

**LINCOLN PLANNING BOARD
REGULAR MEETING MINUTES
WEDNESDAY, APRIL 22, 2015 – 6:00PM
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH**

APPROVED

Present: Chairman Jim Spanos, Vice-Chairman R. Patrick Romprey, OJ Robinson - Selectmen's Representative, John Hettinger, Paula Strickon, Ron Beard (alternate & Fire Chief), Callum Grant (alternate) Taylor Beaudin (alternate)

Members Excused: Norman Belanger (alternate)

Members Absent: None

Staff Present: Town Manager/Town Planner Alfred "Butch" Burbank, Planning and Zoning Administrator Carole Bont, and Recorder Wendy Tanner

Guests for Southern Peaks Development, LLC – Inn Seasons Resorts

- Dennis M. Ducharme, Managing Member of RiverWalk at Loon Mountain, LLC, at 33 Brookline Road, Lincoln, NH 03251, and RRP (Registered Resort Professional), President of Inn Seasons Resorts 212 Mid Tech Drive, West Yarmouth, MA 02673, including Inn Seasons at South Mountain and Inn Seasons at Pollard Brook.
- William R. Davidson, P.E. of Hoyle, Tanner & Associates, Inc., Pease International Tradeport, 100 International Drive, Suite 360, Portsmouth, NH 03801
- W. John Funk, Esq. of Gallagher Callahan & Gartrell, P.C. 214 No. Main Street, P.O. Box 1415, Concord, NH 03301

Guests for Great Stone Face Skier, LLC - change of use from residential duplex to multi-family housing at 29 Main Street

- David Rodgers, d/b/a Rodger's Ski Shop and principal in Great Stone Face Skier, LLC, P.O. Box 68, Lincoln, NH 03251 who owns: [29 Main Street (Map 112, Lot 026)], [9 Donovan Drive (Map 112, Lot 013) and 5 Railroad Street (Map 112, Lot 014)(now merged)].
- Helen Rodgers, d/b/a Rodger's Ski Shop and principal in Great Stone Face Skier, LLC, P.O. Box 68, Lincoln, NH 03251 who owns: [29 Main Street (Map 112, Lot 026)], [9 Donovan Drive (Map 112, Lot 013) and 5 Railroad Street (Map 112, Lot 014)(now merged)].
- Herbert Lahout, of 64 Sunset Hill Road, Sugar Hill, NH 03586, abutter and owner of 31 & 33 Main Street, (Tax Map 112, Lots 027 & 028)
- Shawn Bergeron, Owner/Manager and Code Consultant, Bergeron Technical Services, 50 Seavey Street, P.O. Box 241, North Conway, NH 03860-0241
- Joseph Conn, abutter and owner of Map 112, Lot 038, 29 West Street, Lincoln, NH 03251

Guests for Clarks Trading Post for Water Recreational Ride & Restroom

- Callum Grant – resident of 207 US Route 3 and Project Manager appearing on behalf of Clark's Trading Post, Inc., PO Box 1, Lincoln, NH 03251-0001
- Nola Grant, Clarks Trading Post / Treasurer, P.O. Box 94, Lincoln, NH 03251
- Andrew A. Clark, Clarks Trading Post, VP, P.O. Box 431, N. Woodstock NH 03262

- Murray A. Clark, Clarks Trading Post, P.O. Box 685, N. Woodstock, NH 03262
- Iain Grant, Clarks Trading Post, 207 Daniel Webster Highway, Lincoln, NH 03251

Other Guests:

- Jayne Ludwig, Town of Lincoln Selectmen, owner and resident of Map 113, Lot 092, 12 Pleasant Street, Lincoln, NH 03251

- I. **CALL TO ORDER** by the Chairman of Planning Board; announcement of excused absences, if any, and seating of alternates(s), if necessary.

The meeting was called to order at 7:00PM.

- II. **CONSIDERATION** of meeting minutes from:
- March 25, 2015

Motion to accept the Minutes from March 25, 2015 with changes noted.

Motion: Patrick Romprey Second: John Hettinger

All in Favor: (5-0)

III. NEW BUSINESS

- A. **7:00 PM** – Planning Board (PB) will consider the following matters:

1. **Site Plan Review – Request for Extension of Approval:** Applicant Southern Peaks Development, LLC – Inn Seasons Resorts at 23 Inn Seasons Drive, 33 Brookline Road, PO Box 1058, Lincoln, NH 03251-1058, requests an Extension of Site Plan Review Approval (2013) for an Expansion of Use submitted by Inn Seasons Resort in the Village Center (VC) Zone at 23 Inn Seasons Drive (Tax Map 118, Lot 047) to construct a four (4) story, 61-unit timeshare hotel addition to the existing South Mountain Resort, (Project Name: South Mountain Resort – East Wing Addition, Phases 1 and 2). The application was approved subject to conditions. The approval for the “South Mountain Resort – East Wing Addition, Phase 1 and 2” expired on 7/24/2014.

Dennis Ducharme explained that the first Phase of the project was approved in 2013 and 23 units were installed. Ducharme explained that the new Phase would add 46 more units, 3 of them being where the stairwell would be removed from the Phase I building and 43 in a new building for a total of 69 units in Phase I and Phase II combined.

Chair Spanos asked if Ducharme was asking for more time on his original Notice of Decision and approval.

Ducharme said that more time would be required and that it would take about a year to build the Phase II addition.

Chair Spanos asked if the site had been approved for 69 units or only 61 units.

Ducharme said that the second part of the application is to add 6 units on the lower level.

Chair Spanos confirmed that the Planning Board was addressing the application for the extension only and not the application to add basement units at this time.

Motion to open Public session:

Motion: John Hettinger Second: OJ Robinson

All in Favor: (5-0)

There was no public comment.

Motion to close Public session:

Motion: OJ Robinson Second: John Hettinger

All in Favor: (5-0)

Chair Spanos polled the Planning Board to see if there were any further questions; there were not.

Motion to approve an extension of Site Plan Review approval for 2 years.

Motion: OJ Robinson Second: John Hettinger

All in Favor: (5-0)

2. Site Plan Review – Request for Proposed Revision to Site Plan Review

Approval to include Phase II Expansion of Use: Applicant Southern Peaks Development, LLC - Inn Season Resorts, at 23 Inn Seasons Drive, 33 Brookline Road, PO Box 1058, Lincoln, NH 03251-1058, requests approval to revise Phase 2 of the 2013 approval for NH South Mountain Resort – East Wing Addition, Phases 1 and 2, located in the Village Center (VC) Zone at 23 Inn Seasons Drive (Tax Map 118, Lot 047). Applicant requests approval to construct six (6) timeshare hotel units in the walk out lower level of a new four (4) story addition to the existing South Mountain Time Share Hotel (herein, the “Phase II Expansion”). The Project Name was: “South Mountain Resort – East Wing Addition, Phases 1 and 2”). The project name for the six (6) additional units is “Phase II Expansion”. The project includes property owned by TFG Lincoln Properties, LLC, c/o The Finch Group, 6111 Broken Sound Parkway, NW #150, Boca Raton, FL 33487-2774 where applicant has a permanent easement for parking.

Applicant Ducharme said that at the last Planning Board meeting on March 25, 2015, when they presented their ideas in a conceptual form they were proposing to add six (6) additional units in the lower level and three (3) additional units in the Phase I building when the end staircase is removed from Phase I. This means there will be 69 new units in the combined Phase I and Phase II.

Chair Spanos asked if there would be enough required parking for the additional units.

Davidson began setting up his easel of the parking plans "...with the circles and arrows and a paragraph on the back of each one explaining what each one was"* when Bont stepped in to assure the Board that there was enough parking. Bont said that she had emailed a highlighted map and a spreadsheet illustrating how the plan meets the parking requirements to the Planning Board members and she confirmed that there was one extra parking space (163 total parking spaces).

*Alice's Restaurant by Arlo Guthrie

Town Manager Burbank asked Fire Chief Beard about the egress and if fire trucks would be able to make the narrow turns in the lot.

Chief Beard said it was and that fire trucks can maneuver in the area in question.

Ducharme asked if there was a setback issue with the second Phase of the project.

Rompfrey said that he remembered that a set of stairs had been removed in Phase I in order to meet the setback requirements. William Davidson agreed that stair/wall structure had been moved to meet the setback requirements.

Hettinger asked Fire Chief Beard if the egress was satisfied. Chief Beard said he is satisfied with the egress.

Motion to open Public session:

Motion: OJ Robinson

Second: John Hettinger

All in Favor: (5-0)

There was no public comment.

Motion to close the Public session:

Motion: OJ Robinson

Second: John Hettinger

All in Favor: (5-0)

Selectman Robinson asked Attorney Malia if the proposed procedure for this case was proper with the Planning Board first giving Site Plan Review approval subject to a later approval of a variance by the Zoning Board of Adjustment. Ducharme is also requesting a variance from the Zoning Board. Robinson wanted to be sure that the approval process was handled properly. Initially the ZBA hearing was scheduled for today, at 5:30 pm, before the Planning Board hearing scheduled at 7:00 pm, but too many members of the ZBA were away on vacation and there was not a quorum. For this reason the ZBA hearing has been rescheduled for May 6, 2015.

Attorney Malia said that different towns handle approvals differently. The Planning Board could give their Site Plan Review approval pending the outcome of the ZBA's decision on the variance request.

Motion to approve the application to construct six (6) timeshare hotel units in the walk out lower basement level of a new four (4) story addition to the existing South Mountain Time

Share Hotel (herein, the “Phase II Expansion”), making five living floors in the building, and putting two units in the stairwell that will be removed when the Phase II is added on as contemplated by the original approval subject to the following condition:

CONDITION:

Approval is subject to ZBA approval of a Variance to create five floors of living space in the Village Center (VC) District. Applicant Southern Peaks Resorts, LLC, 23 Inn Seasons Drive, PO Box 1058, Lincoln, NH 03251-1058, has requested a Variance to construct six (6) timeshare hotel units in the walk out lower level of the approved 4 story, 61 unit addition to the South Mountain Resort time share hotel (herein, the “Phase II Expansion”), located in the Village Center (VC) District. If the Zoning Board of Appeals votes against the addition of 6 units in the basement level making 5 living floors in the building, this approval is only for a total of 63 new units, including the two units in the stairwell.

Motion: Pat Romprey
All in Favor: (5-0)

Second: OJ Robinson

3. **Site Plan Review - Application for Site Plan Review approval for change of use from residential duplex to multi-family housing.** Applicant David Rodgers d/b/a Great Stone Face Skier, LLC, requests Site Plan Review approval to change the use of a dwelling from a duplex to multifamily housing with three living units in accordance with Article VI of the Lincoln Site Plan Review Regulations, Section B,2 of the Land Use Plan Ordinance. The lot is 29 Main Street, (Tax Map 112, Lot 026) located in the Village Center (VC) District. Also included is a request that the Planning Board grant a waiver of the minimum lot size dimensional requirement of 15,000 sq. ft. per dwelling unit as permitted in the Village Center District by the Land Use Plan Ordinance. The property is owned by Great Stone Face Skier, LLC, PO Box 68, Lincoln, NH 03251-0068.

Vice-Chair Romprey recused himself.
Taylor Beaudin was seated for Vice-Chair Romprey.

David Rodgers (principal for the Applicant Great Stone Face Skier, LLC) said that when he bought the building, the building had the three apartments in it. There are still three apartments in it now. Since Rodgers bought the building there are now fire detection units in the building, but there are no sprinklers.

Helen Rodgers (principal for the Applicant Great Stone Face Skier, LLC) said that when they purchased the property they saw the property as a three dwelling unit building and were not aware that there were any problems with a lack of town approval for any of the units. Only after they bought the property did staff in the town offices and the Rodgers find out through searching through old Planning Board minutes (1995 and 1999) that Mrs. Hartle (the previous owner) had approached the Planning Board for a building permit and later Site Plan Review approval to convert three bedrooms into an apartment with a separate entrance making it a multi-family dwelling by adding the third unit. When Mrs. Hartle found out that it would cost about \$1,000 in

water and sewer tap fees to add the third unit she withdrew her application on January 18, 2000 (Building Permit #BP99-75). She never paid any water and sewer tap fees and she never came before the Planning Board for Site Plan Approval. At some point Mrs. Hartle added the third apartment unit anyway several years ago (approximately 10 years ago) without planning board approval. The town sent the assessors to look at the building and discovered the third apartment after Herb Lahout brought it to the town's attention in 2014.

David Rodgers said that since it came to his attention, he has now paid the town the required water and sewer tap fees for the third unit.

Chair Spanos asked if there were any remaining issues with the Fire Chief at this point.

David Rodgers said that he has done everything required to his knowledge to make the units safe and that he would not rent the units out if there were health or safety issues.

Chair Spanos asked if Rodgers intended to pave the parking area.

Rodgers said not at this moment. He would like to get an exemption for the paving. Rodgers stated that he hired John Conn to grade the driveway and parking, level it off and clean it up.

Chair Spanos asked Rodgers if he had a reason for the request for a waiver on the dimensional requirement of a minimum lot size per dwelling unit of 15,000 square feet. Chair Spanos explained that the requirement is 15,000 square feet per unit and that Rodgers has only 20,908.8 square feet.

Helen Rodgers said that the lot was a big piece of land with plenty of parking and a huge yard. Helen Rodgers felt that it was more than adequate space for the three living units.

David Rodgers said that compared to other buildings on Main Street that have multiple apartments in them the lot is large. The other multi-family buildings have no yard or parking and also felt that this was a relatively large piece of property for the three units.

Hettinger asked if all the fire specifications had been met for a multi-family dwelling.

Fire Chief Ron Beard said that he looked it up in the NFPA 101 (National Fire Protection Association) regulations and found a few things that needed to be addressed and they were taken care of that day. Chief Beard said that David Rodgers has been very good about meeting compliance issues.

David Rodgers said that he has cleaned up the entire property.

Chair Spanos asked if the application was complete.

Bont said that she would recommend that the application be found complete by the Planning Board.

Robinson asked if the Planning Board needed to vote on each of the line items that the applicant is asking to waive on the application. Bont said, “Yes”.

Motion to accept the application as complete.

Motion: OJ Robinson

Second: Taylor Beaudin

All in Favor: (5-0)

Robinson asked if the Planning Board should take the public input first or vote on the waivers first.

Attorney Peter Malia said that it is done differently in different towns. Lincoln’s standard practice has been to take the public input first and then a vote. Malia said that there was no hard and fast rule as to when public input should be accepted statutorily.

Motion to open the public hearing.

Motion: John Hettinger

Second: Taylor Beaudin

All in Favor: (5-0)

Chair Spanos asked the public to keep to the rule of one person speaking at a time so that minutes could be taken.

Herbert Lahout handed out a few sheets of paper to each Planning Board member. One sheet was a list of grievances and regulations while the other two sheets were images of the driveways current condition. (Attached to these minutes.) Lahout then stated he abuts the applicants property on three sides. Lahout is against Rodgers’ application to add a third apartment based on the increased traffic noise and lights. Lahout believes adding a third apartment will have a negative effect on his property value. Lahout believes that if the Planning Board were to approve this, it would be setting a precedent that the Planning Board will waive dimensional requirements in the Village Center (VC) Zone.

Lahout said that he has many properties on Main Street and would like to increase the size of the Nail Salon, the Subway building and the Shopping Center based on this precedent. Lahout then went over his sheet stating “A: The Lot size is .48 acres which equals 20,908 sq. ft.” Lahout then quoted the regulations requiring 15,000 square feet to have one apartment (dwelling unit), two (2) dwelling units would require 30,000 sq. ft. and three (3) dwelling units would require 45,000 sq. ft. According to the regulations Lahout feels the lot is not suitable for a third apartment. Lahout said that he likes to be a good neighbor and if the lot was off by 1,000 sq. ft. or Rodgers only needed a few extra parking spaces he thinks that would be okay. Lahout feels that in this case, if Rodgers were to build the building today by the current zoning ordinance and site plan review regulations, he would not be able to build even two (2) apartment units on the lot. There is “only density for one apartment”.

Lahout went to the second bullet on his list. “B: Change of use.” Lahout said that the driveway was currently being used by the applicant, the Nail Salon and the Snowboard Shack. Lahout said that the Snowboard Shack has no recorded easement or right of way to the driveway. Lahout felt that Rodgers’ property was now being used as commercial parking for the Snowboard Shack.

Lahout said that on the submitted plan of the Snowboard Shack, there was no submitted parking for his employees or his customers. Lahout said that he used to allow the owner of the Snowboard Shack to park in his parking lot to be a good neighbor, but when he rented out the Nail Salon, he no longer permitted the Snowboard Shack to use that parking because Lahout's tenants (the Nail Salon) now had rights to use of the parking spaces.

Lahout said that a "change of use" should be required for the Snowboard Shack to use the Rodgers' property for commercial parking. NH DOT will require the Rodgers to have a new driveway permit to allow the Snowboard Shack owner to continue commercial parking on his property.

Lahout said that the Rodgers property has a dirt driveway and dirt parking lot. The Site Plan Review Regulations Article XV C1b states:

"All parking lots, drives and loading areas shall be paved. The Planning Board may allow the installation of other surfaces provided that they will not lead to dust or erosion having an adverse impact on adjacent properties or users of the site."

Lahout went on to quote the Town of Lincoln Driveway Regulations Article IV B 1:

"All driveways for commercial, non-residential and residential use shall be paved for at least ten (10) feet commencing at the edge of the pavement of the intersecting road."

Lahout then showed two pictures of the driveway. Lahout said that his property was picking up dust from the unpaved drive.

Lahout then stated he was looking at Rodgers' property to buy in the past. Lahout said that anytime he looks at property to buy he gets a fire code expert to inspect the property because there can be many complications. Lahout then introduced Shawn Bergeron.

Shawn Bergeron stated he was the owner of Bergeron Technical Services in North Conway, NH. Bergeron then gave a handout to the Planning Board. Bergeron stated that he understood the structure was a two family structure. The application is for a change of use to a multi-family or three family structure. Bergeron said that the requirements of the State Building Code and State Fire Code are significantly different for multi-family occupancy versus a single family or a duplex occupancy. Bergeron said that a change of use from a duplex to a three family building from a building code perspective moves you away from the requirements of the International Residential Code and moves you into the requirements of the International Building Code. Bergeron said that that if the Planning Board allows a change of use to multi-family the building owner has to meet the requirements for a new occupancy throughout the entire structure. Bergeron said that on the fire code side of it right now the NFPA 101 Life Safety Code would apply to a duplex. That is the code that would be applied by the Fire Department here in Lincoln to this building as an existing occupancy. Bergeron said that if we allow this building to become a three unit dwelling, the occupancy classification changes and the requirements change. As a building with three dwelling units from a Life Safety Code perspective we have to deal with the building as if it were a new structure. Bergeron said that significant changes come into effect at

that time. One change required to protect the building is a requirements of an NFPA 13R Sprinkler System.

Bergeron asked the Planning Board to give some consideration to the fact that they are somewhat responsible for public safety and helping the fire official. Bergeron felt that if the Planning Board should approve this application for a change in use then the Planning Board should consider requiring the owner to prove that the proposed occupancy is going to be in full compliance with the State Building Code and the State Fire Code. Bergeron thought that full compliance with these codes should become a condition of approval so that no final approval is granted until plans and specifications are provided and approved by individuals capable and licensed to do so, so that in the eyes of the State of New Hampshire and the Town of Lincoln everyone is protected. Bergeron said that he wrote down in the rear of the document what the requirements would be as it existed today (shown on page 5 of the handout). Bergeron asked if the Planning Board had any questions for him.

Strickon asked if Bergeron was saying that that our Fire Chief, who inspected the building checking against regulations for New Hampshire, is incorrect?

Bergeron said he was not saying that. Bergeron said that he believes that the Fire Chief compared the requirements for an existing occupancy to what is presently there. Bergeron said that when the “change of use” takes place, then you are dealing with a new occupancy limit with a series of different requirements.

Chair Spanos said that the three (3) apartments existed prior to 2009.

Bergeron stated he was only going by what the application states which was a change from a duplex to a three (3) family dwelling.

David Rodgers stated he was only trying to correct what was done incorrectly in the past saying, “two wrongs do not make a right”.

Chief Beard asked if the house was now classified as an apartment building. Chief Beard said that would make it an existing apartment building.

Town Manager/Planner Burbank said that Bergeron inspected the building as an existing apartment building and that points have been made that the Planning Board should consider carefully.

Chair Spanos asked if other Planning Board member had any further questions.

Chair Spanos asked Bergeron if when Bergeron looked at the building if he had evaluated it as an existing three (3) family.

Bergeron said, “No.” Bergeron had compared it as being a duplex today to being a three family in the future if the Planning Board chose to approve the application.

Chair Spanos asked Bergeron if there were three (3) apartments there when he inspected the building.

Bergeron stated he has never been in the structure and only evaluated it as a duplex versus a three (3) family unit.

Hettinger asked if there were three (3) families living in the house before the Rodgers purchased it.

Helen Rodgers said, yes, before they bought the house there were three families living in the house. In 2009 it had three (3) families in the house.

Attorney Peter Malia asked if Bergeron was suggesting that as a condition of approval a qualified inspector had to certify that this structure complies with the State Building Code for multi-family dwellings.

Bergeron cited the State Building Code and the State Fire Code for multi-family dwellings. Bergeron said that he thought the important thing was that the State Fire Code was very explicit as to how an existing occupancy is addressed in comparison to a new occupancy.

Chief Beard agreed that the codes were very different.

Bergeron said that if the board considers it three (3) units then the Fire Chief has a position, but the application says they are requesting approval to convert it to three (3) units.

Beaudin asked what the building was recorded as now.

Bont said the building was a duplex. Then when Mr. Lahout was looking at the building to purchase the property he informed us that there were three (3) apartments and that the upstairs apartment was being used as a boarding house. The assessors were sent there this past year to look over the house and they came back with the news that there are three apartments in the house and a lot of bunk beds in the top floor. Bont explained that was the reason the assessment card has it listed as a three (3) family home. Bont also explained that just because the assessor picks up that there are three (3) families in the home, that does not mean it is approved as a three unit dwelling.

Beaudin asked how many families are currently approved to be living in the building.

Attorney Malia said that the third unit cannot gain grandfathered status unless it was legally created prior to the enactment of an ordinance which would prohibit it. To have a grandfathered status, you have to have been making legal use of your property at such time as the Town passes an ordinance which says you cannot do that. If you illegally convert your property without getting a permit it does not gain grandfathered status.

David Rodgers said that if you go back in the records, Larry Hartle's mother tried to get the Planning Board to approve the change in use from a duplex to a three family multifamily

building back before Rodgers purchased the house. He was only trying to make right what had been done incorrectly. Rodgers explained that he has now paid the water and sewer tap fees that in the amount of \$2950 that had not been paid in the past.

Bont said that Mrs. Hartle's application was approved, but that she withdrew the application when she learned that she needed to pay water and sewer tap fees.

Chair Spanos asked if Mrs. Hartle had site plan approval.

Tanner confirmed that she looked for approval and had submitted an application, but once Mrs. Hartle found out that she would be required to pay just over \$1000 for water and sewer tap fees, she withdrew her application.

Bergeron said for clarification that the third unit is recognized as being in existence, but has never been approved from a land use perspective by the Planning Board.

Chair Spanos said that was correct.

Attorney Malia asked Fire Chief Beard if he had an opinion about Bergeron's suggestion that a certified inspector going through the house to confirm if these three (3) units are in compliance with the NFPA and the State Fire Code.

Chief Beard said he could call the State Fire Marshal's Office and do a walk through.

Town Manager Burbank said that the Fire Marshal might be reluctant to get involved in a residential property, but if this building is changed to a multi-family, that would be within the State Fire Marshal's jurisdiction.

Bont agreed and said that as soon as the building is comprised of three (3) dwelling units, it is considered to be commercial property.

Chair Spanos asked if anyone had further questions.

Lahout said that if the Planning Board approves this application and waives the density requirement, hypothetically, if Lahout came in to the Planning Board with one of his properties located in the Village Center (VC) District and wanted to expand the use even though he does not have the density, Lahout presumed the Planning Board would rubber stamp his proposal based on this precedent.

Chair Spanos said, "That is incorrect!"

Lahout asked, "Why?" Lahout said he felt that it was more of a mathematical equation.

Chair Spanos said that if Lahout decided to make such a request he should bring plans in and present them to the Planning Board. Each case would be heard and decided based on the particular facts of each case. Chair Spanos asked if anyone else had questions.

There was no further input from the public.

Motion to close Public discussion.

Motion: Taylor Beaudin Second: John Hettinger

All in Favor (5-0)

Hettinger asked if this application could be extended until the Planning Board receives the results of the Fire Marshal's inspection.

Bont said there is a hearing scheduled for Wednesday April 29th and it could be extended until then. Bont questioned whether the Fire Marshal would be able to come on such short notice.

Attorney Malia also asked if Beard would call the State Fire Marshal and also questioned if the State Fire Marshal's office would come that quickly.

Chief Beard said yes, they can come fairly quickly.

Chair Spanos asked the Rodgers if they would be willing to pave or put gravel on the driveway.

Rodgers said that he had already asked John Conn to gravel and grade the driveway.

Chair Spanos asked if Rodgers would put up signs to designate the 6 parking spaces on the lot to 29 Main Street.

Rodgers said yes, that would not be a problem.

The Planning Board then read each section of the Site Plan Review Checklist that Rodger's is asking for a waiver to vote on each section. (see attached list). Some discussion took place as follows:

Beaudin asked if this building would be recorded as a three (3) family dwelling, or if an approval would allow him to add on to the building.

Chair Spanos said that if the application gets approved it would be for a multi-family, three (3) family dwelling and would need further approval to get any larger than three (3) units.

Hettinger asked if there are three (3) families living there for the past ten (10) years would it be grandfathered in.

Chair Spanos said, "no", that it still did not make it legal.

Beaudin asked if three (3) families have been living there for so long, have any issues ever been reported.

Chair Spanos thought there have been no issues reported on the property.

Hettinger asked if the application was approved by the Planning Board, would the application then have to go to the Zoning Board for dimensional variance.

Chair Spanos said, “no”, the Planning Board has the right to waive dimensional requirements.

Bont said there is discount for a duplex saying a duplex was allowed to have a minimum lot size of only 22,500 square feet instead of 30,000 square feet. Bont then quoted footnote 5:

“Dimensional requirements for the Village Center may be waived by the Planning Board so long as they meet all other Zoning requirements.”

Chair Spanos said that the building has been used as a boarding house and a three (3) family apartment building without enforcing the dimensional requirements.

Grant asked if there was adequate parking for three (3) units.

Chair Spanos said that there was adequate parking and that there are six (6) spaces shown on the plan – two (2) per unit. Rodgers said that he would put up signs designating the parking spaces.

Robinson said that granting a waiver on this case in “no way” sets a precedence. The Planning Board is given the authority to, on a case by case basis, look at the individual cases and circumstances. Robinson said that the facts are that this building has had three apartments in it for years and parking has not been an issue. The boarding house aspect of the second floor apartment was more of an issue for the Town and that aspect of the property has gone away.

David Rodgers said that once he took over ownership of the property he cleaned the place up.

Grant asked if there had been any disputes about the property lines.

David Rodgers said not to his knowledge.

Requests for Waivers of the Site Plan Review Checklist:

Rodgers asked for a waiver of Paragraph #26 requirement. Paragraph 26:

The size and location of existing and proposed public and private utility connections, including provisions for fire protection.

There was a brief discussion about the meaning of Paragraph #26 of the Site Plan Review Checklist. The Planning Board talked about fire hydrants and sprinkler systems.

Strickon thought that Paragraph #26 would tie in with the Fire Marshal's inspection.

Chair Spanos said that public and private utility could pertain to fire hydrants rather than internal protection.

Beaudin said that the paragraph could pertain to a sprinkler system.

Chief Beard said that would be part of the design of the building.

Beaudin said that a sprinkler system would change the supply of water going into the building.

There was a brief discussion about sprinkler systems and if it pertained to Paragraph #26. Robinson said that Paragraph #26 on the application is the applicant requesting that he does not have to provide another line into the house, but if it comes back that he needs a bigger line, that would get addressed through the fire protection aspect of the application.

Town Manager Burbank said that if a sprinkler system is required in the building Rodgers may have to run a bigger line in from the main water line on the street.

Attorney Malia said that what Robinson said is that the applicant is just requesting permission from the Planning Board to waive the requirement that he show these requested provisions on a plan.

Chair Spanos said that if he cannot meet the requirements of having a sprinkler system he will not obtain approval.

Town Manager Burbank said that the installation of a sprinkler system would require an engineered plan that would show the water supply to the sprinkler system.

Motion to waive the following items on the Site Plan Review Checklist.

Paragraphs: 5, 6, 7, 8, 9, 14, 18, 21, 24a-d, 25, 26, 27 and 30.

Motion: OJ Robinson Second: John Hettinger

All in Favor (5-0)

Chair Spanos said that the applicant is also looking for a waiver about paving at this time.

David Rodgers said that he has already has someone coming to grade the drive.

Town Manager Burbank wanted to make the Planning Board aware that the current ordinance states that paving is required. Specifically it says:

All parking lots, drives and loading areas shall be paved. The Planning Board may allow the installation of other surfaces provided that they will not lead to dust or erosion having an adverse impact on adjacent properties or users of the site.

Town Manager Burbank also commented that this driveway has been a gravel driveway forever.

Chair Spanos asked if Town Manager Burbank was aware of any complaints about the driveway.

Town Manager Burbank said he has had no complaints since he has been the Town Manager.

Robinson asked Rodgers if there was a reason he would not pave the 10 feet out near the road. Robinson expressed concern about the divots created when vehicles pull out of a dirt road.

Rodgers said that when there was a discussion between Mr. Lahout and his attorney, Mr. Lahout offered to pave the drive ten feet (10') from the road.

Attorney Malia asked that since Mr. Lahout is not planning to pave the driveway now, is Rodgers going to pave the driveway.

Rodgers said he was not using the driveway for turning, but for driving straight into his property.

Robinson said that drivers still drive over the section where the pavement meets the dirt.

Rodgers said that the driveway has been that way for as long as he has lived in the Town of Lincoln – at least 60 years.

Beaudin said that he did not know if that would set a precedent not having the drive paved.

Chair Spanos explained that every site is different so there would be no precedent set.

Beaudin asked if there would be some way that some of the driveway could be paved. Beaudin suggested paving a section where the larger potholes occur.

Rodgers said he would consider that.

There was some discussion about how much of the driveway should be paved and where.

Robinson said that they should look twenty (20) years down the road when Rodgers does not own the property. Over time consider what will happen to the edge along the main street as people pull out and accelerate causing the edge to deteriorate. Robinson said that he felt it would be appropriate to require Rodgers to pave a ten (10) foot section of pavement in from Main Street. Beyond that if water seeps down into the ground it would not be an issue. Robinson said that the remainder of the gravel driveway would not be an impervious surface so that would help with drainage and Robinson was all for that. Robinson also believes that Joe Conn will do a good job putting in the driveway. Robinson was only concerned about the edge where the driveway meets Main Street/Route 112.

Helen Rodgers mentioned that the Common Man has a huge parking lot that is not paved.

Robinson said that the Planning Board is aware of other problems that presently exist that were created in the 1980's. The Planning Board's job is to look at those problems and fix them. Robinson said the Planning Board cannot go back and take building permits away once something is done wrong.

Rodgers said that after Joe Conn has graded the driveway that he would consider paving the driveway.

Attorney Malia said that Rodgers would have to do more than just consider paving the driveway if the Planning Board makes it a condition of approval; Rodgers you would have to actually pave the driveway. Malia said that it is up to the Planning Board. The Planning Board is asking Rodgers if he would be willing to go along with paving the driveway, but ultimately it is the Planning Board's decision. Even if Rodgers says no, the Planning Board can decide if they want that first ten (10) feet paved. Paving the first ten feet (10') then that would be a condition of Site Plan Review approval.

Attorney Malia said that Planning Board and Zoning Board of Appeals decisions do not set precedents for the town. Every piece of property is different. Every piece of property will have different configurations, parking issues, square footage and abutters, so every situation is different. Every situation is different, so the Planning Board will not set a precedence. On the other hand, the Planning Board has to make sure it does not treat people unequally who are similarly situated. But, someone cannot come in and say that because Planning Board waived the 15,000 square foot per unit requirement for minimum lot size for him so now the Planning Board has to do it for me. It does not work that way. Every application has to be considered on its own merits regarding its own issues in relation to the Town Ordinance.

Hettinger said that he would like to see the front ten feet (10') paved.

Strickon said that the driveway has been unpaved for so long without issues that she had no problem with paving the driveway or not - either way. Strickon said that many driveways in town that are paved are in worse condition than the driveways that are not paved.

Chair Spanos polled the Board and said that there are three (3) out of five (5) Planning Board members in favor of requiring Rodgers to pave the first 10 feet of the drive so it would be a condition of approval.

Robinson said that in the spirit of compromise, what if we make the condition that Rodgers has two (2) years to pave the first ten (10) feet of the driveway. Then after two (2) years if Rodgers can demonstrate that paving the driveway is not necessary he can come back and ask for a waiver of that condition.

There was a unanimous "that's fair" from the Planning Board.

Chair Spanos said that the meeting should be extended until April 29th.

David Rodgers said that if Fire Chief Beard cannot get with the Fire Marshal before that, then the meeting will need to be extended again.

Bont said that if the Fire Marshal cannot make it before the 29th, then at the meeting of the 29th the meeting date can be continued again perhaps to the second Wednesday in May.

Robinson stated that there were letters from abutters that should be read into the minutes.

Chair Spanos stated the letters as follows (letters will be attached to the minutes)

Merilee Phillips - Against
Jerard Derosier – For
Mike Hyland – For
David & Karen O'Rourke – For

Motion to extend this hearing to April 29th at 6:00PM.

Motion: John Hettinger Second: Taylor Beaudin

All in Favor: (5-0)

4. **Application of Clark's Trading Post for Site Plan Review Approval to install a Water Recreational Ride & Restroom.** Applicant, Clark's Trading Post, PO Box 1, Lincoln, NH 03251-0001, requests Site Plan Review approval to install a used water coaster amusement ride with associated tower, slide, conveyor and associated pump structure with restroom/changing room structure at 116 US Route 3, (Tax Map 109, Lot 009). The project is in the General Use (GU) Zone.

Callum Grant recused himself.

Vice-Chair Romprey recused himself.

Ron Beard is now seated for Callum Grant.

Taylor Beaudin will remain seated for Vice-Chair Romprey.

Callum Grant, Project Manager, presented on behalf of Clarks Trading Post. Grant had a map on an easel and explained to the Planning Board exactly where the new ride would be placed. Grant explained that the ride was purchased from the now closed Six Gun City amusement park and had been in operation there for 18 years. The ride consists of a thirty-seven foot (37') foot tower and a two hundred foot (200') foot slide that comes down to ground level, and a run out section that is flat on a concrete apron. The existing site at the moment is almost entirely blacktop parking spaces. The ride will occupy forty-eight (48) parking spaces when it is done. Much of the space will now become permeable surface with gardens and paths. There is a significant decrease in impervious surface. In terms of water and sewer use, it recirculates six thousand (6,000) gallons of water and purifies itself through a filter system as it goes around.

Grant stated that they were talking about putting a restroom into this area at some point, but quite possibly not this year but they have made provision for it in the application by way of water and sewer tap fees and the plan itself.

The project will not be impacting anything along US Route 3. There will be additional parking added to the parking lot across US Route 3 to make up for the parking spaces that they will be losing. Grant spent time going over the exact location of the new ride on a drawing for the Planning Board. Grant explained that there is adequate room for fire trucks or ambulances. All pedestrian access is on the inside of the park and protected from the road.

Hettinger asked how the conveyer get across the access road and can a fire truck get across without damaging it.

Grant said that the conveyer is in two parts. It is horizontal along the concrete apron then it goes up at a very steep angle up to the slide. There is room for a fire truck to pass underneath.

Strickon said that there is a relocated gate with a 16 foot wide opening.

Grant showed where the gate is and how the pedestrians get by.

Strickon asked Fire Chief Beard if the passageway was wide enough for a fire truck. Beard agreed that it was.

Grant explained that they brought this project to HEB Engineering, Inc.. HEB Engineering, Inc., ran a complete drainage survey on the entire property which is currently served by two catch basins. Grant explained that they will more than double the current drainage capacity by installing extra drainage to drain the entire site more effectively than ever before.

Strickon asked for clarification about the amount of water that will be used per day.

Grant said that the entire ride has about a six thousand (6,000) gallon reservoir that they expect to lose no more than a few hundred gallons a day.

Chair Spanos asked how many parking spaces would be lost and if they will have enough to make up for the lost spaces.

Grant said that there would be two hundred thirty-five (235) parking spaces on the other side of the road that they are rarely all used. There are also thirty-five to forty (35-40) employee parking spaces on the other side of the road.

Chair Spanos asked if the application was complete.

Bont said, in her opinion the application was complete and she recommended that the Planning Board find the application to be complete.

Motion to accept the application as complete.

Motion: John Hettinger Second: Paula Strickon

All in Favor: (5-0)

Motion to open the Public hearing.

Motion: OJ Robinson Second: John Hettinger

All in Favor: (5-0)

There was no public input.

Motion to close the Public hearing.

Motion: OJ Robinson Second: John Hettinger

All in Favor: (5-0)

Two waivers were considered by the Planning Board from the Site Plan Review Checklist.

Paragraph 9:

Soil mapping units and unit boundaries

Grant requested a waiver of paragraph 9. Grant stated that the engineers performed three (3) test bores to twelve feet (12') at the project site to verify soils. Grant stated that rather than rely on what was there they did three test bores to get their own soil samples before the engineers would even attempt to do so and the results were given to the Planning Administrator and to the Planning Board members in their packets.

Paragraph 12:

The location of all building setbacks required by the Land Use Plan Ordinance.

Grant requested a waiver of paragraph 12. Grant said that they are two hundred (200) yards from any abutters or buildings other than their own and the State of New Hampshire right of way is the nearest part. It has a zero foot (0') setback condition anyway.

Motion to waive the following items on the Site Plan Review Checklist.

Paragraphs: 9 and 12.

Motion: OJ Robinson Second: John Hettinger

All in Favor: (5-0)

Chair Spanos said that there was one letter from the direct abutter, Jon and Tamra Ham in favor of the new ride.

Grant said that they received the permit from DES for Shoreline Protection on April 20.

Chair Spanos asked about required State inspections.

Grant said that a state inspection would only happen once the ride is complete.

Town Manager Burbank asked Fire Chief Beard if the thirty-seven foot (37') height of the tower was a problem with the fire trucks if a medical emergency or rescue was ever necessary. Fire Chief Beard said that it was not a problem.

Beaudin said that they could be sent down the slide (that got a laugh from the room).

Robinson said that height limit was for occupied buildings.

Motion to approve the application.

Motion: OJ Robinson

Second: Paula Strickon

All in Favor: (5-0)

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

Sign Issue

Town Manager Burbank said that a group in town would like to put up a sign on town land in memory of John Riley. There has been one issue that Public Works Director Bill Willey made the town aware of. Willey wants to make sure that where they want to put this sign will not cause a problem with snow removal from the community center parking lot.

Paula Strickon said that John Riley was a member of the Lincoln Woodstock Rotary. During his lifetime John Riley gave a lot of time, money and pizza to people involved in various town/school/nonprofit events. The sign is being created in his memory because of his many community contributions. When John Riley passed away, the members of the Rotary talked about what they could do to memorialize him. In speaking with Recreation Director Tara Tower, John Riley's "big thing" was developing a community garden. Strickon explained that the Rotary went to the Town of Lincoln to see if they could put up a sign at the community garden. Strickon explained what the sign looked like and the size of the sign. The original plan was to put the memorial sign in a granite box with a garden, but if the memorial sign sits in a granite box and they have to move the memorial sign it would not be easy. So the second plan was to just put up this sign.

Town Manager Burbank and Bont both said that the sign sitting in a granite box with a garden was what came to the town office.

Bont said that the original plan was going to have a garden in the granite block and that in terms of size the base with the garden surrounded by granite blocks would be larger than is allowed by the Land Use Plan Ordinance.

Strickon said that granite box was not in the plan now, it has been changed to a sign.

Chair Spanos said that technically the garden does not meet the requirements for a sign.

Bont said that the size of the sign itself is fine. The sign in the Rural Residential (RR) District can be nine (9) square feet and they have proposed an eight (8) square foot sign. But the width of the footprint of the base of the sign is bigger than what is allowable under the ordinance.

Bont said that according to the Land Use Plan Ordinance a natural stone base can be two feet (2') wide, whereas a base of manufactured material can only be one foot (1') wide. The proposed garden box was 4'X8'.

Strickon said that at the Rotary Club meeting this morning they changed the design of the sign in case it ever needed to be moved.

Town Manager Burbank said that he thought the sign could stay as designed if it was a memorial.

Bont said that the sign itself is ok; the sign is sitting in a garden box.

Robinson said that we don't regulate gardens, but then if the Rotary Club comes and puts a sign beside the garden, the sign will have to meet the requirements.

Bont said that the memorial sign sitting in a garden box is just an odd situation that doesn't fit neatly into a particular section of the Land Use Plan Ordinance.

Burbank said that he wanted to run this idea past the Planning Board. The sign will be in a residential zone. He does not think we will have a problem with it, but in case we did we just wanted the Planning Board's input.

Strickon said that the Rotary will create a sign that will be in good taste.

Robinson said from what he understands the sign will not be located right on the road.

Beaudin asked if the sign would be located back by the boxes.

Strickon said the sign will be back by the boxes. The sign could be moved if they ever move the boxes somewhere else.

Chair Spanos asked if anyone has any concerns. No concerns were voiced.

No public participation

- A. Members of the Planning Board signed the original Site Plan Review Ordinance and the original Subdivision Regulations with changes as adopted by 2015 Town Meeting (Stormwater Management Ordinance references) (To be recorded at Registry of Deeds)

V. PUBLIC PARTICIPATION AND OTHER BUSINESS: Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only

during a scheduled public hearing when all interested parties have the opportunity to participate.

VI. ADJOURNMENT

Motion to adjourn at 8:25 pm.

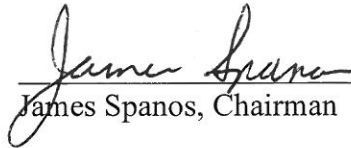
Motion: Taylor Beaudin Second: OJ Robinson

All in Favor: (5-0)

Respectfully submitted,

Wendy Tanner, Planning and Zoning
Recorder

Dated: April 22, 2015


James Spanos, Chairman

Merilee Phillips
9 West Street Rentals, LLC
110 E. Center St. #1276
Madison, SD 57042

RECEIVED
APR 16 '15
Town of Lincoln
New Hampshire

April 13, 2015

Town of Lincoln
Planning & Zoning Department
PO Box 25
Lincoln, NH 03251-0025

Re: Application for Planning Board Approval to deviate from the land density requirements.
April 22, 2015 agenda

Applicant: David Rogers

Dear Board Members,

I am unable to be present at the April 22nd Planning Board meeting to voice my concerns about the above mentioned application by Mr. Rogers. I trust that this letter can be entered into the record on my behalf at the hearing as my objection to this request.

My property is located on 9 West St. on Map 112, Lot 030. My objection are as follows:

1. Creating three apartments will generate too much traffic on this small lot. I believe that the density requirements as written should be enforced with no waiver.
2. This shared driveway to the apartment is already busy and congested. It would also increase the traffic and pedestrian danger on the busy sidewalk.

I thank-you for taking my concerns under consideration.

Regards,



Merilee Phillips, Managing Member
9 West St. Rentals, LLC

planning

From: thesnowboardshack@gmail.com
Sent: Monday, April 20, 2015 3:37 PM
To: planning
Subject: Re: David Rodgers - Great Stone Face Skier, LLC - Map 112 Lot 26

Follow Up Flag: Follow up
Flag Status: Flagged

RECEIVED

APR 20 '15

Town of Lincoln
New Hampshire

Hi Carol and the rest of the board,
The following statement is accurate and true.
Jerard Derosier

Sent from Windows Mail

From: planning
Sent: Monday, April 20, 2015 3:35 PM
To: thesnowboardshack@gmail.com

Hi Jerard,

Please verify that this is what you want me to convey to the Planning Board.

.....

Planning Board members,

I, Jerard Derosier called the town offices. I am a direct abutter and share a driveway with David Rodgers' tenants. I have has no problem with what David Rodgers has got going there on his property at Map 112, Lot 026.

He has cleaned the place up. Everything is in good order. There has been no increase in traffic. He got rid of the riff raff that had been living out back there. I have has no problem with anything Rodgers wants to do back there.

Carole

Carole Bont
Planning and Zoning Administrator
Town of Lincoln
148 Main Street
P.O. Box 25
Lincoln, NH 03251
(603)745-8527
Fax: (603)745-6743
www.lincolnnh.org

planning

From: Truants Taverne <truants@roadrunner.com>
Sent: Monday, April 20, 2015 4:38 PM
To: planning
Subject: RE: David Rodgers - Great Stone Face Skier, LLC - Map 112 Lot 26

Follow Up Flag: Follow up
Flag Status: Flagged

RECEIVED

APR 20 '15

Town of Lincoln
New Hampshire

I agree to this email.

Mike Hyland

From: planning [<mailto:planning@lincolnnh.org>]
Sent: Monday, April 20, 2015 4:11 PM
To: Michael Hyland (Mike) (truants@roadrunner.com)
Subject: Re: David Rodgers - Great Stone Face Skier, LLC - Map 112 Lot 26

Hi Michael,

Please verify that this is what you want me to convey to the Planning Board on your behalf.

.....

Planning Board members,

My name is Michael Hyland. I own White Mountain Bagel. I am an abutter to David Rodgers d/b/a Great Stone Face Skier, LLC who bought the residential property next door.

I have no objection to David Rodgers putting in three apartments in the building on Map 112, Lot 026. The building already had three apartments in it when he bought it.

Carole

Carole Bont
Planning and Zoning Administrator
Town of Lincoln
148 Main Street
P.O. Box 25
Lincoln, NH 03251
(603)745-8527
Fax: (603)745-6743
www.lincolnnh.org

planning

From: Karen ORourke <graciegirl443@gmail.com>
Sent: Monday, April 20, 2015 6:08 PM
To: planning
Subject: Dave Rogers zoning change

RECEIVED

APR 20 '15

Town of Lincoln
New Hampshire

Carole Bont
Lincoln Planning Administrator

I am unable to attend the planning board meeting concerning Dave Rogers, but I have no problem with the zoning change. He has plenty of parking on his property and cannot see that it will cause any problems for any of the neighbors.

Thank you
David & Karen O'Rourke
Green Acre Garden Center

planning

From: townmanager
Sent: Tuesday, April 21, 2015 11:04 AM
To: 'HLahout@aol.com'
Cc: planning
Subject: RE: Planning board meeting Wednesday/Rodgers case

Herb:

No problem. The Fire Chief is an alternate to the PB, so his will be there.

Butch

From: HLahout@aol.com [<mailto:HLahout@aol.com>]
Sent: Tuesday, April 21, 2015 11:01 AM
To: townmanager
Cc: fire
Subject: Planning board meeting Wednesday/Rodgers case

Hi Butch,

I know this is very late notice-can I request the Fire Chief to be at the meeting as I am going to bring up some safety issues. Also, I will be bringing Mr. Berguron with me to say a few things about safety issues-do I need to fill out any kind of paperwork? I will be at the entire meeting.

Thx, pls advise.

Best

Herbert Lahout
64 Sunset Hill Road
Sugar Hill, New Hampshire 03586 USA
cell 603-616-7991, office 603-444-0333
skype: Herb Lahout
www.lahoutspd.com

RECEIVED

APR 13 '15

Town of Lincoln
New Hampshire

Jonathan and Tamra Ham
98 US Route 3
Lincoln, NH 03251
April 7, 2015

Lincoln Planning Board
PO Box 25
Lincoln, NH 03251

Dear Lincoln Planning Board:

We have received the abutters notice for Clark's Trading Post regarding their request for approval to construct a Water Recreation Ride.

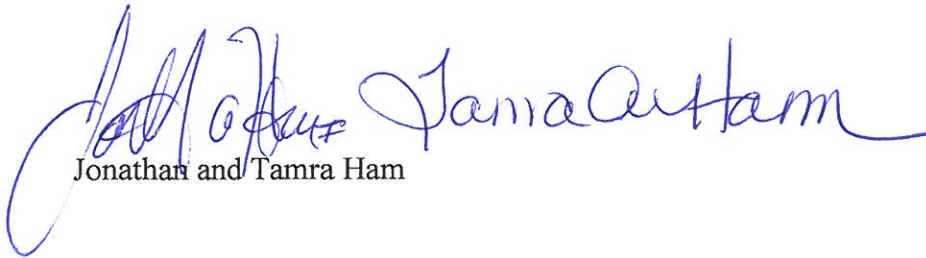
We are going to be out of town Wednesday, April 22, 2015 and request this letter be read into your meeting minutes.

Clark's Trading Post and the Clark family have been great neighbors to us for over 40 years. Clark's Trading Post is a clean, well run, and meticulously cared for business. They bring thousands of tourists to our community every summer, which is a great benefit to our local economy. It's nice to see this local business doing well enough to grow and continue to bring families back to our community year after year.

We are in full support of Clark's request to build their Water Recreation Ride and can't wait to give it a go.

We respectfully ask that you grant approval of this Site Plan application.

Sincerely,



Jonathan and Tamra Ham