

APPROVED

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

Wednesday, August 25, 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/82342852866?pwd=a0lIQU9HTVYwTlB6SGpkR1JOemtDQT09>

Meeting ID: 823 4285 2866

Passcode: 495228

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

(See also town website 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 Paul Beaudin, Alternate Mark Ehrman (attending remotely via Zoom)

Excused: Member Stephen Noseworthy

Staff Present: Fire Chief & Code Enforcement Officer/Health Officer/Zoom Host and Moderator Ronald Beard, Planner Carole Bont

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

Guests:

- **Richard (Rick) Elliott (Via ZOOM)**, 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

- **David Beaudin**, nonresident, Route 175, Woodstock, NH 00000, Lincoln Water Plan Operator.
- **Taylor C. Beaudin**, nonresident, Route 175, Woodstock, NH 0000, contractor who works for Lincoln Trucking and Excavating LLC, 177 Connector Road, Lincoln, NH 03785.
- **Andrew (Drew) Goddard**, nonresident, (contractor & owner of Copley Properties, LLC and 179 South Peak, LLC), 1 Sanctuary Drive, Stratham, NH 03885
 - Copley Properties, LLC is currently owner of:
 - South Peak Road (Map 118, Lot 0390003)
 - South Peak Road (Map 118, Lot 0390002)
 - 179 South Peak, LLC is currently owner of:
 - 179 South Peak Road (Map 121, Lot 028)
- **John L. Malm**, nonresident Vice President, Commercial & Municipal Loan Officer, Union Bank, 20 Lower Main Street, PO Box 667, Morrisville, VT 05661-0667
- **Andrew Pike**, nonresident, (APPLICANT – Dipak Patel & Gary Patel d/b/a MANI, LLC for Hampton Inn’s Design-Build Contractor), Vice President, Opechee Construction, 11 Corporate Drive, Belmont, NH 03220
- **David Sherborne**, nonresident, (APPLICANT – Dipak Patel & Gary Patel d/b/a MANI, LLC Hampton Inn’s Design-Build Contractor), Architect & Vice President, Opechee Construction, 11 Corporate Drive, Belmont, NH 03220
- **Barry Stowe**, nonresident, (APPLICANT – Dipak Patel & Gary Patel d/b/a MANI, LLC Hampton Inn’s Design-Build Contractor), Civil Design Manager, Opechee Construction, 11 Corporate Drive, Belmont, NH 03220

II. **CONSIDERATION** of meeting minutes from:

- **June 23, 2021**

(Chairman James Spanos, Vice Chairman Joe Chenard, Board of Selectmen’s Representative O.J. Robinson, Member Paul Beaudin)

Motion to approve Member O.J. Robinson second Vice Chairman Joe Chenard All in Favor

- **July 14, 2021**

(Chairman James Spanos, Vice Chairman Joe Chenard, Board of Selectmen’s Representative O.J. Robinson, Member Paul Beaudin)

Changes to be made to line 104 – “Vice Chairman Chenard stated that the tax map is wrong because an island is shown which no longer exists.”

Changes to be made to line 222 – “Chairman Spanos mentioned that he thinks this is a matter taken up by the South Peak Resort Community Association, the Homeowners Association and the New Hampshire Attorney General”

Changes to be made to line 231 – “The Board of Selectmen is aware of the application to the attorney general’s office and has requested a copy”.

Mark Ehrman’s statement is unclear in the previous paragraph. The members agreed to change it to read, “New Hampshire Attorney General as well as the Town of Lincoln, and the town has an obligation and a responsibility”

**Motion to approve with changes Member O.J. Robinson second Member Beaudin
All in Favor**

○ **July 28, 2021**

(Chairman James Spanos, Vice Chairman Joe Chenard, Board of Selectmen’s Representative O.J. Robinson, Member Herman’s Paul Beaudin)

**Motion to approve Member O.J. 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 (MPI) 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 30th 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. Applicant 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. Applicant Elliot stated substantial completion would be done by the end of the next week (December 18th). Town Manager was expressed concern about the steepness of the incline down to the ponds and was concerned for life safety. Applicant 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. Applicant 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. On **July 28, 2021**, Elliott updated the Planning Board about the status of the work on the ponds. The Board continued the hearing until **August 25, 2021**.

Presentation:

Discussion

Applicant Rick Elliott stated that the detention ponds are in and working well. He believes Town Engineer Korber is waiting on information from his engineer [Marc Burnell of Horizons Engineering, Inc.], who signed off [on the detention ponds] and had the ponds certified. There is some information missing. Everything on the pond is completed with exception of the guard

rail. He is waiting to complete the guard rail as he wants to make sure the town is happy with everything. Applicant Rick Elliott stated that the detention pond is working great and doing exactly what they wanted it to do.

Were the Items on Town Engineer Korber's List Addressed?

Chairman Spanos asks if the remaining ten (10) items that Town Engineer Ray Korber pointed out in an email dated August 16, 2021 [not a letter dated August 26, 2021] have been addressed. (See email attached as Appendix A.)

Applicant Elliott explained that the head wall and retaining wall have been mortared back in, the gully that existed has been loomed and seeded. Applicant Elliott asked Chairman Spanos to read the list of ten (10) items from the letter for him as he does not have the letter with him at the moment.

Chairman Spanos read from Town Engineer Korber's email dated August 16, 2021.

1. **Item #1.** "Areas around the buildings appear to be at or near finish grade stabilize areas with temporary permanent vegetative cover. Install erosion control mats on slopes in excess of 3:1."

Applicant Elliott stated that the slopes are protected at the bottom. They put the straw in around those areas and the plan is to finish grade, loom and seed what is currently rough grade in September.

Town Engineer Korber joined the conversation about the outstanding items. He clarified that the items are the temporary erosion sediment control measures and they are not related specifically to the pond.

Member Beaudin asks if the bond was only for the detention ponds and the answer is yes.

Town Engineer Korber reviewed a few of the items required relating to the area around the pond.

7. **Item #7.** "Complete turf establishment at the detention ponds. Sod has been placed but it is not established. Remove and replace sections that are in disrepair, dying or are dead. Care should be taken to ensure that the sections are not stretched or overlapped and that all joints are butted tightly to prevent voids that would cause air drying of roots. Lateral joints should be staggered to promote more uniform growth and strength. All areas outside the limits of sodding shall be loamed, seeded and stabilized."

Town Engineer Korber explained that Item #7 details the re-sodding and seeding of the area. Some of the seed has taken root and some has not which leaves it less than robust. The benchmark for full establishment is 85% of the areas to be vegetated. To deem this area, (which is up the embankment that makes up the ponds) complete, more robust growth must occur.

Applicant Elliott explained that the area being discussed is a small part of the overall planning and the banks that lead into the ponds are 100% vegetated. The area that needs more robust growth leads away from the ponds and towards the road and it is the area where they had been parking equipment. He stated that the pond is considerably more than 85% vegetated.

Town Engineer Korber said agreed with Applicant Elliott's comments regarding the amount of vegetation.

Town Engineer Korber reviewed condition item #8.

8. Item #8. Repair and stabilize embankment upgradient of the detention pond inlet.

Town Engineer Korber said Item #8 refers to an area up gradient from that ponds that has an area of erosion which requires repair that dates back to May 2021. This is recommended to be repaired as it runs into the forebay of the pond.

Applicant Elliott said he has, prior to this meeting, had the area loomed and seeded. There is currently no vegetation growing on the area but it should be growing soon.

Chairman Spanos read item #9.

9. Item #9. Repair the headwall for the twin culvert outlet located at the detention ponds.

Applicant Elliott replied that the head wall has been lifted to the proper elevation and has been re-stone faced and this item is complete.

Town Engineer Korber said he will conduct a site visit to confirm completion. The last site visit he conducted was on August 13, 2021. The work was done sometime between that date and today's meeting of August 25, 2021.

Applicant Elliott said he was hoping to come to this meeting with everything done that he could physically get done. Applicant Elliott said the only thing he wanted to have done that is not done yet is the Forest Pines Association documentation which transfers the maintenance of the pond to the Homeowners Association.

Chairman Spanos read item #10.

10. Item #10. It appears inspections of control measures are not occurring as required by the SWPPP. Inspections should be completed weekly and prior to and after any significant rainfall event (0.25 inches).

Town Engineer Korber said that Item #10 is referring to the Storm Water Pollution Prevention Plan (SWPPP). Town Engineer Korber explained that this item does not refer to the detention ponds specifically, but is related to the erosion and sediment control measures for the whole project.

Town Engineer Korber explained that Horizons Engineering is still working on some of the other items on the list. One of the items is the "as-built plans" confirming that the bottom elevations and the configuration of the detention ponds has been achieved. He recommends that the Planning Board wait for Horizons Engineering Inc. to give them feedback on those inquiries before Applicant Elliott puts in the guardrail around the pond.

Applicant Elliott asked the Planning Board if he needs to simply hear from Town Engineer Korber or does he need to wait for another Planning Board meeting.

Selectmen's Representative Robinson expresses that holding back on the guard rail simply because the grass has not grown in yet does not seem to make sense. Once Town Engineer Korber visits the site and the head wall and other items are addressed then Applicant Elliott should move ahead and put in the guardrail. The board members concurred.

Second Hearing Needed for Release of the Performance Bond

Chairman Spanos clarified that the release of the bond will be conducted at a second hearing and the Planning Board did not need to continue today's meeting.

Town Engineer Korber will make the final determination as to when to put the guardrail in and then another meeting will be set for a later date to determine whether or not to release of the bond.

Town Engineer Korber agreed that he will alert the Town of Lincoln and Applicant Elliott, once he visits the site and deems the items on the check list complete.

Applicant Elliott will let Town Engineer Korber know when the guardrail is complete.

Chairman Spanos concluded this discussion.

III. NEW BUSINESS

A. SMW 2021-02 M121 L025 (formerly Copley Properties, LLC), now Nathan Brunell.

Request for a Waiver of the Stormwater Management Ordinance (SMO)

Request for a Waiver of the Stormwater Management Ordinance (SMO) requirement for a Stormwater Management Plan for disturbing more than 50% of the lot in constructing a Single-Family Residence with an attached garage and a 14'x25' deck.

