

**LINCOLN PLANNING BOARD  
REGULAR MEETING MINUTES  
WEDNESDAY, OCTOBER 14, 2015 – 6:00PM  
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH**

**APPROVED**

**Present:** Chairman Jim Spanos, OJ Robinson - Selectmen's Representative, John Hettinger, Ron Beard (alternate & Fire Chief), Norman Belanger (alternate)

**Members Excused:** Vice-Chairman R. Patrick Romprey, Paula Strickon, Callum Grant (alternate), Taylor Beaudin (alternate)

**Members Absent:** None

**Staff Present:** Town Manager and Town Planner Alfred "Butch" Burbank, Planning and Zoning Administrator Carole Bont, and Wendy Tanner (recorder)

**Town Attorney Present:** Peter J. Malia, Esq., Hastings Law Office, P.A., P.O. Box 290, 376 Main Street, Fryeburg, Maine 04037

**Guests:**

**For the application for Site Plan Review to convert single family home with one attached apartment to a business use – a Tourist Home.**

- OJ Robinson of 83 Hanson Farm Road, Lincoln, NH and member of Board of Selectmen in Lincoln.
- Randall (Randy) Thomas of 83 Hanson Farm Road, Lincoln, NH
- Adam Mozisek of Hanson Farm Road, Lincoln, NH

**For the application for Site Plan Review for the Ice Castle (Withdrawn).**

- Benjamin (Ben) Clark of the Hobo Railroad Corporation, 64 Railroad Street, PO Box 9, Lincoln, NH 03251-0009, a/k/a as White Mountain Central Railroad, PO Box 1, Lincoln, NH 03251-0001 Property owned by Brenda Clark, Benjamin Clark & Jennifer Clark (Map 112, Lot 019)
- Christopher A. Swiniarsky, Esq. of McLane, Middleton, 900 Elm Street, Manchester, NH 03101 attorney representing the Hobo Railroad Corporation and its affiliates as owners and operators of the property on the Ice Castle.
- Alyssa Yolda, Executive Director of the Lincoln Woodstock Chamber of Commerce, PO Box 1017, Lincoln, NH 03251-1017

**Other Guests:**

- Paul Beaudin of 2 Louis Lane, Lincoln, NH (Map 117, Lot 069)
- Joseph (Joe) Conn of 29 West Street, Lincoln, NH (Map 112, Lot 038)
- Dave Beaudin of 10 Louis Lane, Lincoln, NH (Map 116, Lot 004)
- Tamra Ham of 98 US Route 3, Lincoln, NH (Map 109, Lot 002)
- John Vaughn of 43 West Street, Lincoln, NH (Map 112, Lot 040)
- Sue Vaughn of 43 West Street, Lincoln, NH (Map 112, Lot 040)

- Jim Champagne of 28 West Street, Lincoln, NH (Map 112, Lot 044)
- Jayne Ludwig of 12 Pleasant Street, Lincoln, NH (Map 113, Lot 092)

- 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 6:02 PM.*

*Alternates Norman Belanger and Ron Beard were seated.*

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

- September 23, 2015

**Motion to approve the meeting minutes from September 23, 2015 with a few grammatical changes.**

**Motion: OJ Robinson**

**Second: John Hettinger**

**All in favor: (3,0)**

- A. **6:00 PM –Application for Site Plan Review Approval for Change of Use/Expansion of Use to add the Ice Castle Event at the Hobo Railroad Facility this coming winter (2015 – 2016).** Ryan Davis (d/b/a Ice Castles, Inc., 3731 West South Jordan Parkway, Suite 102-402, South Jordan, UT 84095) requests Site Plan Review approval to add the Ice Castle Event at the Hobo Railroad Facility at 64 Railroad Street (Tax Map 112, Lots 18 and 19) in accordance with Article IV, Section A of the Lincoln Site Plan Review Regulations. The property is located in the General Use (GU) District. Tax Map 112, Lots 018 and 019 are owned by Brenda Clark, Benjamin Clark and Jennifer Clark, PO Box 9, Lincoln, NH 03251. The hearing was continued from September 23<sup>rd</sup> to October 14, 2015.

**APPLICATION HAS BEEN WITHDRAWN** – Explanation by Applicant's Attorney Christopher A. Swiniarski.

Chair Spanos said that the Hobo Railroad's Site Plan Review Application was withdrawn. The application was to locate the Ice Castle Event at the Hobo Railroad Facility on property owned by the Clarks again this coming winter. He asked if any members of the Planning Board had any potential conflicts they wished to discuss.

Robinson said that last year, prior to being located at the Hobo Railroad, the Whale's Tale spoke to the Ice Castle owners about possibly locating the Ice Castle at the Whales Tale, but it did not work out. Robinson is a primary party associated with N.L.I., Inc., which owns the Whales Tale. As a resident, Robinson said that he does not have any problem with the Ice Castle being located at the Hobo Railroad. In Robinson's opinion, he does not have a conflict of interest that would prevent him from sitting as a fair and impartial member of the Planning Board on the Ice Castle matter.

Town Attorney Peter Malia stated that there was no decision for the Planning Board to make tonight because the applicant has submitted a letter asking that the application be withdrawn. Attorney Malia said that an applicant can submit an application and withdraw an application; the Planning Board does not need to vote to accept the withdrawal of the application. Attorney Malia said that the Planning Board should not consider or hold a public hearing on an application when the property owner has withdrawn the application in writing; therefore, this application is now out of control of the Planning Board. If the

Board of Selectmen feels that the application should not be withdrawn, then as the enforcement agents in town, the Board of Selectmen would now be in charge.

Attorney Malia said that it is somewhat unusual for a Planning Board to be discussing an application that has been withdrawn, but there has been some controversy over the filing of the application and the withdrawing of the application. If the people in Lincoln would like to discuss this matter and hear more about it, Attorney Swiniarski, as attorney for the applicant, agreed to appear tonight and so the Planning Board and the public can have a brief conversation.

Attorney Malia gave a summary about how we got here tonight.

Last year Mr. Clark d/b/a the Hobo Railroad (“Hobo”) and his tenant, the Ice Castle Inc. (Ice Castle), came to the Town to determine whether or not any permits were needed for the Ice Castle. At that time, Town Manager Burbank and Planning Administrator Carole Bont made the decision that approvals for Site Plan Review for either a Change/Expansion of Use or a Special Event Permit were not needed. The Hobo Railroad was already a “tourist attraction”.

The Ice Castle was built at the Hobo site and it turned out to be very popular. Consequently, there were some significant traffic problems. As the winter went along Mr. Clark worked with the Police Chief to try to alleviate and fix some of the traffic issues. This spring after the Ice Castle event the Planning Board instructed Carole Bont to ask Mr. Clark to file an application for Site Plan Review given the significant traffic issues that occurred last winter.

Mr. Clark did, in fact, file the Site Plan Review application. Mr. Clark then hired Attorney Swiniarski who took a look at the Clark property (Hobo Railroad), the Ice Castle event and the Town Land Use Plan Ordinance as well as the Site Plan Review Regulations and concluded that the Planning Board did not have any jurisdiction over the Ice Castle event. In Attorney Swiniarski’s mind the original decision made by Town Manager/Town Planner Burbank and Planning Administrator Carole Bont was the correct decision. Attorney Swiniarski recommended to Mr. Clark that the Hobo Railroad withdraw the application, which they did.

Attorney Malia was brought in when the Town was notified that Mr. Clark was withdrawing the application. Attorney Malia understood that the major issue was traffic. In late September Town Manager/Town Planner Butch Burbank met with Attorney Peter Malia, Planning Administrator Carole Bont, Police Chief Ted Smith, Ben Clark, Attorney Swiniarski and two members of the New Hampshire Department of Transportation (Philip Beaulieu, P.E., District Engineer and James McMahon III, P.E., Assistant District Engineer for NHDOT District One Maintenance in Lancaster) at the town office. All were present at that meeting to talk about the traffic issues.

The NH DOT is concerned about traffic because of the traffic backup that occurred on US I-93. Ben Clark had prepared a 4 page single-spaced letter explaining what happened last year, why he thinks it happened and what could be done to try and improve the situation this year. The Police Chief was in agreement with Mr. Clark’s proposed traffic plan. They discussed ways to formalize the traffic plan with New Hampshire DOT officials. DOT recommended that Mr. Clark hire a traffic engineer to develop an official traffic control plan and submit that plan to DOT. Mr. Clark has hired a traffic engineer and an official traffic control plan is currently in the works. The Town Manager and Police Chief will have an opportunity to participate in the process. Ultimately a traffic plan will be developed that will be approved by both the Town and the State of New Hampshire DOT which will contain a lot of improvements that Attorney Swiniarski will talk about.



Subsequently it came to Attorney Malia's attention that there is a separate issue that he was unaware of initially that there are some folks in Lincoln who are upset that the application is being withdrawn because other amusement parks which add attractions to their parks have had to come in for Site Plan Review; therefore the Ice Castle should be required to do the same. That is a separate issue that has been brought up. Attorney Malia originally thought that the major issue was traffic which was being adequately addressed.

Attorney Swiniarski explained that the reason the Hobo is withdrawing the Site Plan Review Application is that the use on this property is a pre-existing use that predates the Site Plan Review Regulations that the Town enacted in 1988. This use is not subject to the regulations because it is a preexisting use. That being said, the Hobo did realize there is a traffic issue with the Ice Castle and that since that issue arose they worked in good faith to address the issue in the meetings that Attorney Malia discussed. Ultimately they have a very good plan to eliminate all of those issues.

The severe traffic issues were a result of tickets sales that allowed the ticketholders to use their tickets anytime. People could buy a ticket online and through other venues as well and that ticket could be used any time they wanted to use it; consequently, everyone showed up on the same day which created a traffic problem. There will no longer be any ticket sales like that. Ticket sales will be specific to a day and this should alleviate the bulk of the problem. The Hobo and the Ice Castle have continued to work with the Town in good faith and have come up with a traffic management plan which should eliminate all of the problems. The traffic plan will be reviewed by the DOT. They welcome input from the Town; Chief Smith has had some suggestions that were taken into account in developing the plan. The proposed traffic plan diverts traffic exiting out the front onto Main Street and takes it out the back of the property onto Connector Road so it does not create an issue where there is already a fairly congested intersection to get onto the interstate (US I-93 North & South).

The meeting with town and NH DOT happened about three weeks ago. The Hobo commissioned a traffic engineer within two days after that meeting at the request of NH DOT. The engineer is working on formalizing the plan which will be submitted to NH DOT. The Hobo will work with the town to get it finalized and in place so the Hobo can move forward with the Ice Castle.

Chair Spanos opened the session to brief public comments.

Paul Beaudin said that he hears a lot of "*I think* this is going to work". Beaudin said that the reason businesses go through the Site Plan Review process is to be sure that things work before they receive final approval. Beaudin has no problem with the Ice Castle being where it is; however Beaudin believes that Ice Castle should come in for Site Plan Review like other tourist attractions have when they add things. He cited three examples: Clark's Trading Post came for Site Plan Review approval when they added on the new water slide. The Whale's Tale came for Site Plan Review approval when they added rides. Loon Mountain Recreation Corp. came for Site Plan Review approval when they have added onto the ski area. Beaudin said that the Town has come under some harsh scrutiny recently with Alpine Adventures. The Planning Board allowed Alpine Adventures to build a giant ramp for the Thrillville© ride involving snow-tubing off a giant ramp onto the BigAirBag© without taking the project through the Site Plan Review process. The project happened without the requisite abutter notice and input because the Planning Board did not realize or think that there would be a significant negative impact on the neighbors.

Beaudin thinks the public comment process is an important one. He thinks the Ice Castle should go through the Site Plan Review process. Beaudin said that perhaps the Planning Board should consider allowing the Ice Castle to go forward for a short term, maybe like a one year approval or something like that so the Planning Board can see if the traffic plan is going to work. Taking such a tact would help everyone: the Ice Castle, the abutters and others whose properties are near the Hobo. The Planning



Board would be able to see if they forgot something else besides traffic. Beaudin thinks it is important for the Ice Castle to go through the Site Plan Review process.

Fire Chief Beard asked if part of the traffic study was going to encompass Pollard Road.

Attorney Swiniarski said that it was not a traffic study, but a *traffic management plan*.

Fire Chief Beard asked again if the traffic management plan would encompass Pollard Road. People know that Pollard Road is a way to avoid Main Street; if people leaving the Ice Castle want to go toward Loon Mountain, they know Pollard Road is a back road off from Main Street that they could take. Fire Chief Beard thought that Pollard Road should be included in the traffic management plan because Pollard Road is a town-maintained residential road that is not part of the State road system that the NH DOT would be worried about when they review the proposed plan.

Attorney Swiniarski said that his client's concern is exiting the Ice Castle property without causing congestion around the intersections of Route 93. Attorney Swiniarski said that Police Chief Smith had a lot of suggestions about how to route traffic and the Hobo is happy to take any of those suggestions.

Fire Chief Beard said that many residence on Pollard Road have been complaining about the speed of and quantity of traffic bypassing Main Street and using Pollard Road as a through road. Fire Chief Beard was trying to ensure that the final traffic management plan took Pollard Road into consideration.

Attorney Swiniarski said that traffic in other parts of town is not the result of his client's operations.

Fire Chief Beard said that the traffic problems will be the result of Swiniarski's client's operations. If drivers cannot get to Main Street because of the traffic going to the Ice Castle, Pollard Road is the only other alternative route to drive east towards Loon Mountain and the condos near Loon Mountain. The traffic associated with the Ice Castle may force drivers to go down the town-maintained street and residential neighborhood of Pollard Road to get back to Loon Mountain or to the condominiums near Loon Mountain, knowing that Main Street is busy.

Attorney Swiniarski said that he did not believe that people would make the Ice Castle a stop on the way to the Loon Mountain Recreation area. Attorney Swiniarski said that people do have to travel wherever they are going to go. The Hobo is happy to do whatever the Town would prefer, but if people are going from Point A to Point B and there are three ways to get there, they have to take one of them. The Hobo would be happy to divert a certain number of people one way and a certain number of people another way. Police Chief Smith will be working with his client to program the signs to help divert traffic.

Fire Chief Beard said that the other part of the puzzle needed to solve the problem is: if you were going to look at the traffic leaving where is that traffic ultimately going to?

Attorney Swiniarski said that issue is exactly what the Hobo's traffic engineer is going to look at. The Hobo is taking all input from the Town and NH DOT to create the traffic plan. Attorney Swiniarski said that the answer is, "Yes, that is precisely what they are looking at."

Hettinger said that the Planning Board has some responsibility to the Town. Hettinger said that last year during the Ice Castle traffic it took him over forty-five (45) minutes to get from Governor Adams Lodge at Loon Mountain across the bridge onto Route 112. Hettinger said that the Planning Board has a responsibility to the Town from a safety standpoint. Hettinger said that if emergency vehicles like the Police, Fire, Ambulance or EMTs need to get through, there is no way that a fire truck could have gotten from one end of town to the other through that traffic. Hettinger said that personally he would like to

have Attorney Swiniarski convince him that the Hobo has solved the traffic problem. Hettinger does not want to hear that Attorney Swiniarski “*thinks*” it will be ok, but that it “*will*” be ok. Hettinger said that he would like to hear what is in the traffic management plan – what the Hobo plans to do to manage the traffic before it happens. Hettinger said that the Planning Board members are not traffic experts, but certainly the Planning Board owes it to the Town to ensure that the traffic management plan is done correctly.

A question from the audience was, “Was this just a fluke?” “Were there a huge number of tickets that sold?” Some members of the audience felt that the problem was caused primarily because most people arrived or left all at once.

Attorney Swiniarski said that the first thing to consider was that on Martin Luther King holiday weekend when the worst traffic jam happened, a lot of other things were going on. Attorney Swiniarski believes there were five (5) significant events going on that same weekend; therefore, the massive traffic jam was caused not only by the Ice Castle, but by the combination of the five (5) events added to the holiday weekend traffic when people were coming to Lincoln for a three-day weekend of winter sports. The purpose of the traffic management plan is to reduce the traffic going onto Main Street. There is not a legal mechanism for the Planning Board’s evaluation of that plan. What the Hobo is doing is voluntarily working with the Town in good faith, having a discussion with the Planning Board and the public here tonight. They are welcome to having further discussions. The Hobo is happy to have input from the Planning Board but the Hobo cannot do it through a mechanism that is not legal.

Chair Spanos said that was only Attorney Swiniarski’s opinion.

Hettinger said that the Planning Board members would feel bad if there was a fire and the Town could not get a fire truck through that traffic to a fire and then someone’s house burnt down. There are a lot of condos and houses in Lincoln and there have been fires in the past. There are also ambulances to worry about. Hettinger said that he was not a traffic expert.

Attorney Swiniarski said that the Hobo was here tonight to get the Planning Board’s input. There will be a traffic management plan done by a traffic engineer.

Hettinger said the Hobo needed to convince Chief Smith or whoever else is in charge, like Town Manager Burbank, that the traffic management plan submitted would work. Hettinger said that if such a traffic management plan is submitted, he could not even judge if such a plan was going to work. Hettinger said that this traffic situation is a very important matter and was not to be taken lightly.

Attorney Swiniarski said that is precisely why the Hobo is having the traffic management plan created. They are concerned about the traffic. Ben Clark started taking steps right away on day one to work to solve the traffic problem. The traffic management plan is a comprehensive plan. That is why they hired a traffic engineer to prepare it. The Hobo and its engineer is doing exactly what the Planning Board is suggesting; it is just not being done through the Site Plan Review process.

Hettinger said that as long as someone in the Town is involved.

Attorney Swiniarski said that is exactly what the Hobo is doing and the Hobo wants to do it.

Belanger asked if there was a maximum number of tickets that would be sold each day.

Attorney Swiniarski said, “yes”. If the Planning Board needs the specific number of tickets sold per day Ben Clark can explain that, but the sale of tickets will be limited. Attorney Swiniarski said that the



limitation of the tickets will be part of the traffic management plan because the only reason for the limits on ticket sales is the traffic.

*Chair Spanos opened up the meeting to the public.*

Paul Beaudin asked why the Planning Board thought this situation did not meet the requirements of Site Plan Review.

Chair Spanos said that it was not the Planning Board's call; it was the applicant's decision to withdraw the application. The Planning Board did not ask the applicant to withdraw the application. It was now an enforcement issue for the Board of Selectmen.

Paul Beaudin said that earlier it was explained that Town Manager Burbank and Administrator Bont looked at the event and decided that it was not necessary for Site Plan Review. Beaudin asked if the Planning Board was supposed to decide whether or not something needed to go through the Site Plan Review process.

Attorney Malia said that last year that when the Ice Castle folks came to town, Town Manager Burbank and Administrator Bont made the determination that Site Plan Review was not required. Paul Beaudin asked if it was in their purview to do that. Attorney Malia said, "yes". Burbank is the Planning Director or Town Planner so he makes that threshold determination. Then after the traffic issues arose this year, the Hobo was asked come in and apply for Site Plan Review.

Attorney Malia said that Attorney Swiniarski expressed his opinion that there is no legal mechanism for the Planning Board to review this matter. Attorney Malia does not agree with that assessment. The legal mechanism for the Planning Board to review this matter is the Site Plan Review process. Mr. Clark did apply for Site Plan Review. The question is, "Is Mr. Clark and the Ice Castle exempt from Site Plan Review?" which is Attorney Swiniarski's position.

Attorney Malia said that there are a number of legal arguments involved in that analysis. The first argument is that this tourist attraction is grandfathered; that is Attorney Swiniarski's suggestion. Attorney Malia said that he was not sure if this tourist attraction is grandfathered; he would need to do more research. The business called "Clark's Trading Post" was established long before the town adopted zoning in 1986 and Site Plan Review in 1988. Since the property on which the tourist attraction called "Hobo Railroad" occurs, Attorney Malia's understanding was the Hobo Railroad attraction was established in the 1980's, possibly before 1988 when the Town of Lincoln adopted Site Plan Review regulations. Attorney Malia was not sure if that representation is accurate and reiterated that he would need to do more research about the date the Hobo Railroad was established.

Attorney Malia said that even if that site is grandfathered, a "tourist attraction" in that area of town (Village Center District) was permitted so it is not a "non-conforming use"; it is conforming. Even if the tourist attraction called the Hobo Railroad was a legally existing grandfathered non-conforming use, would this expansion be permitted?

Attorney Malia said, you can make some changes to your non-conforming use. For example, Attorney H. Bernard ("Bernie") Waugh wrote a treatise about non-conforming uses. Attorney Waugh wrote that if you have a legally existing grandfathered non-conforming use of a gas station in a residential area, you can swap out your old gas tanks for new gas tanks, but you cannot expand the gas station by adding a repair garage to the property.



Attorney Malia said that there are a number of legal issues involved in the analysis of whether or not this Planning Board has the legal mechanism to review this matter. Attorney Malia said that he believed that it was a decision for the Board of Selectmen to make; the Board of Selectmen is the enforcement agent in the Town of Lincoln. The Planning Board reviews applications that are filed and this application has been withdrawn. Attorney Malia did not believe that the Planning Board could take any action on their own and that this matter is up to the Board of Selectmen at this point.

Attorney Malia said that typically when he advises towns about whether or not to take enforcement action against a property owner, it is done in cases where the property owner is not cooperating. In this case Mr. Clark has taken appropriate action to at least address the parking/traffic issue by hiring a traffic engineer and working with the Town and Police Chief to make sure that traffic jams that happened last winter does not happen again. Attorney Malia said that in his mind the Mr. Clark's actions would mitigate against taking enforcement action. If, on the other hand, the Selectmen decide they need to treat everyone in Lincoln the same and that if other tourist attractions are coming in for Site Plan Review approval for "Changes of Use" and "Expansions of Use" then this tourist attraction should come in as well then perhaps the Selectmen will instruct otherwise.

Jim Champagne said he thinks that the Town has to have a firm policy. The Town should not waver or have that policy applied differently to different businesses. It becomes confusing and is frustrating for people in Town and frustrating for businesses in Town. Champagne said he does not have anything against the Ice Castle being located at the Hobo Railroad, but if the Hobo is treated differently than other businesses people are going to look at it and say, "Why did they get an exemption and we did not?" Champagne feels there should be a consistent approach that is the same for every business. We can look at the law and spend all of our time dissecting the law, but the general public will look at this situation and say: "Why is this different?" Why did they get an exception and we did not?" "Why did this business get an exception?" Why was that business treated one way and this business was not? Champagne thinks that public and abutters deserve an opportunity to hear the details of the proposal and the details of the traffic management plan. Champagne thinks that although there are a lot of people who are in support of the Ice Castle, people deserve to hear the details of the project and to be part of the process.

Attorney Swiniarski said that the question, "Why is this different?" is an easy question to answer. In Swiniarski's opinion, that determination is a "Finding of Fact". In his opinion the tourist attraction operation or use predates the adoption of the Town of Lincoln Site Plan Review (SPR) Regulations. Because the tourist attraction use predates the adoption of SPR Regulations, under State law the use is exempt from having those SPR Regulations applied retroactively.

Attorney Swiniarski said, since in his opinion the use as a tourist attraction predates the adoption of SPR Regulations, the relevant question is: Does operating an Ice Castle at the Hobo Railroad site constitute a "Change of Use"? The answer to that question would be a "Finding of Fact", however, that is not a "Finding of Fact" for the Planning Board to make necessarily; the members of the Board of Selectmen (BOS) can make that "Finding of Fact" on their own. The BOS can choose to pursue an enforcement action if they like to; if the BOS really feels strongly that this is some sort of change of use.

Attorney Swiniarski said that he has done the research and is very confident that it is not a "Change of Use". In his opinion, it is really not fair to any business to have a law retroactively applied to them. For example, take the pizza shop across the street. If the pizza shop been there for 40 years and 25 years ago the Town passed a law saying that no pizza shops are allowed in that zone. You cannot apply that law to that pizza shop and shut down that pizza business. The law specifically protects that business.



Hettinger said that suppose that same pizza shop ran a big special and thousands of people came to the shop and we could not get traffic through Town. Are you saying that the Planning Board would have no recourse to go back and examine it? Attorney Swiniarski said, “None – not the Planning Board”.

Chair Spanos asked Attorney Swiniarski what if the pizza shop decided to go from one hundred (100) seats to two hundred (200) seats. Attorney Swiniarski said that would be a very different situation; that is a clear cut “Expansion of Use”.

Chair Spanos said that in his opinion, it is debatable whether having the Ice Castle at the Hobo Railroad is an “Expansion of Use” at the Hobo Railroad or not. Hettinger said that there are unforeseen things that happen and you have to go back and take a look at them.

Attorney Swiniarski agreed that there are unforeseen things happening, but he argued that his client (Hobo Railroad) has not changed the use of this property; his client’s business was just more popular on a few days than was anticipated. If his client ran a special and too many people showed up, he would expect that his client would be responsible to mitigate the problem and make sure it does not happen again. In his opinion, under New Hampshire law addressing this issue is not done through SPR Regulations. There is no way to address this problem under SPR.

Robinson said that he questioned Attorney Swiniarski’s interpretation of the terminology “Expansion of Use”. Although the tourist attraction use (Hobo Railroad) may have predated the adoption of the Land Use Plan Ordinance in 1986, when the Hobo Railroad was in operation the use involved use of a railroad station that was closed down by 6:00 PM or 7:00 PM. There was no activity at the place after 6 PM or 7PM. In the wintertime there was very little activity there at all. The Hobo was mostly a summertime and daytime attraction. To say that bringing on something like the Ice Castle that brings in tons more traffic, greatly expands the hours and expands the seasons is not the same use. How is that not a change? Robinson does not believe that.

Robinson said he was a strong supporter of the Ice Castle; he would like to have the Ice Castle stay in this town. The only issue that he had is the traffic. Robinson thinks that Ben Clark proved he could moderate the traffic problem last year. On the Martin Luther King holiday weekend the Ice Castle event was a total disaster. However, by changing bus routes, ticket sales and exiting traffic, each weekend the traffic improved. By the end of the Ice Castle season there was a weekend when ticket sales surpassed the Martin Luther King holiday weekend and there were no significant traffic issues. So the Hobo has already proven that the traffic problem is solvable. Now the Hobo is dealing with traffic engineers and is going to come to the Board of Selectmen with a traffic management plan. Robinson is not going to question what traffic engineers do, however, he does want to understand the traffic management plan better. If the Hobo Railroad came to the Planning Board with a certified traffic management plan he would not see an issue with continuing the Ice Castle at the Hobo Railroad.

However, Robinson did take issue with Attorney Swiniarski’s statement that adding the Ice Castle to the Hobo Railroad that existed in 1985 is not a “Change of Use. When Clarks Trading Post wanted to put in the new water slide ride (and they predate the Hobo Railroad by decades), they came before the Planning Board and applied for Site Plan Review and got approval. At the Whale’s Tale Water Park, any time they have added on a ride, they have come before the Planning Board for Site Plan Review approval. The Whale’s Tale must have come before the Planning Board ten different times for Site Plan Review approval for each ride.

Attorney Swiniarski said that the Hobo Railroad was not adding anything. Robinson disagreed and said, “You are adding; it is just not a permanent structure like a ride.”

Attorney Swiniarski said that property has been used for many different things. There was a maze for children when he was there three weeks ago. Ben Clark does have a very long list of the multitude of activities on that have transpired on that property over the last thirty (30) years. The activity at the Hobo Railroad has not be nearly as limited as Robinson suggests. Those activities may not have been as popular as the Ice Castle, but those are the activities that have been happening at the Hobo. The Hobo Railroad property has been a property where various attractions have been hosted for thirty (30) years; that is the way it is now, the Ice Castle happened to be a bit more popular last year.

Hettinger asked what the big deal was about not wanting to come back to the Planning Board and give a presentation. If you are so confident in what you are saying just come in and explain it to us in a public session.

Attorney Swiniarski said that they are in a public session now; he is explaining what his client is doing and they are happy to talk. In Attorney Swiniarski's opinion there is no Site Plan Review approval that could be granted that would be valid and no denial that would be valid. Site Plan Review is simply not the proper mechanism. Attorney Swiniarski said, "We are happy to discuss this in a public forum but that jurisdiction does not exist for the reasons I've explained. We are working with you on good faith."

Hettinger asked Robinson if the issue of the Ice Castle would come before the Board of Selectmen at a Selectmen's Meeting. Robinson (who is also Chair of the Board of Selectmen) said that he cannot speak for the Board.

Chair Spanos said that the town counsel, Attorney Peter Malia, does not agree with that assessment. Hettinger said that he is a layman so he can disagree with the town attorney.

Attorney Malia said that he does not necessarily agree with Attorney Swiniarski's opinion that there is no legal mechanism for this Planning Board to review this application. Attorney Swiniarski said that he just needs to know what the legal basis for it is and he will start from the beginning once Attorney Malia points it out to him.

Attorney Malia read the Site Plan Review regulations:

*"Change or Expansion of Use*

*b) The addition of more than 500 square feet of floor area or other impermeable surface to an existing nonresidential or multi-family use"*

Attorney Malia asked Attorney Swiniarski if the Ice Castle contained more than 500 square feet of impermeable surface. Attorney Swiniarski said, "No, it's just ice". Attorney Malia said that then the question is whether or not ice is "impermeable".

Attorney Swiniarski said that there is nothing in the bylaws that suggests that Site Plan Review is the proper mechanism. However, the Hobo Railroad has an issue with traffic and the Hobo is very willing to work with the Town to fix the traffic problem in good faith, as they have done for the past year. It is just not Site Plan Review, but the end result that the Town wants; it is the same end result that the Hobo has been working for and the Hobo will get.

Chair Spanos asked what will happen if NH DOT does not sign off on the traffic management plan. Will the Ice Castle not open this winter? Attorney Swiniarski said his client is working on the traffic management plan with NH DOT. He will come up with a plan. Chair Spanos asked "Suppose they don't and there is no way we can come to an agreement?"



Attorney Swiniarski said that he did not know, but he does not see that as being a possibility. The goal is to come up with a traffic management plan and they are going to come up with a plan. The NH DOT would not say there is no way for traffic to exit this property without creating a problem. We have already discussed the details and we are all confident that the plan will succeed. Once NH DOT sees the final version, the NH DOT may have some changes to make to it, but in the broad strokes the concept works, their engineers agree and ours engineer will finalize it and he will agree. That is all we can do really.

Joe Conn said, “He says it’s legal and you say it ain’t. But we are a year too late. Whoever made the decision should have made the decision a year ago and gone through all this stuff. So where are them people that made them decisions? Because they withdrew they don’t have to be here?”

Chair Spanos said that once the Hobo withdrew its application, it became an enforcement issue.

Joe Conn said “If they don’t need it they don’t need it, if they do need it they do need it. So who is to decide that? As far as parking, you gotta give them credit, they did fix that. It doesn’t make any sense arguing over something that is not really arguable. If they went through this whole process, say Mr. Clark spent \$300,000 doing a survey and they come back the Town’s gotta pay for it because they okayed it? I mean where do you end this thing and where do you start it? The only complaint that we got is the cars that come down West Street.” All the Town has to do is take West Street off the 9-1-1 list so the drivers using a GPS cannot find West Street. Or, the Town could dig a hole at the entrance to West Street so that drivers cannot drive onto West Street. You have to give Ben Clark credit. You said the Ice Castle traffic was a pain and the next day they could park 200 more cars. The Hobo went and plowed off everything from the lot. It probably cost him \$10,000 to fix his lawn. I don’t know how far back the Town would look at what uses the Hobo had on its property. Way back in the beginning the Hobo had a Ferris Wheel. So is it a change or isn’t it a change? With the Ice Castle, the Hobo has a lot more customers, but he does not understand all of the Town’s rules and regulations so he is not sure how to apply them to this situation.

Paul Beaudin said that he agrees with John Hettinger. Beaudin said that when there is no Site Plan Review process, neither the Planning Board nor the public has a chance to address the issue of excessive traffic or the use of lights at night. With the Ice Castle at the Hobo there are night lighting changes. The Ice Castle uses more water than the Hobo. The Ice Castle also uses more drainage. Does the Fire Chief have any concerns? Those are the types of issues that the Site Plan Review process is designed to address. As Attorney Swiniarski said earlier, Mr. Clark of the Hobo would not want something adverse to happen that he did not anticipate. Maybe a member of the public who is not here tonight would have thought of the issue so it could be addressed. “We are really glad you showed up, we never thought about that issue.” Then Mr. Clark and his Ice Castle tenants could take a look at the potential problem. If the Planning Board gives the Hobo and the Ice Castle cart blanche then no one has an opportunity to say they have a problem with it.

Paul Beaudin said that is what happened with the Alpine Adventures Thrillsville© slide. The Planning Board approved the slide and several neighbors had problems with the noise. Because there was no Site Plan Review hearing the Town and neighbors had no way to address the problem. That is what is lacking here. The communications from the Town’s end and from the Hobo’s end. There should be some sort of forum where everyone can address their issues and try and get them taken care of. In this case the Hobo has not. To say this is the way it is going to be just does not make a whole lot of sense.

Attorney Swiniarski said that is precisely why this [pre-existing, nonconforming use] exemption exists under state law. The Town does not have the ability to make a law to run someone out of business or change what they have done in the past. The public does not have any input on a use that existed before

the public had a voice by virtue of its bylaws. That is precisely what this state law protects. If such laws were allowed so that the public had a say in everything everybody did it would not be America would it? This is private property. There are Land Use Regulations for private property such that it does not adversely affect the public. When a use exists prior to the enactment of the Land Use Regulations, the Regulations come to the land “as it is”; the Land Use Regulations do not wipe it clean and start over. That is not how the law works in America. It can’t and it never will.

Chair Spanos asked which RSA was being referenced. Attorney Swiniarski did not respond.

Ben Clark said last year, in good faith, he, on behalf of the Hobo and the Ice Castle went to the Town. He laid all of their cards on the table. He indicated there was an opportunity for the Hobo to host the Ice Castle in Lincoln. There were no issues raised at a joint meeting with the Planning Board and Board Of Selectmen. Everyone was in agreement at that time that the Ice Castle was just a continuation of an ongoing use the Hobo had at that property for nearly 30 years. Clark was hopeful that the Ice Castle would be at least as successful as the horse drawn sleigh rides the Hobo used to offer or at least as successful as when they tried to have their gift shop opened as a snow mobile stop. With the Ice Castle the Hobo was caught flat footed. The Hobo had no real way of predicting the number of people who would come to see the Ice Castle. The Hobo immediately did their best to come up with a plan to limit ticket sales, come up with blocks of tickets that were available by reservation only. That would be the Hobo’s plan going forward.

Ben Clark said that since the first of August, he, on behalf of the Hobo, has been working with Town Manager Burbank and Administrator Bont to figure out what he needs to do to make it right. Mr. Clark grew up here. His kids go to school here. He wants the Ice Castle to be a credit to the Town. He wants the Ice Castle to be a credit to the Hobo organization and all the folks in the community. Maybe he has not asked the right questions. Maybe he has not received the right guidance along the way, but he was told to hire a traffic engineer and have a traffic management plan that would solve the traffic issue and that is what he has done here in good faith. He has been spending money like a drunken sailor on survey guys and attorneys. He is trying to have the Ice Castle open and fix the traffic problem because he has a vested interest in it. Mr. Clark has tried to bring in the best traffic engineer and planning firm in the state. They have done a lot of work in this town. The engineer was on site this weekend, walking the property and coming up with ideas and suggestions “so that we can slay this dragon and put it behind us”.

Hettinger said that he thinks that the Planning Board members are all in favor of the Ice Castle and a lot of the businessmen in town want to see it. Hettinger said that he is confused about how the law applies here. There are times when the Planning Board makes a decision on an application for Site Plan Review and then something unforeseen happens. We are all human beings and sometimes we cannot guess what is going to happen. None of us could guess that when the Ice Castle moved from Loon Mountain Recreation Area to the Hobo Railroad area that we were going to have these big traffic jams. We would never guessed that we were going to have this enormous traffic problem with so many people showing up. Hettinger said that the Planning Board must have some function allowing the Town to oversee something like the Ice Castle to make sure the Town does allow a repeat the adverse unforeseen or unthought-of events. The Town through the Planning Board and/or the Board of Selectmen needs to make sure the public is safe.

Attorney Swiniarski said that is the purpose of the traffic management plan.

Hettinger went on to say that he doubted that the Planning Board would disapprove anything, but they would make suggestions and the Hobo could give the Planning Board a little public presentation.

Attorney Malia made a few corrections to what Attorney Swiniarski said.

1. **Continuation of a Pre-Existing Non-Conforming Use.** Attorney Swiniarski said that at the September 28, 2015 meeting it was agreed that what was happening here was a continuation of an ongoing use that has been happening at that property for over thirty (30) years. Attorney Malia disagrees. Attorney Malia does not think there was any discussion at the September 28<sup>th</sup> meeting about whether this was a continuation of an ongoing use that was made at that property for over 30 years. What was agreed to at that meeting was that it made a lot of sense for Mr. Clark to hire a traffic engineer to work through the NH DOT professionals who specialize in traffic, with input from the Town, to formalize a traffic management plan which Mr. Clark had informally written up which the Lincoln Police Chief was in agreement with.
2. **Grandfathered Use.** Attorney Malia continued. As far as grandfathering is concerned, if you are making use of your property legally prior to the use of the zoning ordinance which prohibits it you have a grandfathered use; you are entitled to continue to operate your grandfathered use. Assuming for the sake of argument this property has a grandfathered use on it, (I am not sure it does because it is a conforming use) the current Lincoln Ordinance does not prohibit a tourist attraction in that area. However, if there is a grandfathered use you can continue to operate, but you cannot expand the use without bringing the property into compliance. That is where the issue would arise: if this use is grandfathered, is it an expansion of a grandfathered use?

Attorney Malia gave the example earlier of the gas station. As far as other attractions having applied for Site Plan Review approval for adding features, obviously the Town wants to treat everybody fairly. It is possible that some of the other attractions have applied for when they did not have to apply. Perhaps if they had hired Attorney Swiniarski they may not have needed Site Plan Review. Just because someone else has filed an application it does not mean that they did so correctly and that they had to and everyone follows them should have to do the same.

Attorney Malia continued to say, to his credit, Mr. Clark has worked and is working hard to improve the traffic. It is important that the Police Chief is onboard with Mr. Clark's proposed traffic management plan. When the engineer hired by Mr. Clark has completed the traffic management plan he assumes the plan will be shared with the Town of Lincoln. Maybe the Board of Selectmen could put the Hobo's Ice Castle traffic management plan on as an agenda item at a Selectmen's meeting. The Selectmen's meeting would be a public meeting. It will not be a Planning Board meeting; it will be a Board of Selectmen's meeting. The traffic management plan can be shared with the public at a Selectmen's meeting. Maybe sharing the traffic management plan at a Board of Selectmen's public meeting would constitute a middle ground we can reach rather than litigating over whether or not this use is grandfathered and, if so, is it a legal expansion by going to Grafton County Superior Court. We are dealing with some legal grey areas. We have a property owner who is working hard and spending a lot of money to try and solve a problem. Perhaps that public Selectmen's meeting could be a middle ground. It would not be a Planning Board meeting but it would be a Selectmen's public meeting at which Mr. Clark's traffic engineers would be present to answer questions and the traffic management plan could be shared with the public.

Attorney Swiniarski said, he apologized if he left Attorney Malia with the impression that it was during their recent meeting that the parties agreed that the Ice Castle use was a continuation of the Hobo Railroad's ongoing tourist attraction use. That meeting was one year ago when they were in this very room when he posed the question. Attorney Swiniarski said he lay all his cards on the table to Town Manager Burbank. OJ was involved as a member of the Board of Selectmen. He said, this is something we want to do and we want to do it right, so how do we go about it. We had a meeting here. Everybody said, it is an ongoing use for what the Hobo Railroad has done, for nearly thirty (30) years.

Attorney Swiniarski said that in the end that part is not really that relevant here. If the grandfathering issue were to be litigated in court over whether the Ice Castle is a change of use or not for the Hobo Railroad, he does not know, but he thinks that the judge would look at both parties and say "What do you



want?”, “What do you want?”. We are both going to give the same answer and he is going to throw us out of court. There is no controversy here. We all want the same thing.

Attorney Swiniarski said the Hobo is working here in good faith to do what is best for the Town. As Ben Clark said, he is a lifelong resident. From a purely business perspective it makes sense for Mr. Clark to do this right. His business does not work if there is a traffic jam. Attorney Swiniarski thinks that Attorney Malia’s idea is a great one. We can certainly submit the traffic plan, we are going to submit it to Town Manager Burbank and to Chief Smith. By virtue of submitting the traffic management plan to the Town it can be submitted to anyone in the Town (i.e., the public). We will share a courtesy copy with you that you can circulate as you see fit. It is literally what we are here to do. We are here to solve the problem. The issue that the Planning Board has is the same traffic issue that we recognize and are working to solve. He does not see the problem here.

Attorney Malia said that at this point it is out of the Planning Board’s hands and turned over to the Town Manager and Board of Selectmen.

Chair Spanos agreed.

### III. NEW BUSINESS

- B. 6:00 PM – Application for Site Plan Review Approval for Change of Use/Expansion of Use to convert single family home with one attached apartment to a business use – a Tourist Home.** Randy Thomas of 83 Hanson Farm Road, Lincoln, NH 03251 requests Site Plan Review approval to convert a single family residence with an attached apartment located at 83 Hanson Farm Road (Tax Map 105, Lot 026) to a Tourist Home with 3 guest rental units and a residence in the main house plus one additional guest rental in a separate caboose) in accordance with Site Plan Review (SPR) Regulations, Article IV, Section A (Change or Expansion of Use) and the Land Use Plan Ordinance (LUPO) Article VI, Section B, Paragraph 2 (Land Use Schedule – Business Use) and Article II, Section A “Tourist Home”. The property is located in the General Use (GU) District and is owned by Orrin Robinson & Randall R. Thomas, 83 Hanson Farm Road, Lincoln, NH 03251. Tourist Home is a Business Use allowed in the General Use (GU) District.

*OJ Robinson stepped down for this application.*

Robinson and Thomas presented. Robinson said that the house that they live in now has an approved rental unit over the garage. The bottom unit was finished in 2001 but was never approved as a second rental unit. There is a door between that unit and the house so it is more like an auxiliary space, but it has been rented out also. They would like to change their use from a residential house to what the Town’s Land Use Plan Ordinance calls a “tourist home” which would allow for the rental of the units on a short term or nightly basis. In addition they would like to add a caboose as a rental unit. There will be a total of three (3) units in the house and they would like to add a fourth unit which will be a caboose located in the side yard.

Chair Spanos confirmed that there would be four (4) units total. Robinson said there would be four (4) rental units plus the homeowners’ residential space. Chair Spanos then confirmed a total of five (5) units total for the house.

Robinson said that the definition of the tourist home includes a primary residential area with additional rental units.

Thomas said that one of the units is an in-law apartment.

**Waivers:**

Robinson said that they have asked for four (4) waivers on the application.

Chair Spanos said the Planning Board would vote on the waivers and asked Robinson for a reasoning.

1. (Item 8) Robinson said there is the two (2) foot topography requirement. The parcel is almost a flat piece of land in the front of the house the only part which is existing. The only part of the land that is changing is where the caboose is going to be placed. The land where the caboose will be located is flat and will remain flat other than putting railroad ties down on the flat piece of land to hold the caboose. There will be no contour changes to the property so we are asking to waive the requirement of two (2) foot topography mapping of that flat piece of land.
2. (Item 9) Robinson asked for a waiver of the soil mapping for the same reason. They are not making any changes to the land other than putting in water and sewer to the caboose so the soil mapping is irrelevant.
3. (Item 11) The buildings have been located within fifty (50) feet of the site, but they are asking for a waiver on the two hundred (200) feet for the utilities because they will remain unchanged other than hooking the caboose into the water and sewer hookup which does show on the map. The two hundred (200) foot they are asking to waive because most of it becomes irrelevant.
4. (Item 24d.) The engineering calculations used to determine drainage requirements, again, all of that is existing and the only thing that is changing is where the caboose is going to go, it is not going to change the drainage, and there is no drainage problem on the site to being with.

Chair Spanos asked if the caboose would be on a track or on a foundation. Robinson said the caboose will be set on railroad tracks set on railroad ties on the ground.

Chair Spanos asked if someone living in the caboose would be able to establish residency. Robinson said what they are asking for as a use for the caboose is a temporary rental, short term use. Robinson thought that if they wanted to rent the caboose out beyond a temporary time period they would have to come back and get a change of use to go back to residential use. Chair Spanos said that right now you are only planning to use the caboose for temporary short term rental. Robinson agreed.

Hettinger asked if the caboose was heated and whether they intended to run water and sewer to it. Robinson said they intended to run water, sewer, electric and propane to the caboose.

Hettinger asked if the caboose would be tied down somehow so it would not roll. Thomas said there is a stop that is made specifically to keep the caboose in a stationary position.

The Planning Board voted on the waivers as follows:

Item 8. Existing and proposed topography of the site at two (2) foot contour intervals.  
**Motion to waive this requirement: John Hettinger    Second: Norm Belanger**  
**All in Favor: (4-0)**

Item 9. Soil mapping units and unit boundaries.  
**Motion to waive this requirement: John Hettinger    Second: Norm Belanger**  
**All in Favor: (4-0)**

Item 11. The location of all buildings within fifty (50) feet of the site and the location of all intersecting roads or driveways and utilities (water, sewer, electrical, cable, telephone) within two hundred (200) feet.

**Motion to waive the location of utilities within 200 feet:**

**Motion: John Hettinger      Second: Norm Belanger**

**All in Favor: (4,0)**

24d. Stormwater drainage plan showing:

Engineering calculations used to determine drainage requirements.

Fire Chief Beard thought that it would have plenty of drainage anyway if the caboose was on a rock bed to support the weight. Thomas said that the water drains back in to their own property toward the Whale's Tale. Robinson said that there is a swale between their property and the Whale's Tale where water settles and drains.

**Motion to waive the engineering calculations requirement.**

**Motion: John Hettinger      Second: Norm Belanger**

**All in favor: (4,0)**

Chair Spanos asked if all abutters had been notified. Bont said, "yes".

**Motion to accept the application as complete.**

**Motion: John Hettinger      Second: Norm Belanger**

**All in favor: (4,0)**

**Motion to open public session.**

**Motion: John Hettinger      Second: Norm Belanger**

**All in Favor: (4,0)**

Paul Beaudin has a piece of property on Hanson Farm Road and was concerned that access to the caboose should come from US Route 3 and not around the back on Hanson Farm Road. There are a lot of kids who play on that road. If you advertise rentals at the tourist home please try to get the guests to come in from US Route 3 and not the back part of Hanson Farm Road. Thomas said that there will be no advertising at all.

Robinson said that they would confirm that reservations would send guests left at US Route 3 at the residence and not down Hanson Farm Road.

Dave Beaudin asked if the tourist home would fall under the state room and meal tax. