house has been flipped, and the driveway is now located on the left side of the home. Ms. Conway adds that there is also a berm that is being constructed along the property line to make sure that storm water is diverted (Plan Sheet 3 of 5).

##### **Questions from the Planning Board**

**Question:** Chairman Spanos asks why are they here and why they feel they need a waiver of the Stormwater Management Ordinance.

**Answer:** Appellants Engineer Conway explained that changes to their plan was made per recommendation from Public Works Director Nate Hadaway and the Town of Lincoln's Engineer (Ray Korber of KVPartners, LLC). Their initial design included a storm water infiltration pond but the drainage area is such that the sheet flow was into the neighbor's property which is below Mr. Gallant's property. The Storm Water Management Ordinance requires them to not increase the flow of stormwater pre and post development whereas this solution is actually reducing the amount of water flowing onto the neighbor's property by redirecting it to the town road's stormwater drainage system. Appellants' Engineer Conway believes that according to the Town Public Works Director (Nate Hadaway), the drainage system on the roadway can handle the additional flow. That is why they are proposing this solution as a more beneficial solution to the area and abutting properties.

**Question:** Chairman Spanos asks about how much post construction water flow runoff will increase.

**Answer:** Appellant's Engineer Conway explained that the drainage calculations that have been done, pre-development, the twenty (25) year storm showed a two (2) point analysis:

**Pre-development** at point #1 was 0.5 cubic feet per second (cfs) and at point #2 was 1.5 cubic feet per second (cfs)

**Post-development**. The volume from pre-development to post development at point #2 went from 51.98 cubic feet per second (cfs) to 53.12 cubic feet per second (cfs) which is the reason for the initially designed infiltration pond.

Appellant's Engineer Conway said the calculation on the flow was done with the infiltration pond design. The storage pond of 127 cubic feet (cf) for a four (4) bedroom home was not on the drawings and Ms. Conway explains that they did a drainage analysis and designed a storm water system and then submitted it for review and approval. That is where the conversation began about how that was not the best solution for this property. Therefore, they did not redo a drainage analysis because the goal of the revised solution was to simply direct water away from the property below Mr. Gallant's property. They accomplished that by putting in a berm and grading the driveway such that there would not be flow going into the neighbor's property.

**Question:** Chairman Spanos asks if the new plan would cause water to flow into the Town of Lincoln sewer system.

**Discussion:** The members discussed and come to the conclusion that storm water is not allowed to enter the Town sewer system, but can go onto the street or into a drainage ditch. Appellant's Engineer Conway believes that there is a catch basin about twenty (20) feet below the property line downhill. Member Beaudin commented that the catch basin is not shown on the plans submitted.

**Answer:** Town Engineer Korber explained that there is a closed drainage system on Valley View Lane and it is curbed so essentially the lot currently drains towards the road and towards the abutting property that's down gradient from the Gallant property. The concept here is to take the stormwater runoff from the Gallant property and bring it into the roadway drainage system. However, that is not an ideal situation, which the Town does not prefer, however, under the circumstances it is a better alternative than discharging the water onto the adjoining property. According to DPW Director Nate Hadaway, there are not any drainages issues in the area as there is a steep grade, steep pipe slope on the drainage system which gives him confidence that the Town's roadway drainage system can certainly take the water that is coming off Mr. Gallant's property under the proposal.

**Question:** Member has a couple of questions: Is the catch basin located in the ditch or in the road?

**Answer:** Town Engineer Korber explains that it is a curb condition and a closed drainage system so the catch basin is right up against the bottom of the bituminous curb.

**Question:** Member Beaudin asked what size the pipe is coming out of the closed drainage.

**Answer:** Town Engineer Korber replied that he does not know the size of the pipe as they did not check out the size of the pipe.

**Question:** The question was posed to Appellant's Engineer Conway about the amount of discharge coming off of the site, pre and post construction was about half (1/2) the cfs coming off that site which is not a lot of water as it is a steep gradient on that pipe.

**Answer:** Town Engineer Korber said DPW Hadaway does not have any problems with that section of the road drainage system; it should accept the water with no problem. The proposal shows that the grading on the site is consistent with the neighborhood. All of the other properties on that street drain into the street. These are not the most ideal conditions, but certainly acceptable and consistent with this neighborhood. This is also the last lot that is going to be developed on Valley View Lane so the addition of one (1) more lot of one half (1/2) cfs is not going to overtax the street drainage system.

**Question:** Member Beaudin asks about the lot uphill from the subject lot (Map 114, Lot 049 16.7 acres – owned by Raymond A. Legare & Pauline Legare & Susan Smith, Trustees, c/o Susan L. Smith, 107 Howe Hill Road, Benton, NH 03785). Lot 049 is shown on the tax maps and is a sizable chunk of property up above the subject lot and whose drainage also goes into that road and wondered where the drainage for that lot would go.

**Answer:** Town Engineer Korber explained that keeping this in context per the size of the subject lot it is going to be very difficult to meet the requirements of the Storm Water Management Ordinance. The subject lot is a small lot and between the building and the driveway the proposed project is adding a significant amount of impervious surface to that lot and one of the concerns is that the groundwater elevation is pretty high there. Given the small size of the lot combined with the high groundwater elevation, you would have to mount an infiltration basin above the adjoining lot and you would not want a situation where the infiltration basin is taking water in a high ground water situation and a saturated slope of gradient from your neighbor. Taking all of those factors into consideration, the best solution in their opinion is to put the water into the street as long as the drainage system can handle the water and that is consistent with how the entire neighborhood was developed.

Town Engineer Korber reminded Member Beaudin that DPW Hadaway is confident that the drainage system can take the water and that this would be the better solution here.

**Question:** Member Beaudin said he is concerned as they do not know what the size of the pipe is and dumping water into the road and not a closed system. Could the culvert be extended to a point where the water is directed into another catch basin so it does not go into the road at all? He is concerned as this is the north country and when it rains the last thing you want to do is to be directing water onto a road surface that could be slippery. He wonders if that would be a very prudent thing to do.

**Answer:** Town Engineer Mr. Korber replies again that this is not the most ideal thing to do but in this particular case the grade both on the roadway and in the drainage system is pretty steep so he does not have any concerns. Once the water leaves the site it is going to get into the curb line which is going to take it to the first basin which he believes is immediately downgrading it from the property. It could be required that the drainage go up into their property further up the curb line but he does not think it is necessary. There are other homes there that are between catch basins that drain into the street much like what is being proposed here. It does not seem to be a problem with those properties and as long as the property is stabilized, loaned and seeded he believes that a lot of the runoff will actually infiltrate into the ground before it hits the street anyway.



**Question:** Member Beaudin is concerned that the Board treats everyone fairly – he is concerned that developers up at South Peak Resort could be looking to possibly drain their stormwater runoff into an open or closed road drainage system.

**Answer:** Town Engineer Korber explained that all the South Peak lots have large enough square footage on the lots to actually do something to mitigate stormwater runoff without endangering or compromising an abutting property owner's property. His concern here is that it is not advantageous for the abutting property owner to try to come up with an infiltration system as was proposed initially and would be problematic long term for abutting property owners; that is the consideration here. In the case of South Peak Resort, the Town has not run into that scenario.

**Abutter Comments:**

Chairman Spanos asks if there are any abutter that would like to speak? There are not any abutters present.

**Is the Application Complete?**

Chairman Spanos reviewed the information submitted and believes the application is complete. The abutters have been notified and the Planning Board is ready to render a decision.

**“Motion to grant the waiver” so moved by Member Robinson and seconded by Vice Chairman Chenard.**

**All in favor**

Appellant Gallant asked a question regarding the waiver approval and his pending land use permit. He wanted to know if the 30-day appeal period applies to his project and if there is a way to expedite the process as he would like to start on the site work. The board members explained that the 30-day waiting period is NH State Requirement which allows abutters a chance to appeal. Appellant Gallant is aware of the risks involved with starting work without his land use permit as abutters could appeal during the 30-day waiting period.

**PLANNING BOARD RETURNED TO SUBJECT OF:**

**A. SPR 2020-11 M114 L080 Mt Coolidge Cn LLC - The Pines Detention Ponds**

**Mt. Coolidge Construction, LLC – Detention Ponds**

Chairman Spanos addressed Mr. Elliott and notified him of the decision to continue his hearing until Aug. 25, 2021. Town Engineer Korber will review the materials he has received via email and will be in touch with Mr. Elliott.

*Mr. Elliott, Mr. Korber, Mr. Gallant and Ms. Conway left the meeting.*

**Fire Protection Issue on Hemlock Drive, Lincoln NH**

Chairman Spanos read two (2) letters from residents on Hemlock Drive regarding fire protection concerns. (See attached).

Discussion regarding the Board of Selectmen and the Planning Board both looking into this matter. Member Beaudin read a portion from Title LXIV Planning and Zoning Chapter 676 Administrative and Enforcement/Procedures Planning Board Section 676:4a:

“When the applicant or successor in interest to the applicant has filed to perform any

condition of the approval within a reasonable time specified in the approval, or, if no such time is specified, within the time period specified in RSA 674:39.”

Member Beaudin feels the Planning Board has the right to look into this situation and review all applicable materials. The Planning Board agreed that they could have a working (non-public session) to review this matter.

Member Robinson will read a letter from Town Attorney Peter Malia and suggested going into Non-Public Session to read the letter and for a Non-Public discussion.

**Motion to go into “Non-Public Meeting”.**

**Motion: Chairman Spanos, 2<sup>nd</sup> by Vice Chairman Chenard.**

**All in favor.**

The Planning Board has a Non-Public Meeting starting at 6:32 PM. A letter from Attorney Malia was read, the board discussed the letter and the South Peak/CRVI lawsuit. The Planning Board would like a non-meeting with Attorney Malia on August 11, 2021 and invite the Board of Selectmen.

**Motion to come out of Non-Public Meeting at 7:10 PM by Member Robinson, 2<sup>nd</sup> by Member Beaudin.**

**All in favor.**

Vice Chairman Chenard brought up some issues to consider in the future pertaining to having trees twenty (25’) feet away from buildings.

Member Beaudin suggests that prior to next March’s Town Meeting, the Planning Board review the Storm Water Management Ordinance and consider revising it and getting it down to a point where non-pervious surfaces, post and pre-construction are evaluated.

A discussion on this subject begins. The Planning Board agrees that making stormwater runoff a whole separate part of the Site Plan Review Regulations would make it easier for the land owners. The Stormwater Management issues would be separate. Town Engineer Korber would be consulted on this matter. Another discussion regarding removing timber begins.

## **V. ADJOURNMENT**

**“To adjourn the meeting”**

**Motion: Vice Chairman Chenard**

**Second: Chairman Spanos**

**All in favor.**

Respectfully submitted,

*Judy Sherriff*  
Recording Secretary

Date Approved: 9/2/2021

  
James Spanos, Chairman