Applicant & Property Owners: Nathan & Sarah Brunell

14 P. Tree Lane

Kingston, MA 02364

Property: 169 South Peak Road (Tax Map 121, Lot 025) (0.49 acres or 21,344 SF]. The lot is in the General Use (GU) District.

Project: Appellant/Property Owners requested a Waiver of the Stormwater Management Ordinance (SMO) requirement for a Stormwater Management Plan:

- (1) to disturb more than 50% of the lot to build a single-family residence; and
- (2) to exceed 4,000 maximum square footage of impervious surfaces per alteration of terrain (AoT) permit

Under the SMO, property owners are required to submit a Stormwater Management Plan if they disturb more than 50% of the lot. Property owners, Nathan & Sarah Brunell, received a Land Use Authorization Permit (LUP) in 2020 to build a single-family residence (SFR) with attached garage for 169 South Peak based on representations on their application that they would not disturb more than 50% of the lot, so they were not required to submit a Stormwater Management and Erosion Control Plan prior to being issued a permit. However, during construction of the home, contractor disturbed more than 50% of the lot.

Based on the Alteration of Terrain (AoT) Permit for South Peak Resort, the basis of design was for a maximum lot coverage of impervious surface of 4,000 SF. The permitted house, attached garage, driveways & walkways had just under the maximum 4,000 SF of impervious surface (3,800 SF).

During construction property owners added a bump-out. Now Appellants want to add a 14'X25' deck that will disturb additional land and the total number of square

feet of impervious surfaces on the lot will exceed the maximum of 4,000 SF of impervious surfaces per lot that is the basis of design for the Alteration of Terrain (AoT) Permit for South Peak Resort. These changes exceed the proposed disturbed area of over 50% of the lot and also exceed the maximum number of square feet of impervious surfaces in the basis of design for the AoT Permit.

The lot is in the General Use (GU) District.

Appellants are requesting Planning Board grant a waiver of those requirement as provided for under Article V, Section E of the SMO. Appellants propose to mitigate stormwater runoff by including six inches (6") of 3/4" stone under the deck and around the perimeter of the building.

Presentation:

Nathan Burnell (homeowner) discussed the request for waiver of the SMO. He explains that after working with Planner Bont and discussing with Lincoln Town Manager Alfred "Butch" Burbank to put in a revision to the land use authorization permit. They would like to add an additional three hundred and fifty (350) square feet for a deck. Town Manager Burbank suggested they plan to place six (6) inch deep of three quarter (3/4) inch stone for drainage under the proposed deck. This would stop run off from the deck and from the property. Appellant Burnell is looking to get a permit to build the deck that is going to sit on an already disturbed area.

Discussion

Planner Bont explained that the lot is relatively flat compared to the other lots in the area. Storm water mitigation measures have been taken by the homeowner and Planner Bont is in support of the application. Chairman Spanos asks Town Engineer Korber if he had reviewed this application and if he had any concerns. Town Engineer Korber did not have any concerns with the Planning Board granting the permit.

Motion to open discussion for public comment by Chairman Spanos. Moved by Selectmen's Representative Robinson and seconded by Member Beaudin.

All in favor

There are no public comments.

Motion to close public comment by Chairman Spanos.

Second by Selectmen's Representative Robinson.

All in favor.

Question

Member Beaudin asks a question regarding permission from the South Peak Resort. Appellant Brunell has an email from South Peak and will forward the email to Planner Bont with the application.

Motion to approve a waiver of the Stormwater Management Ordinance for the submitted design of a 14'X25' deck by Chairman Spanos.

Second by Selectmen's Representative Robinson

All in favor.

B. Dipak Patel & Gary Patel d/b/a Mani, LLC, Conceptual/Consultation

Request for Consultation – are proposed changes to Hampton Inn Plans *de minimis*?

Dipak Patel & Gary Patel d/b/a Mani, LLC, hired Opechee Construction Corporation to construct a four-story 93-room Hampton Inn on Map 112, Lot 002 and Lot 003 as approved by the Planning Board April 10, 2019 (SPR 2018-05 M112 L002 & L003 – DelRegno + Patel per Notice of Decision granting Site Plan Review approval signed April 29, 2019. Two (2) subsequent Requests for Extensions were granted by the Planning Board.

Planning Board **GRANTED** the Application for Site Plan Review Approval of:

Applicant: Dipak Patel, d/b/a The Hampton Inn
1567 White Mountain Highway
PO Box 3299
North Conway, NH 03860-3299

(Former) Property Owner:
- Victor R. Del Regno, Trustee
Toreign III Realty
6718 Fox Hollow Drive
West Palm Beach, FL 33412

Property: Main Street (Lot 3) #LO (Map 112, Lot 002); and
Main Street (Lot 2) #LO (Map 112, Lot 003).
The property is located in the Village Center (VC) District.

Project: Applicant who had a purchase and sale agreement with the property owner of two adjacent lots requested **Site Plan Review** approval for a change of use to change the use of two adjacent properties in the same ownership (i.e., two existing vacant lots with three rental billboards) and to make site improvements to include a new 4-story 93-room Hampton Inn & Suites, paved parking for hotel & a separate 15,000 square foot lot, five new stormwater infiltration systems and connections to municipal water, municipal sewer & electric. The proposed project also required a boundary line adjustment or subdivision.

Request for Site Plan Review Approval

Applicant's request for Site Plan Review approval for a change of use of two adjacent properties in the same ownership (i.e., two existing vacant lots with three rental billboards) to a new 4-story 93-room Hampton Inn & Suites, paved parking for hotel and the separate 15,000 square foot lot, five new stormwater infiltration systems and connections to municipal water, municipal sewer & electric was **GRANTED** by the affirmative majority vote (3-2) of the five (5) members of the Planning Board after a duly-noticed public hearing on April 10, 2019, subject to the following

CONDITIONS OF APPROVAL:

1. The applicant shall design and propose an adequate fire suppression system that meets the State's Fire Code and satisfies the Town's Fire Chief. The Planning Board's approval of the applicant's fire flow for fire suppression proposal would have to occur **before any construction materials are brought to the site and before any above ground construction commences.**
2. The applicant shall obtain a NH Department of Transportation (NH DOT) Driveway Permit. If NH DOT requires the Applicant to move the building, then the Planning Board's conditional approval is voided.
3. The Applicant's engineers shall design and propose a plan to verify adequate accessibility around the entire building for fire-fighting purposes using the specifications for the Town Fire Truck that satisfies the Town Engineer and the Town Fire Chief. The Town Engineer will review the plan to verify adequate fire-fighting accessibility around the entire building **before** the Fire Chief will sign off on it for either a Town Land Use Authorization Permit or a State Building Permit.
4. The lot line adjustment shall be completed and approved prior to the commencement of construction.
5. The Applicant has one (1) year from the date of the April 10, 2019, Planning Board hearing to submit the relevant information required to satisfy these conditions to the Town Planner, Carole Bont, following which a Planning Board Public Hearing will be scheduled, and the Planning Board will determine if the conditions have been met.

The Planning Board's public hearing does not have to take place within one (1) year. Rather, the information needs to be submitted to the Town within one (1) year, but the public hearing could potentially take place later than one (1) year from April 10, 2019.

If the applicant completes the information needed to satisfy the conditions earlier than one (1) year, however, then the applicant can provide the information to the Town as soon as possible and ask for the public hearing to be scheduled.

6. In order to address the Town's sewer capacity, the Board of Selectmen recently adopted a "First Come First Served" resolution regarding the Town's Wastewater Treatment Plant. The Planning Board determined that the Applicant's approval tonight would qualify as "First Come." This means that even if another developer gets approval within the one-year period given to this applicant to satisfy these conditions of approval, the next developer will not move ahead of this applicant in terms of the Town's available sewer capacity.

On March 11, 2020, the Planning Board granted an extension, to April 10, 2021.
On April 14, 2021, the Planning Board granted a second extension to April 10, 2022.

Applicant is trying to fulfill all requirements set forth in Site Plan Review Approval Notice of Decision in order to submit Application for Land Use Authorization Permit. Changes in the zoning ordinance since approval resulted in changes to proposed plan with a smaller building and additional parking spaces. Are those changes *de minimis* so that those changes will not require additional site plan review approval?

Presentation:

Planner Bont confirmed with Town Engineer Korber that he is in receipt of the latest construction plans from the applicant and the presentation of this project.

The architect for the project David Sherbourne from Opechee Construction Corporation, [1 Corporate Drive, Belmont, NH 03220] introduced the team that is currently working on this project.

1. Ownership remains the same with Dipak Patel and Gary Patel d/b/a Mani, LLC.
2. There is a new team of civil engineers from Allen & Major Associates, Inc., from Manchester NH.
3. Other members from Opechee Construction Corporation include Vice President Andrew Pike and Civil Design Engineer Barry Stowe.

Applicant's Architect Sherborne discussed the dates for conditions of approval from the Notice of Decision dated April 10, 2019. On March 11, 2020 the Planning Board granted an extension until April 10, 2021. On April 14, 2021 the Planning Board granted another extension through April 10, 2022.

Applicant's Architect Sherborne said there are two reasons for today's presentation to seek *de minimus* notification of existing site plan approval and to discuss the six (6) conditions for approval from the 2019 as they are looking to fulfill those requirements of the Site Plan Approval prior to filing applications for the Land Use Authorization Permit. Applicant's Architect Sherborne provided drawings to illustrate site plan changes made to the original approval.

List of *de minimus* modifications:

1. The material to be used for the siding has been changed from previously approved vinyl clapboard siding to fiber cement siding.
2. The refuse area in the northeast corner of the site remains with a slight adjustment to the location.
3. The Gazebo location has changed slightly to move it out of the rear setback of the site.
4. The building length has been reduced by forty-five feet (45'). The building was previously two hundred sixty-one feet (261') long and now it is two hundred sixteen feet (216').
5. The single-story appendage on the Eastern side of the hotel is now removed and the swimming pool will be within the main building footprint. This will reduce the overall footprint by fifty-three hundred

(5,300) sq. ft. This reduction of the size of the building is to accommodate new zoning requirements that are now in place but were not in 2019. They reduced the footprint down to sixty-nine-point seven percent (69.7%) of the lot that now allows for additional parking spaces. The new plan allows for one hundred sixteen (116) spaces which aligns better with the new zoning requirements of one point two (1.2) parking spaces per room.

6. Removed an appendage of parking previously proposed. The New Hampshire DOT curb cut is now closed.

Planner Bont asked about whether they were going to apply for a subdivision approval. Where is the boundary location for the two (2) lots?

Applicant's Civil Design Manager Barry Stowe of Opechee Construction explained that a boundary plan between the two adjacent lots has been submitted with adjustments to the lot line; Map 112, Lot 002 will become 1.94 acres and Map 112, Lot 003 will become 0.38 acres.

Chairman Spanos asked if the size of the second lot will remain unchanged.

Applicant's Civil Design Manager Stowe explained that the smaller lot was previously a little over fifteen thousand square feet (15,000 SF) and now the lot line is better configured with the dry well and the parking spaces. The property line has been reconfigured so the property boundary line goes up the center of the driveway, along the back of the parking spaces and goes over to the southerly property line along the parking spaces. This change in the property boundary line ended up with a lot measuring approximately sixteen thousand five hundred square feet (16,500 SF) gaining about one thousand [five hundred] square feet (1,500 SF) bigger than it was previously.

Planner Bont inquired as to whether the applicant would need to submit another subdivision application. Chairman Spanos responded that it will be decided on once a decision regarding *de minimus* occurs.

Applicant's Civil Design Manager Stowe explained that this is a boundary line adjustment and not a subdivision. There will not be a consolidation of the two (2) lots as in a lot merger; it will be a reconfiguration of this internal property line. Chairman Spanos explained that it may require that they apply for a lot line adjustment again.

Questions

Changes in Footprint:

Member Beaudin asks for clarification regarding the removal of the fore mentioned parking appendage and the parking spaces to the left stay the same. Applicant's Civil Design Manager Stowe showed him on the drawings.

Fire Truck Access:

Planner Bont asked if Fire Chief Ron Beard had reviewed the parking area as it relates to fire truck access. Fire Chief Beard responded that he has seen the revised plans.

NH DOT Driveway Permit:

Member Beaudin asked if NH DOT had reviewed the plans. Applicant's Civil Design Manager Stowe responded that the applicants have been through two (2) revisions and the NH DOT currently has the last set of revisions. The major issues have been addressed (i.e., curb cut).

Applicant's Civil Design Manager Stowe said there may be some small revisions to the last set of plans issued. A bond of twelve thousand dollars (\$12,000) will be posted for the excavation permit for the utility work in the state road so they have a performance bond in hand; it is pending. The permits are in draft form and they are pretty close to being issued.

Change in Siding:

Chairman Spanos asks for confirmation, on the change to the siding from vinyl to concrete, that the appearance will stay the same. Applicant's Civil Design Manager Stowe replies that the concrete siding material will look the same and possibly better than the previously approved vinyl siding.

Conditions of Approval

1. Fire suppression system and the supply of the town water to be able to support it.
 - a. On July 9, 2021 Weston and Sampson performed a hydraulic review that resulted in demonstrating that they could get a thousand (1,000) gallons per minute for two (2) hours above the minimum standard of twenty (20) psi.
 - b. Also, the ownership had New Hampshire Fire Protection perform a hydro fluid test on July 24, 2021 which resulted in fifteen hundred and ninety-two (1,592) gallons per minute at one hundred nineteen (119) psi residual pressure at the street hydrant.
 - c. Their engineer confirmed that the municipal water supply is adequate to meet the hotel's sprinkler system demand and no further system is required.
 - d. The full sprinkler system design and documentation is near completion and will be submitted to the New Hampshire State Fire Marshall and the Town of Lincoln for final approval.
 - e. Approvals by both are conditions set prior to the issuance of the Land Use Ordinance.
2. New Hampshire DOT Driveway Permit is waiting on final approval.
 - a. DOT Driveway Permit approval is a condition for issuance of Land Use Permits to allow the start of site work.
 - b. The design build delivery method is overlapping the design with construction a little bit and it is a fast-track process so they will not have a full set of engineer plans. They are adapting to the Lincoln Land Use Permit process and will have a full set when applying for that permit.
3. Town Engineer Korber wants to clarify what the applicants want for process and timing:

- a. Applicants want Town approval to move forward with the site work after the issuance of the Land Use Permit.
- b. Essentially what they would want is to delay meeting some of the requirements that will not be met prior to the issuance Land Use Permit; rather they want conditions in the Land Use Permit to allow them to start on the site work and then get the New Hampshire State Fire Marshal to sign off on the fire suppression system before they place a footing in the ground. Applicant's Civil Design Manager Stowe's response to Town Engineer Korber was "that is correct".
- c. Town Engineer Korber wants to make that clarification because in the presentation they were planning to have the Fire Marshal approval prior to the issuance of the Land Use Permit and that is not what they really want. He wanted to clear up, for the Planning Board, that the presentation was misworded and that everyone understood.
- d. Applicant's Civil Design Manager Stowe explained that they were under the impression that the Land Use Permit was applicable to the building construction and they could commence site work prior to being issued a Land Use Permit. He agrees that was a mistake in their interpretation of the process.
- e. Town Engineer Korber mentioned that administratively the town staff will issue the Land Use Permit, and in the Land Use Permit there will be a set of conditions that have to be met before the footings go in the ground before building construction can commence.
 - i. Member Beaudin asked who would be checking off the set of conditions? Town Engineer Korber responded that it would be the town staff.
 - ii. Planner Bont said that she would work with Town Engineer Korber as she has not dealt with a design build process before. She states, as an example, that subcontractors are handled differently in design build and the finalized list of subcontractors would not be final until AFTER the permit was issued. This process is in the reverse of what typically happens with the timing of the determination of the subcontractors. She would get a general list of the subcontractor's names and once finalized would update the information to be more accurate.
 - iii. Planner Bont said that in reviewing the plans, she would consult with Town Engineer Korber to be certain there is enough information for her to issue the Land Use Permit.
 - iv. Chairman Spanos asks if there could be two (2) Land Use Permits issued: one for site work and then a separate one for when the building is ready to go. Town Engineer Korber said that can be done but administratively, if everything was covered under one document it would be more efficient as long as everyone

understands and accepts the conditions in the Land Use Permit that gets issued. This will prevent the need to craft up a second permit as putting permits together can take time and the applicant are interested in putting the footings in the ground before snow falls.

- v. Applicant's Architect Sherborne explained that he intends to have a full design package by the third (3rd) week in September. They typically do a phased building permit. For example, they will do the foundation and maybe a shell which will be the structural steel or the load bearing frame. Then they will come back and do the subsequent full building permit which will be able to work on mechanical, electrical.
- vi. Applicant's Architect Sherborne said after talking with Town Engineer Korber and Fire Chief Beard they felt that a single conditional Land Use Permit would be issued and as they get through the list of conditions and they have been signed off on, the permit would be issued.
- vii. Member Beaudin expressed his concern that the conditions be specific enough so that everyone knows what the conditions are and how they have to be met. He feels there should be clear dialogue about what to do if the conditions are not met. Due to material delays and labor delays, there could be a hold up on completion of some of the conditions.
- viii. Vice Chairman Chenard added to the discussion by stating it could depend on the nature of the delay and they could ask the Planning Board if they should delay or continue.
- ix. Applicant's Civil Design Manager Stowe states that the intent would be to check every condition off before they start construction on the building.
- x. Applicant's Architect Sherborne clarifies that he does not believe any delays on the list of conditions would be related to material delays because they are all related to administrative reviews by the NH DOT, Fire Marshal, or internally with the Land Use Permit. None of the conditions relate to any site work that they have to complete before the building construction starts.
- xi. Applicant's Architect Sherborne said they are comfortable with the conditions and appreciate the Town working with them as this process is unique and not the norm.

Discussion

Chairman Spanos discussed portions of the Notice of Decision (page 3 number 10) and the boundary line revisions previously mentioned.

Final Subdivision Approval

Planner Bont explained that the Subdivision Application is on the Town's website. They

would need to fill out the subdivision notification form that includes an abutter list. She also suggested bringing in the mylar drawings to the meeting as long as they do not anticipate any changes.

Adequate Water Fire Flow for Fire Protection

Member Beaudin asked about the fire protection condition which was previously discussed. Applicant's Architect Sherborne explained again that they are waiting for final approval. Chairman Spanos asked for confirmation that they do not need to have on site water storage because the town water supply is sufficient.

Siding

Selectmen's Representative Robinson suggested that in the **Finding of Facts #15**, under the Modified Elements section that the wording should be changed to show the originally approved vinyl siding will be replaced with cement board.

(See attached Appendix G. "Notice of Decision granting Site Plan Review Approval for the Hampton Inn dated April 10, 2019, which reads as follows:

15. The re-design of the building will have vinyl siding with the appearance of clapboards and some stone along the bottom.

NH DOT Traffic Study

Member Beaudin asked about approval from NH DOT. Chairman Spanos clarified that a traffic study was completed prior to the granting of initial approval. Planner Bont asked Town Engineer Korber if he remembered a traffic study being performed for this project. Town Engineer Korber said "I do believe there was a traffic study for the project".

Engineering Concerns

Member Beaudin asks if all eleven (11) items from Town Engineer Korber's memorandum dated August 23, 2021 have been address. Town Engineer Korber replies that he has been in conversation with the engineering firm and there are probably two (2) items on that list of comments that still need to be addressed. Coordination with Lincoln Public Works Director (DPW) Nate Hadaway is required on one of them. Town Engineer Korber expects that all of the comments listed will be addressed by the end of the week.

Town Engineer Korber said the remaining items are simple things like deleting a note and a crossing of the water line which was shown to be going over the drain line which was not going to work. DPW Hadaway is looking into the water line issue as it is in the right-of-way (ROW).

Change in the Site of the Building

Chairman Spanos was curious about how they are able to shorten the footprint of the building. Applicant's Architect Sherbourne explained that they adjusted the room matrix and the rooms are slightly narrower. This change is within the guidelines and allows enough room for the first floor to contain the swimming pool inside. Applicant's Civil Design Manager Stowe added that they also removed unnecessary utility space and storage space to gain added square feet.

Is Gazebo in Setback Area?

Member Beaudin asked if the gazebo was within the setback or not. Applicant's Civil Design Manager Stowe explained that previously it was shown close to the property line [in the setback area] but after working with Town Engineer Korber they ended up relocating the gazebo farther away from the original location.

Chairman Spanos asked the Planning Board if they were ready to determine whether these changes were *de minimus* to proceed and also subject to the lot line adjustment.

Motion Vice Chairman Chenard -Changes ARE *de minimus*
Second Selectmen's Representative Robinson
All in Favor

Motion Selectmen's Representative Robinson - Staff can issue a conditional Land Use Permit incorporating these conditions as presented and discussed.
Second Vice Chairman Chenard
All in Favor

C. Amir Khasanov – Conceptual (property owned by Michael Donahue, Sr.)

Applicant: **Amir Khasanov**
PO Box 1521
Lincoln, NH 03251-1521

Property Owner: **Michael James Donahue, Sr. &**
PO Box 56
Woodstock, NH 03262-0056

Property:

- (1) **34 Franklin Street** (Tax Map 113, Lot 010) (0.29 acres or 12,632.4 SF).
 - (2) **Franklin Street #LO** (Tax Map 113, Lot 009) (0.19 acres or 8,276.4 SF).
- Both lots are in the General Residential (GR) District.

Proposed Project: Two (2) adjacent lots in the same ownership at the end of Franklin Street are for sale. One of the lots is developed with a mobile home and with frontage on the actual Franklin Street (Map 113, Lot 010). The second lot is vacant except for an outbuilding (Map 113, Lot 009).

Although the Town-maintained portion of Franklin Street ends at the end of 28 Franklin Street (Map 113, Lot 011) currently the pavement for Franklin Street extends beyond the end of Franklin Street for a private driveway that extends to the end the far end of the lot known as 34 Franklin Street (Tax Map 113, Lot 010) until the driveway reaches the mobile home on the far end of Lot 010.

The Town has permission from the property owner to use the paved driveway extension off Franklin Street and to maintain it just enough to turn the Town plow trucks around during the winter as there is no cul-de-sac or turn around at the end of Franklin Street. The Town does not maintain the private driveway past the end of 31 Franklin Street (Map 113, Lot 011) where the Town Maintained portion of Franklin Street ends.

There is also a private driveway into 31 Franklin Street (Map 113, Lot 008) from

the private driveway extension of Franklin Street.

If the two pre-existing nonconforming lots were merged, there is not enough acreage to support two fully compliant house lots in the General Residential (GR) District. They would need 15,000 SF per lot for a total of 30,000 SF. There is only 0.48 acres or 20,908.8 SF in both lots combined.

Proposed Buyer would like Planning Board input and advice about possibly doing a Lot Line Adjustment between Map 009 and Map 010, extending the private drive to grant access to Franklin Street to Lot 009, reconfiguring the two lots and putting one house on each pre-existing nonconforming lot.

Presentation:

Request withdrawn due to sale of the property to another buyer.

IV. OTHER BUSINESS

A. Letters of Complaint about Lack of Water in Fire Hydrants on Hemlock Drive

1. July 28, 2021, Brian Crowley (11 Hemlock Drive – Map 121 Lot 004)
2. July 28, 2021, Arthur Remillard (7 Hemlock Drive) (Map 121 Lot 005)
3. July 28, 2021, Arthur Remillard (8 Hemlock Drive) (Map 121 Lot 008)
4. August 9, 2021, Stephen Klar (2 Hemlock Drive) (Map 121 Lot 010)
5. Formerly Brian Holub, now owned by David L. Holmberg, Trustees (23 Hemlock Drive) (Map 121, Lot 001)

Discussion:

Chairman Spanos read emails written by Stephen Klar and Brian Holub. (See attached emails as Appendix B and C). (He read the letters from Crowley and Remillard at the prior meeting.)

Was a New Water Storage Tank Required?

Vice Chairman Chenard said the original agreement presented to the Planning Board said the developers of South Peak were going to put a holding tank in the Hemlock Drive area plus put four hundred (400) gallon pressurized tanks for each of the house; that was never done. Land Use Authorization Permits should never have been issued.

Member Beaudin replied that this issue speaks more to the Board of Selectmen's legal action than it does to the abilities of the Planning Board.

Selectmen's Representative Robinson responded that there were many discussions and ideas offered regarding Fire Protection measures but the most important thing is the defining document. The defining document is the final application submitted to the Planning Board and the approval of that application. The questions are:

1. "Was there holding tanks in the final application?"
2. Were there pumps and storage tanks inside each house in the final application?"

Selectmen's Representative Robinson believed the answer to both of those questions is "no". If anyone can show otherwise, the Planning Board and the Board of Selectmen "could have a different discussion".

Vice Chairman Chenard responded that in his opinion, when he sat on the board, the upper road is supposed to have those tanks installed before the developer could get Land Use Authorization Permits.

Selectmen's Representative Robinson said he understands that could be true, however, he has not seen any documents stating what Vice Chairman Chenard recalls.

Vice Chairman Chenard said he has been in contact with the previous Planning Board Chairman and the previous Chairman agrees with Vice Chairman Chenard. Vice Chairman Chenard thinks that someone made an error and did not put it [the requirements for a water storage holding tank and pumps and four hundred (400) gallon pressurized tanks for each of the houses] in the documents. Vice Chairman Chenard stated that this is just his opinion and he cannot discuss the matter anymore due to on-going litigation.

Member Beaudin responded that the Planning Board is not going to be able to anything beyond what the Board of Selectman (BOS) is doing as far as the pressure or the fire hydrants. If the BOS is successful in their case the tanks will get installed and that will correct the deficiencies on Hemlock Drive, because the hydrants will have enough flow and pressure which would allow them to be used. Member Beaudin said that the only thing the Planning Board could do is to void the application of the approval which starts a whole new legal process.

Selectmen's Representative Robinson stated that a new legal process would ultimately lead to the same things that are in the BOS current legal process.

House Size Based on Master Plan and Basis of Design for South Peak Resort

Member Beaudin stated that what the Planning Board can do is to discuss the Master Plan and the Basis of Design. The Basis of Design included the size of the buildings that were supposed to be constructed. However, homes are being constructed which are larger than what is supported in the Master Plan and the Basis of Design for the engineering that designed all of the infrastructure.

Parking

Vice Chairman Chenard brought up the issue of inadequate parking space requirements.

Chairman Spanos clarified that the issue of inadequate parking space requirements had already been addressed with an amendment to the parking requirements in the Land Use Plan Ordinance that was passed at the 2021 Town Meeting. The amendment increased the number of parking spaces required for single family homes based on the number of bedrooms.

Size of Homes Permitted Exceed Size of Homes in Master Plan and in Basis of Design

Member Beaudin complained that the houses being built are larger than was contemplated in the approved Master Plan and in the Basis of Design. He is concerned that Town staff is not adhering to what was designed in the Master Plan and in the Basis of Design.

Planner Bont asked for clarification regarding whether to reject pending applications for homes greater than the size permit. What would be the cutoff date?

Chairman Spanos responded that they are only applying the demand in their letter to applications that are pending and have not been approved yet.

Selectmen's Representative Robinson stated that currently, no building is allowed to be constructed in the high-pressure zone; we are not issuing permits for that area. The high-pressure zone includes all of Hemlock Drive and a section of Crooked Mountain Road. In addition, no permits are being issued for lots that are or were owned by FC-Loon, LLC or CRVI South Peak TRS, Inc. (CRVI) as of July 6, 2021.

Chairman Spanos with the help of the town's attorney drafted a letter which was read by Chairman Spanos. (See attached draft letter as Appendix D.) The Planning Board had a discussion and made amendments to the draft letter and to authorize the Chairman to sign the final letter.

**Motion to open issue to public comment by Chairman Spanos.
Second by Vice Chairman Chenard.
All in Favor.**

Public Comments

Developer Andrew Goddard (d/b/a Copley Properties, LLC and 179 South Peak, LLC) said he is a homeowner of several lots in South Peak Resort:

1. **179 South Peak Road** (Map 121, Lot 028 (also referred to as "Lot 55") now owned by Copley Properties, LLC, purchased on May 23, 2018.
2. South Peak Road #LO (Map 121, Lot 053) (also referred to as "**Lot 30**"), now owned by Matthew S. Burke & Dina M. Burke as of February 10, 2021.
3. South Peak Road #LO (Map 118, lot 039002 or **Lot 039.2**) (also referred to as "Lot 1"), now owned by Copley Properties, LLC as of February 10, 2021.
4. South Peak Road #LO (Map 118, lot 039003 or **Lot 039.3**) (also referred to as "Lot 2"), now owned by Copley Properties, LLC as of February 10, 2021.

Developer Andrew Goddard said he a building/developer. He said that there is only one house in the entire development at South Peak Resort that exceeds six thousand square feet (6,000 SF) and that house is located on Hemlock Drive. Developer Andrew Goddard said that homeowner exceeded the size without the ARB's permission. He said he believes this was an isolated incident. In his opinion, the letter that states there are homes as large as twelve thousand (12,000) feet is wrong. In his opinion there is not a house up there that is that big.

Developer Andrew Goddard said he knows that in Phase I all houses must have a finished square footage of a minimum of twenty-five hundred square feet (2,500 SF) up to no more than six thousand square feet (6,000 SF). Some of the newer lots on South Peak Road ("**The Mountain** Homes at South Peak" **lots**) will have homes where the square footage

can be as low as fifteen hundred (1,500) sq. ft. due to the smaller lot size. Developer Andrew Goddard said that within the last year the Town decided to implement a 15-year-old “non-existing” Alteration of Terrain (AoT) design requirement of four thousand (4,000) sq. ft. impervious area. Developer Andrew Goddard said he has discussed this matter with his own engineers and he feels the number of bedrooms, lot size and impervious areas to some point are getting a little extreme.

Developer Andrew Goddard said he sees that the average size homes up there in South Peak Resort to be four (4) to six (6) bedrooms and does not see a material effect on the overall community, water supply or municipality. He does not see how building four (4), five (5) or six (6) bedrooms matter when the Town has these other restrictions in place. He feels there is over management of homeowners and the homeowners will start to work around the rules by finishing their basements without permits. As the town makes it harder for people to build what they want the Town makes it more enticing for people to not be as upfront about the number of bedrooms they are putting in their homes. Developer Andrew Goddard said that is just his personal opinion. Chairman Spanos responds to Developer Andrew Goddard and said “thank you”.

Motion to close public comment by Chairman Spanos

Second by Member Beaudin

All in Favor

Continued Discussion by the Planning Board

Selectmen’s Representative Robinson feels that Developer Andrew Goddard has made some good points and recommends more changes to the letter. Planner Bont will make all the changes, made by the Planning Board, to the letter and have Chairman Spanos sign it.

Motion by Member Beaudin to amend draft letter as discussed and authorize Chairman Spanos to sign it.

Second by Selectmen’s Representative Robinson

All in Favor

(See Final Letter Attached as Appendix E.)

B. Site Work: Discuss what constitutes “Site Work” (per Request of Paul Beaudin).

Article VII Administration

Section B. Land Use Authorization Permit

Paragraph 1.

Land Use Authorization Permits. It shall be unlawful to construct a new building or make exterior dimensional additions to a building without first obtaining a permit from the Board of Selectmen or their designee. Permits must be posted on the site and be easily visible. **Land Use Permits are also required before any site work is started on any proposed or approved site plan or subdivision.**

Discussion:

Member Beaudin said he believed the Planning Board needed to clarify what is considered “site work”. RSA 79:10 Notice of Intent to Cut was referred to.

Title V. Taxation.
Chapter 79 Forest Conservation and Taxation
79:10 Notice of Intent to Cut. -

Town Engineer Korber explained that “site work” on a wooded lot includes clearing and grubbing so it includes tree removal. Tree removal in and of itself is not considered site work. Site working is an extension into excavation, back-filling, etc.

Member Beaudin expressed his concern for the homeowners who have to wait for their Land Use Authorization Permits before they can have people come in and cut down the trees. Member Beaudin said it may be helpful to the homeowners if they can find someone to cut down trees prior to getting approval for a Land Use Authorization Permit because it is hard to find contractors to cut down the trees.

Planner Bont explains that cutting trees on flat areas is not really a problem but when the lot is up on “Billy Goat’s Gruff” that is different due to the potential for erosion caused by stormwater runoff. Furthermore, it is going to be difficult to know and keep track of who is just cutting trees and who is cutting and stumping without a Land Use Authorization Permit.

Member Beaudin suggested that Fire Chief/Code Enforcement Officer Ron Beard is the person who monitors this now and should continue to do so.

Planner Bont explained that she was looking for guidance. She asked if the Planning Board thought it was okay for property owners to cut the trees but leave the stumps until they get their Land Use Authorization Permit.

Town Engineer Korber helped the discussion by asking the Planning Board to consider thinking about the purpose of the tree clearing operation.

- If the purpose of the tree clearing operation is to harvest timber, then go ahead and clear within in the RSA requirements.
- If the tree clearing is part of broader site work that is ultimately going to get done on a project, based on the definition that you have, and from what he understands is in the ordinance under those circumstances, tree cutting should be included in the “site work” definition.

Member Beaudin explained that he has done some research on timber harvesting laws and the University of New Hampshire [Cooperative Extension] has some guidelines [“Guide to New Hampshire Timber Harvesting Laws”] that if a specific piece of property already has site plan approval, for example, the medical facility, they should be able to cut down trees. “As long as you have your approvals there is no reason why you can’t cut your trees.” This is a question of site plan approval vs. permit issuance.

See attached Appendix F with excerpt from Guide to New Hampshire Timber harvesting Laws by University of NH Cooperative Extension, page 32, revised April 2014.

Relationship Between Timber Harvesting Laws & Storm Water Management and Area of Disturbance

Planner Bont asked Town Engineer Korber how the Timber Harvesting Laws dovetail with the Storm Water Management and the Area of Disturbance.

Chairman Spanos replied that until the stumps are removed the area is not considered “disturbed”.

Town Engineer Korber agreed that when you start removing stumps that is when they determine “disturbance”. Clear cutting will definitely cause disturbance due to the heavy equipment used.

Who Has Legal Responsibility for Erosion Control?

Member Beaudin asked who would be responsible for the erosion control, the property owner or the contractor taking down the trees?

Town Engineer Korber believes the responsibility would be with the property owner as the property owner is hiring a contractor to take down the trees and is responsible for making sure the contractor is doing the job correctly.

Request for Recusal

David Beaudin spoke up and said he felt that Member Paul Beaudin should voluntarily recuse himself from this discussion because Paul Beaudin is employed by the developer up in “The Landing” that now has lots that are going to be developed.

Chairman Spanos thanked David Beaudin for his comment, however, he said the individual Planning Board members are responsible for recusing themselves.

Selectmen’s Representative Robinson clarified that as a point of law that kind of recusal is only effective when the board is making a judicial decision on a particular case before it.

Member Paul Beaudin replied that he feels he can be impartial.

Should Cutting Trees be Considered “Site Work” under the Land Use Plan Ordinance or a “Disturbance” for the Purpose of the Stormwater Management Ordinance?

Developer Andrew Goddard said he believes cutting trees is not “site work” based on the state law. He does not think that cutting trees is a “disturbance”. Developer Andrew Goddard said he does not think the Town should over think or complicate this matter. Developer Andrew Goddard said stumping is excavation and that could be considered “site work” but cutting trees is not “disturbance” based on state regulations. Developer Andrew Goddard said there is a lack of venders so if you can have trees cut and get the site contractors in and have silt fence placed along with erosion control measures it would benefit the property owners. The state does not consider tree cutting to be a disturbance therefore the Town of Lincoln should not either. Chairman Spanos thanks him for his

comments.

Chairman Spanos polled the board. “Should tree clearing be considered site work?” All the members reply “no”.

Public Comments.

Chairman Spanos asked if there were any public comments.

Contractor Taylor Beaudin talked about site work, disturbance and erosion along with the Storm Water Management Ordinance, which he would like to see it on a future Planning Board agenda.

Member Beaudin mentioned that the Planning Board has discussed having a meeting to discuss what is actually considered “disturbed area” from preconstruction to post construction. The Planning Board will have a meeting soon to discuss these issues.

The Planning Board and audience members had a discussion back and forth about the Storm Water Management issues.

Planner Bont explained that the purpose of the Storm Water Management Ordinance is to prevent displacement of water runoff moving from one lot onto another one. Everyone agreed that the pre and post development runoff needs to be looked at and the post development runoff cannot exceed the pre-development runoff. The issues of Disturbed and undisturbed, pervious and impervious areas need of clarification.

V. OTHER BUSINESS

Campsites with Cement Pads, Water and Sewer Hookups

Planner Bont mentioned that she received three (3) requests this week from people who want to put a water and sewer hookup for camping, or “glamping” (glamorous camping).

1. One owner wants to have short term rentals where the owner would put a cement pad down with water and sewer hookups and then park a camper on the cement pad and rent out the camper to short term renters on an adjacent vacant lot. Her question is that one site is not really a “campground”; it is just one site with a hookup. Is that a “campground”?
2. Another owner’s request is to remove the mobile home they are currently living in and put in a cement pad with water and sewer hookup and then live in a camper while they decide whether they want to build a house or what. The camper would basically be a base of operations until they decide whether they want to build a house, put in a manufactured home or just live in the camper.

Member Beaudin wondered if the campsite would be an allowed use. The Planning Board discusses that it could be considered a business use and therefore would be considered to be a single one-sited campground.

3. The third request was from owners who have a house on their lot already, but want to create a cement pad with water and sewer hookups for an RV site next to their house. They would consider the camper site to be a short-term rental and

understand that 180 days at that location it would be considered a permanent structure.

Chairman Spanos suggests they all come before the Planning Board for Conceptual Review.

VI. ADJOURNMENT
“To adjourn the meeting”
Motion: Vice Chairman Chenard
Second: Member Beaudin
All in favor.

Respectfully submitted,

Judy Sherriff
Recording Secretary

Date Approved: September 22, 2021


James Spanos, Chairman

Planning

From: rkorber@kvpllc.com
Sent: Monday, August 16, 2021 11:03 AM
To: 'Rick Elliott'
Cc: Fire; 'David Yager'; Planning; Lisa Peluso
Subject: RE: Pines At Forest Ridge-Site Visit

Rick –

The following is a brief summary of the site visit completed on 8/13/21. Please complete the following in accordance with the SWPPP and plans as approved by the Planning Board. Work should be completed immediately. Note that compliance is a condition of the LUAP. Note that this list contains items cited in our 5/12/21 site visit report and subsequent sites visits completed for the project.

1. Areas around the buildings appear to be at or near finished grade. Stabilize areas with temporary or permanent vegetative cover. Install erosion control mats on slopes in excess of 3:1.
2. Install perimeter controls (e.g. silt fence) around all stockpiles and equipment storage sites.
3. Install stabilized construction entrances at each building under construction where vehicles park and enter and leave the site.
4. Repair and stabilize all roadway shoulders.
5. Remove silt, sediment and debris from all drainage swales and culverts upgradient of the detention ponds and install check dams as required to prevent transmission of silt and sediment to the detention ponds.
6. Remove sediment accumulated in the swale downstream of the detention ponds.
7. Complete turf establishment at the detention ponds. Sod has been placed but it is not established. Remove and replace sections that are in disrepair, dying or are dead. Care should be taken to insure that the sections are not stretched or overlapped and that all joints are butted tightly to prevent voids that would cause air drying of roots. Lateral joints should be staggered to promote more uniform growth and strength. All areas outside the limits of sodding shall be loamed, seeded and stabilized.
8. Repair and stabilize embankment upgradient of the detention pond inlet.
9. Repair the headwall for the twin culvert outlet located at the detention ponds.
10. It appears inspections of control measures are not occurring as required by the SWPPP. Inspections should be completed weekly and prior to and after any significant rainfall event (0.25 inches).

Please provide a date certain when these items will be addressed.

Please call with any questions.

Regards, Ray

Ray Korber, PE, MSCE

KVPartners LLC
CONSULTING ENGINEERS

PO Box 7721, Gilford, NH 03249

Tel: 603-513-1909 | Cel: 603-491-3136 | Fax: 866-587-0507

Email: rkorber@kvpllc.com

From: rkorber@kvpllc.com <rkorber@kvpllc.com>

Sent: Tuesday, July 13, 2021 2:10 PM

To: 'Rick Elliott' <rickelliott3377@comcast.net>; 'Jared Elliott' <jelliottconstruction77@gmail.com>

Cc: 'Fire' <fire@lincolnnh.org>; 'David Yager' <davidy8766@gmail.com>

Subject: Pines At Forest Ridge-Site Visit

Rick –

Thank you for submitting the inspection report. Please note that:

- The inspection reports need a signature not just a name.
- We do not concur that controls don't need to be modified (they do) or that new controls are not warranted (they are). See below:

The following is a brief summary of the site visit completed on 7/13/21. Please complete the following in accordance with the SWPPP and plans as approved by the Planning Board. Work should be completed immediately. Note that compliance is a condition of the LUAP. Note that this list remains essentially the same as that submitted on May 12.

1. Sections of silt fence are in disrepair and need immediate attention. Inspect and repair all silt fence.
2. Areas around the buildings appear to be at or near finished grade. Stabilize areas with temporary or permanent vegetative cover. Install erosion control mats on slopes in excess of 3:1.
3. Install perimeter controls (e.g. silt fence) around all stockpiles and equipment storage sites. This includes stockpiles and sites located at the adjoining Forest Woods development.
4. Install stabilized construction entrances at each building under construction where vehicles park and enter and leave the site.
5. Sweep all paved areas weekly and prior to any rainstorm event.
6. Repair and stabilize all roadway shoulders.
7. Remove silt, sediment and debris from all drainage swales and culverts upgradient of the detention ponds and install check dams as required to prevent transmission of silt and sediment to the detention ponds.
8. Remove sediment accumulated in the swale downstream of the detention ponds and stabilize all channel side slopes.
9. Complete turf establishment at the detention ponds. Sod has been placed but it is not established. Remove and replace sections that are in disrepair, dying or are dead. Care should be taken to insure that the sections are not stretched or overlapped and that all joints are butted tightly to prevent voids that would cause air drying of roots. Lateral joints should be staggered to promote more uniform growth and strength. All areas outside the limits of sodding shall be loamed, seeded and stabilized.
10. Repair and stabilize embankment upgradient of the detention pond inlet.
11. Repair the headwall for the twin culvert outlet located at the detention ponds.
12. It appears the forebay is retaining water and is not functioning as intended. The plans do not call for the permanent pool in the forebay. Please advise.
13. Please submit the record drawings and construction control affidavit for the detention ponds. The record drawings shall capture bottom elevations of the stormwater practice and not just waterline elevation.
14. It appears inspections of control measures are not occurring as required by the SWPPP. Inspections should be completed weekly and prior to and after any significant rainfall event (0.25 inches).

Please provide a date certain when these items will be addressed.

Please call with any questions.

Regards, Ray

Ray Korber, PE, MSCE

KVPartners LLC

CONSULTING ENGINEERS

PO Box 7721, Gilford, NH 03249

Tel: 603-513-1909 | Cel: 603-491-3136 | Fax: 866-587-0507

Email: rkorber@kvpllc.com

Partners in Building Better Communities

From: Rick Elliott <rickelliott3377@comcast.net>

Sent: Tuesday, July 13, 2021 10:04 AM

To: Ray Korber <rkorber@kvpllc.com>; fire <fire@lincolnnh.org>; David Yager <davidy8766@gmail.com>; Jared Elliott <jelliottconstruction77@gmail.com>

Subject: 21.07.10 Forest Ridge SWPPP

Hi All attached above is the SWPPP including the progress report for the week ending July 10, 2021

Rick

603.361.2806

Planning

From: Planning
Sent: Monday, August 9, 2021 10:26 AM
To: 'Carole Bont (planning@lincolnnh.org)'
Subject: FW: Chair PB Homeowner on Hemlock Drive Related To Fire Hydrant Capabilities2
Attachments: 2021-07-28 Email from Brian Crowley - no water in hydrants.docx; C&V 2021-03 Hemlock Drive - No water in fire hydrants - img008.pdf

Hi Everyone,

We now have three letters from the people on Hemlock Drive about the lack of adequate water pressure in the fire hydrants. You got the first two letters at your last Planning Board meeting. (See attached.) We got a new one today. See email below.

Carole

Carole Bont
Planner
Town of Lincoln
148 Main Street
PO Box 25
Lincoln, NH 03251-0025
planning@lincolnnh.org
Phone: 603-745-8527
Fax: 603-745-6743
Public Hours Open:
Monday 1:00 PM – 4:30 PM
Wednesday 1:00 PM – 4:30 PM
Thursday 8:00 AM – 4:30 PM
Friday 1:00 PM – 4:30 PM

From: Town Hall <townhall@lincolnnh.org>
Sent: Monday, August 9, 2021 9:47 AM
To: Planning <planning@lincolnnh.org>; Lisa Peluso <LPeluso@lincolnnh.org>
Subject: FW: To: Chairman of Planning Board Re: Concerned Homeowner on Hemlock Drive Related To Fire Hydrant Capabilities

FYI...see below 😊

Jane A. Leslie
Administrative Assistant
Welfare Director
Human Resource Coordinator
Town of Lincoln
P.O. Box 25/148 Main Street
Lincoln, NH 03251
T (603) 745-2757 (F) (603) 745-6743
Townhall@Lincolnnh.org



From: Stephen Klar <stephenklar@gmail.com>

Sent: Sunday, August 8, 2021 3:50 PM

To: Town Hall <townhall@lincolnnh.org>

Subject: To: Chairman of Planning Board Re: Concerned Homeowner on Hemlock Drive Related To Fire Hydrant Capabilities

Mr Chairman:

I am the owner of the property at 2 Hemlock Drive in Lincoln and am writing to express my concern and strong interest concerning the fire hydrant capabilities in South Peak broadly and on Hemlock Drive specifically. This should be an important safety issue for all of us; and I appreciate the Town's efforts to address this on our collective behalf with the developer of South Peak and all other relevant parties.

I don't know all the details and who is responsible for what; but I do know that I always expected and understood that the fire hydrant outside my house would be useful to the fire department in case of a fire. I am now being told that it may not; and that is very concerning. I have always been under the impression that the Town and the developer had an agreement that would require sufficient water supply to all homes that were permitted to be built in the South Peak Resort - for both the proper use of those homes as well as for their protection in case of fire. I ask that this issue be given the proper attention by the Town.

Thanks for all your efforts and please let me know if you have any questions.

Sincerely,

Stephen Klar

Planning

From: Planning
Sent: Wednesday, August 25, 2021 9:44 AM
To: Planning
Subject: FW: To Chairman of Planning Board, James Spanos & VC Joe Chenard

Another Hemlock Drive complaint for tonight's meeting.

Carole Bont
Planner
Town of Lincoln
148 Main Street
PO Box 25
Lincoln, NH 03251-0025
planning@lincolnnh.org
Phone: 603-745-8527
Fax: 603-745-6743
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Friday 1:00 PM – 4:30 PM

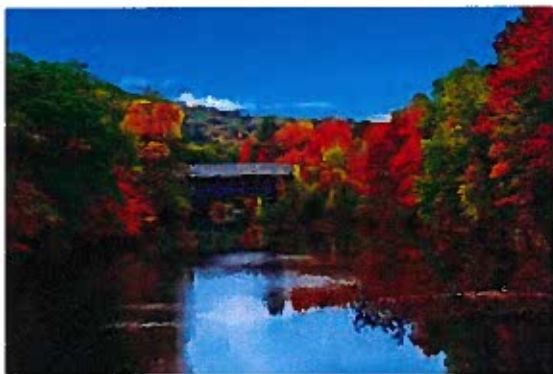
From: Town Hall <townhall@lincolnnh.org>
Sent: Thursday, July 29, 2021 11:54 AM
To: Planning <planning@lincolnnh.org>; James Spanos <james.spanos@coldwellbanker.com>; O.J. Robinson <robinsonbos@lincolnnh.org>; Town Manager <townmanager@lincolnnh.org>; Fire <fire@lincolnnh.org>
Cc: Lisa Peluso <LPeluso@lincolnnh.org>
Subject: FW: To Chairman of Planning Board, James Spanos & VC Joe Chenard

Good Afternoon,

I just received the email below.

Jane

Jane A. Leslie
Administrative Assistant
Welfare Director
Human Resource Coordinator
Town of Lincoln
P.O. Box 25/148 Main Street
Lincoln, NH 03251
T (603) 745-2757 (F) (603) 745-6743
Townhall@Lincolnnh.org



From: Brian Holub <holubbrian@gmail.com>

Sent: Thursday, July 29, 2021 11:39 AM

To: Town Hall <townhall@lincolnnh.org>

Subject: To Chairman of Planning Board, James Spanos & VC Joe Chenard

To: James Spanos (Chairman of Planning Board), Joe Chenard (VC of Planning Board)

I am a resident and home owner of 23 Hemlock Dr in South Peak. It has come to my attention that members of the planning board have not had complaints regarding the fire protection in the high pressure zone of the South Peak development, and therefore are not taking action to resolve this issue. I am formally requesting that the planning board take all efforts to resolve the water pressure issues, especially in consideration of fire protection. I know that the public record reflects comments about the use of cisterns for the purpose of fire protection. I have already corresponded with Jack Daly about this issue when the LUPO discussions were happening before official denial of all building permissions to South Peak High Pressure Zone lots.

I know the town is engaged in legal activity with CRBE to hold them responsible for the original Centex agreements to build a water tower. As this issue is unlikely to be resolved anytime soon, please take all alternative actions to guarantee fire safety for my home, and our neighborhood.

Sincerely,
Brian

Brian Holub
holubbrian@gmail.com
(978) 761-3996
23 Hemlock Dr
Lincoln NH 03251

August 25, 2021

VIA HAND DELIVERY

Butch Burbank, Town Manager
Board of Selectmen

DRAFT

RE: Concerns with South Peak Development

Dear Butch and Board of Selectmen:

On behalf of the Lincoln Planning Board, I am writing to express our concerns regarding the status of the South Peak Development. First, we are in receipt of an email from Brian Crowley of 11 Hemlock Drive to "Town Hall" with the subject "to Chairman of Planning Board." (Similar letters have been sent to the Town from Arthur Remillard and Stephen Klar). Mr. Crowley expressed concerns regarding "the lack of enough water pressure or volume of water from the hydrants needed for the Fire Department to deal with a property fire." Mr. Crowley asked that this issue "be given the proper attention by the Town and that the original agreements are in forced." We wanted to make sure that you were aware of Mr. Crowley's email and that you are taking the appropriate steps to address the important issue that he raised. Obviously, working fire hydrants are essential.

In addition, it has come to our attention that some of the houses being built in the South Peak Development far exceed the square footage that was originally approved. Appendix D of the South Peak Resort Design Guidelines, under Section IV (Architectural Guidelines), C (Scale and Square Footage), states that "a home's total building square footage shall range from 2,500 sf 6,000 sf." This same 6,000 sf restriction appears on page 19 of the South Peak Resort Architectural Review Board Residential Design Guidelines. It has come to our attention that several homes have been built in South Peak that far exceed 6,000 sf. In fact, some are in the 11,000 sf to 12,000 sf range. In addition, based on the Engineering Basis of Design for South Peak, the number of bedrooms that was utilized by the developer's engineers for residential use in South Peak was between 1.75 and 4.0. There are several assessment cards for homes in South Peak that have as many as 8-12 bedrooms.

Please communicate with Town Staff regarding the importance of future applications for construction in South Peak to comply with the approved size requirements for residential structures. By sending them a copy of this letter we are so notifying the South Peak ARB.

Sincerely,

James Spanos, Chairman
Lincoln Planning Board

Cc: South Peak Architectural Review Board



TOWN OF LINCOLN NEW HAMPSHIRE
P L A N N I N G &
Z O N I N G
 D E P A R T M E N T

PLANNING BOARD
 ZONING BOARD OF ADJUSTMENT

August 25, 2021

VIA HAND DELIVERY

Butch Burbank, Town Manager Board of Selectmen

RE: Concerns with South Peak Development

Dear Butch and Board of Selectmen:

On behalf of the Lincoln Planning Board, I am writing to express our concerns regarding the status of the South Peak Development. First, we are in receipt of an email from Brian Crowley of 11 Hemlock Drive to "Town Hall" with the subject "to Chairman of Planning Board." Similar letters have been sent to the Town from Arthur Remillard, Stephen Klar and Brian Holub. All of these homeowners expressed concerns regarding the lack of enough water pressure or volume of water from the hydrants needed for the Fire Department to deal with a property fire. These emails asked that this issue be given the proper attention by the Town and that the original agreements be enforced. We wanted to make sure that you were aware of these emails and that you are taking the appropriate steps to address the important issues raised. Obviously, working fire hydrants are essential.

In addition, it has come to our attention that some of the houses being built in the South Peak Development may exceed the square footage that was originally approved. Appendix D of the South Peak Resort Design Guidelines, under Section IV (Architectural Guidelines), C (Scale and Square Footage) was part of the approved South Peak Resort Master Plan application and states that "a home's total building square footage shall range from 2,500 sf to 6,000 sf."

This same 6,000 sf restriction appears on page 19 of the South Peak Resort Architectural Review Board Residential Design Guidelines, under Section IV (Architectural Guidelines), C (Scale and Square Footage) that was part of the South Peak Resort Plan revision dated May 18, 2020.

"Building square footage" is further defined under Section VII (Glossary of Terms) that was part of the original approved South Peak Resort Master Plan on page 63 and no changes to the definition were made on page 62 in the revision dated May 18, 2020.

Building Square Footage – The sum of all gross horizontal areas of all floors of a building measured from the exterior face of walls of heated, finished space including but not limited to, stairways (counted on the main level only), lofts, halls, habitable attics, closets, storage, mechanical and utility areas. Garages and unfinished space in basements are excluded.

In addition, based on the Engineering Basis of Design for South Peak, the number of bedrooms that was utilized by the developer's engineers for residential use in South Peak was between 1.75 and 4.0.

Please communicate with Town Staff regarding the importance of future applications for construction in South Peak to comply with the approved size requirements for residential structures. By sending them a copy of this letter we are so notifying the South Peak ARB.

Sincerely,

A handwritten signature in black ink, appearing to read "James Spanos". The signature is fluid and cursive, with the first name "James" being more prominent than the last name "Spanos".

James Spanos, Chairman Lincoln Planning Board

Cc: South Peak Architectural Review Board



University of New Hampshire
Cooperative Extension

Guide to New Hampshire Timber Harvesting Laws



What if the land is being converted to other uses?

Timber cutting for land conversion purposes, other than timber growing and forest uses, is exempt from the basal area law if those persons intending to convert the use of the land have secured all required local and/or state permits including, but not limited to, building, subdivision or zoning permits, excavation permits, wetland/shoreland permits, or site plan approval necessary for the use to which the land will be converted and are able to furnish proof of such permits.

Clearing for agriculture that requires no local permits prior to tree removal, except the intent to cut, is therefore exempt from this provision. However, timber cutting for land conversion purposes, other than timber growing and forest uses, that does not require local permits, shall be exempt from this section if conversion occurs within 180 days of exceeding the basal area provisions, or there has been written consent from Director of Forests and Lands to extend the 180 day period. Please note that a wetlands and/or shoreland permit may be needed depending on the project type.

If the land is being cleared for a subdivision, the subdivision plan must have been submitted and approved by the Water Supply and Pollution Control Division of DES in accordance with RSA 485-A:32, III and RSA 227-J:9, III. The plan must be approved before any road construction or land clearing begins. If land clearing begins before the subdivision plan is approved, or before all other necessary permits are obtained, town officials are to notify the Director of the Division of Forests and Lands (RSA 227-J:9, VII). If the director takes no enforcement action within 10 days, the town may take action to stop the activity, such as issuing a cease-and-desist order.

Land Conversion/Development Harvesting Laws

New Hampshire law makes a distinction between timber harvesting for forest management and timber harvesting that takes place to convert land to non-forest uses such as in development. The following chart summarizes restrictions that apply to land conversion, and those that apply to forestry, with statutory references in parentheses.

State Law	Land Conversion	Forestry
Notice of Intent to Cut (RSA 79)	Required when cutting greater than 10MBF and 20 cords	Required, some exceptions apply
Dredge & Fill Permit (RSA 482-A)	Required if wetlands impact is minimum, minor, or major	Required if wetlands impact is minor or major
Forestry Notification Having Minimum Wetlands Impact (RSA 482-A:3)	Can't be used; Must use a Dredge & Fill application	Required if wetland impact is minimum
Alteration of Terrain (RSA 485-A:17)	Required if > 100,000 sq. ft. (2.3 acres) is disturbed (excavating, stumping, etc.), 50,000 sq. ft. within shoreland protection Zone, or >0 sq. ft. on a 25% or greater slope within 50 ft. of a surface water (RSA 483-B:9, V)	Required, but Notice of Intent to Cut Timber Certificate serves as permit (RSA 485-A:17, III); Disturbance must not exceed limitations in previous column.
Basal Area Law (RSA 227-J:9)	Applies unless all local permits have been secured	Applies unless variance has been obtained from Division of Forests & Lands
Slash Law (RSA 227-J:10)	Applies	Applies
Surface Water Quality Protection Act (RSA 483-B:9, V)	Permit is required for any dredge, fill, or construction project within 250 linear feet of fourth order and higher streams, designated rivers, and water bodies >10 acres	Not applicable
Natural Heritage Bureau (RSA 212-A; 212-B; 217-A)	Required with all wetland/shoreland applications	Not applicable



STATE OF NEW HAMPSHIRE
DEPARTMENT OF REVENUE ADMINISTRATION
MUNICIPAL AND PROPERTY DIVISION
(603) 230-5950

Synopsis of New Hampshire Timber Tax Law

The Notice of Intent to Cut: (RSA 79:10)

The State of New Hampshire has a real estate tax and by definition timber is considered to be real estate and therefore taxable. However, the method in which it is taxed is different from other real estate and is described in the State Constitution. Timber is only taxed at the time it is cut at a rate which encourages the growing of timber. In order for the municipal assessing officials to be aware of cutting operations they must be notified of the cutting by the owner filing a form PA-7, Notice of Intent to Cut Timber. The Notice of Intent, which is required by law, notifies the assessing officials, NH Department of Revenue Administration (DRA) and the NH Division of Forest & Lands. Timber on all land ownerships is taxable at 10% of the stumpage value at the time of cutting. The only exemptions are as follows:

1. 10 MBF saw logs and 20 cords fuel wood for personal use by the owner. (RSA 79:1 II(b) 1&2)
2. 10 MBF saw logs and 20 cords of wood for land conversion purposes when all permits for the conversion have been received. (RSA 79:1 II (b) 5)
3. Shade and ornamental trees, usually considered to be trees within striking distance of a building.
(RSA 79:2)
4. Christmas trees, fruit trees, and nursery stock and short rotation tree fiber. (RSA 79:2)
5. Any amount of firewood for maple syrup production. (RSA 79:1 II (b) 2)
6. Government and utilities not selling the wood.(RSA 79:1 II (b) 3 & 4)

(Items 1-6, No Intent required and Timber is not taxable)

The PA-7, Notice of Intent to Cut, must be completed with a volume estimate, signed by the assessing officials and posted on the job site before any cutting requiring a notice can start. The original volume estimate cannot be exceeded without filing a supplemental Notice of Intent to Cut for additional volumes. Notice of Intent to Cut forms are available from the DRA and the Town (RSA 79:10).

Town officials have 30 days to sign the Notice of Intent to Cut (RSA 79:10 I (b)). They may withhold signing **only** for the following reasons:

1. The form has been improperly filled out. (RSA 79:10)
2. Land is enrolled in the unproductive current use category that does not allow timber harvesting.
(RSA 9-A:2, XIII, Current Use Administrative Rule Cub 305.02 (b))
3. A timber tax bond is required but has not been posted. (RSA 79:3-a)
4. All owners of record listed on the property record card have not signed the intent to cut. (RSA 79:1 II. & 79:10 I. (a))

If the municipal officials have not acted on the Notice of Intent to Cut within 30 days of receipt, the landowner should contact DRA, who will inquire with the town as to the status of the paperwork. If

municipal officials are withholding signing, the landowner shall be notified in writing by the town as to the reason(s) within 30 days of receipt of the Notice of Intent to Cut by the Town. (RSA 79:10-I(b))

Tax Responsibility: (RSA 79:1 II(a))

The responsibility for the timber tax depends on the type of ownership and must be one of the following:

1. Owner with timber rights on their own land (joint tenants).
2. Owner with timber rights on their own land (tenants in common).
3. Persons with deeded timber rights on land they previously owned.
4. Persons purchasing timber on public lands Federal, state, county, town, etc.

Timber Tax Bond: (RSA 79:10-a)

Owners that own land within the town the cutting is to take place and are current on property taxes and timber taxes cannot be required to post a timber tax bond. All other owners must post a timber tax bond before the Notice of Intent to Cut is signed. Timber tax bonds are usually equal to the expected timber tax.

Extensions: (RSA 79:10 II) (RSA 79:11 II)

Extensions are allowed upon written request by the owner to the assessing officials prior to April 1. Extensions allow cutting to continue through June 30 and reports are due August 15.

Report of Wood Cut: (RSA 79:11)

Report of Wood Cut forms are sent to the owners filing a notice along with a certificate, which should be posted at the job site. Reports of wood cut must be filed with the town within 60 days of completion or by May 15, whichever comes first. The report form serves as the basis for determining the timber yield tax.

Appeal Process: (RSA 79:8)

If a taxpayer believes they have been overtaxed they must appeal in writing to the Town within 90 days of the tax bill. If the Town denies the appeal then the taxpayer may appeal to the Board of Tax and Land Appeals (BTLA) within 6 months of the tax bill for an appeal board hearing. The Guideline to Assessing Timber is available from DRA to assist owners and towns in proper assessment of timber per NH timber tax law.

Penalties, Doomsage and Enforcement: (RSA 79:12) (RSA 21:J 39) (RSA 79:28 & 28-a)

Fines for non-compliance range up to \$2,000. A Doomsage penalty may be assessed for improper reporting (Doomsage is two times what the tax would have been if the Report had been seasonably filed and truly reported). The DRA and NH Division of Forest & Lands have authority to issue a cease and desist for any cutting operation not in compliance with RSA 79.

This is only a synopsis of the law, for further clarification refer to the New Hampshire statutes or call the Department of Revenue Administration, Municipal & Property Division at 230-5900.



TOWN OF LINCOLN, NH
Planning & Zoning Department
PO Box 25
Lincoln, NH 03251-0025

Phone: 603-745-2757
Fax: 603-745-6743
Email: planning@lincolnnh.org
Web: www.lincolnnh.org

**PLANNING BOARD
TOWN OF LINCOLN, NEW HAMPSHIRE
NOTICE OF DECISION PURSUANT TO RSA 676:4, I(i)**

Site Plan Review Approval Granted

Case # SPR 2018-05 M112 L002 & L003 – DelRegno+Patel

You are hereby notified that the Planning Board **GRANTED** the Application for Site Plan Review Approval of:

Applicant: Dipak Patel, d/b/a The Hampton Inn
1567 White Mountain Highway
PO Box 3299
North Conway, NH 03860-3299

Property Owner: Victor R. Del Regno, Trustee
Toreign III Realty
6718 Fox Hollow Drive
West Palm Beach, FL 33412

Property: Main Street (Lot 3) #LO (Map 112, Lot 002); and
Main Street (Lot 2) #LO (Map 112, Lot 003).
The property is located in the Village Center (VC) District.

Project: Applicant who had a purchase and sale agreement with the property owner of two adjacent lots requested **Site Plan Review** approval for a change of use to change the use of two adjacent properties in the same ownership (i.e., two existing vacant lots with three rental billboards) and to make site improvements to include a new 4-story 93-room Hampton Inn & Suites, paved parking for hotel & a separate 15,000 square foot lot, five new stormwater infiltration systems and connections to municipal water, municipal sewer & electric. The proposed project also required a boundary line adjustment or subdivision.

Request for Site Plan Review Approval

Applicant's request for Site Plan Review approval for a change of use of two adjacent properties in the same ownership (i.e., two existing vacant lots with three rental billboards) to a new 4-story 93-room Hampton Inn & Suites, paved parking for hotel and the separate 15,000 square foot lot,

five new stormwater infiltration systems and connections to municipal water, municipal sewer & electric was **GRANTED** by the affirmative majority vote (3-2) of the five (5) members of the Planning Board after a duly-noticed public hearing on April 10, 2019, subject to the following **CONDITIONS OF APPROVAL**:

1. The applicant shall design and propose an adequate fire suppression system that meets the State's Fire Code and satisfies the Town's Fire Chief. The Planning Board's approval of the applicant's fire flow for fire suppression proposal would have to occur before any construction materials are brought to the site and before any above ground construction commences.
2. The applicant shall obtain a NH Department of Transportation (NH DOT) Driveway Permit. If NH DOT requires the Applicant to move the building, then the Planning Board's conditional approval is voided.
3. The Applicant's engineers shall design and propose a plan to verify adequate accessibility around the entire building for fire-fighting purposes using the specifications for the Town Fire Truck that satisfies the Town Engineer and the Town Fire Chief. The Town Engineer will review the plan to verify adequate fire-fighting accessibility around the entire building before the Fire Chief will sign off on it for either a Town Land Use Authorization Permit or a State Building Permit.
4. The lot line adjustment shall be completed and approved prior to the commencement of construction.

5. The Applicant has one (1) year from the date of the April 10, 2019, Planning Board hearing to submit the relevant information required to satisfy these conditions to the Town Planner, Carole Bont, following which a Planning Board Public Hearing will be scheduled, and the Planning Board will determine if the conditions have been met.

The Planning Board's public hearing does not have to take place within one (1) year. Rather, the information needs to be submitted to the Town within one (1) year, but the public hearing could potentially take place later than one (1) year from April 10, 2019.

If the applicant completes the information needed to satisfy the conditions earlier than one (1) year, however, then the applicant can provide the information to the Town as soon as possible and ask for the public hearing to be scheduled.


6. In order to address the Town's sewer capacity, the Board of Selectmen recently adopted a "First Come First Served" resolution regarding the Town's Wastewater Treatment Plant. The Planning Board determined that the Applicant's approval tonight would qualify as "First Come." This means that even if another developer gets approval within the one year period given to this applicant to satisfy these conditions of approval, the next developer will not move ahead of this applicant in terms of the Town's available sewer capacity.

FINDINGS OF FACT:

1. The ZBA previously denied the applicant's request for a variance to build a hotel that measures from the ground to greater than thirty-five feet (35') to the primary eave on the uphill side of the lot.
2. On April 10, 2019, the Applicant submitted a building redesign that was more consistent with "New England style architecture" than the previous (more modern) design.
3. Although the proposed roofline for the redesign is still flat, the parapets in the front and sides makes the roofline appear to be peaked.
4. On the northwest side of the building the structure is thirty-four feet (34') from ground level to the primary eave on the uphill side of the structure.
5. The Fire Truck Lane now goes completely around the building on page C1 of the Plans allowing for adequate access to all four (4) sides of the building. Whether or not the actual fire truck will be able to travel along the Fire Truck Lane is not clear (this is addressed in the above conditions).
6. The hotel will have ninety-three (93) rooms.
7. The hotel lot will include ninety-five (95) parking spaces.
8. There will be an additional eight (8) parking spaces on the proposed "separate lot."
9. The applicant is still seeking to carve a separate fifteen thousand square foot (15,000 sf) separate lot out, but if those additional eight (8) parking spaces are required then the second lot owner would continue to allow those parking spaces to be used by the hotel.
10. The owner of the two (2) lots will have to come back to the Planning Board for a boundary line adjustment as set forth in the above conditions.
11. The applicant does not need those additional eight (8) parking spaces to meet the Town's regulations, but offered to provide those additional spaces to provide additional parking spaces (primarily for hotel employees). Employee parking spaces will not be designated. There will be no designated parking at the hotel. Counting the eight (8) parking lots on the second lot, there would be a total of one hundred three (103) parking spaces.
12. During the evening, there would be one (1) night watchman in addition to the guests.
13. The Applicant shall create an easement for the additional parking on the separate lot which will be provided to the Planning Board during the Boundary Line Adjustment. The Applicant is aware that the minimum lot size is fifteen thousand square feet (15,000 sf); if the lot is smaller than fifteen thousand square feet (15,000 sf) it is not a saleable lot. The parking easement will be a condition for selling the second lot.
14. The Applicant will provide "full shields" on the lights to prevent any "spillover" of light onto adjacent lots; there will be no spillover onto adjacent lots.
15. The re-design of the building will have vinyl siding with the appearance of clapboards and some stone along the bottom.

16. Applicant proposed using the snowmaking line from Peter & Carol Govoni's Pond (Map 110, Lot 007), 40 Towle Road (off Connector Road to Loon Mountain Ski Area). That idea was rejected by the Fire Chief and the State Fire Marshal's Office.
17. Fire Chief Beard said the Town Engineer Korber (as set forth in above conditions) will review the plans to verify adequate fire-fighting accessibility around the entire building for the Town's largest tower fire truck before the Fire Chief will sign off on it for either a Town Land Use Authorization Permit or a State Building Permit.
18. The Applicant's Engineer did not do the calculations for the Town's largest fire truck, but rather for Transit Bus #45. The Applicant's Engineer shall do the calculations for the Town fire tower/ladder truck and submit those calculations to the Town Engineer and Fire Chief for review.
19. The Applicant shall bring the Fire Suppression Plan back to the Planning Board for review and approval and that decision shall not be delegated to the Fire Chief alone.
20. The Fire Chief shall not allow the Applicant to bring any building materials on site until there is either an adequate water supply for fire suppression.
21. Applicant's Engineer said he could contain the two hundred fifty-five thousand (255,000) gallons of water on site under the proposed building as required NFPA 1 without changing the location of the building or anything else as proposed on the site.
22. Applicant's Engineer said no changes to the site will be required by the NH DOT Driveway Permit although he has nothing from NH DOT in writing to that effect as of yet.
23. During the winter, snow will be removed from the site. Piling snow on the lot will reduce the number of parking spaces to below the minimum number of nine-three (93) parking spaces required for the ninety-three (93) hotel rooms.
24. Signage for the hotel and the billboards currently onsite was not addressed by the Planning Board and shall be addressed at a later date pursuant to the Town's sign regulations.

FOR THE PLANNING BOARD


James Spanos, Chairman
Lincoln Planning Board

Date: 4/25/19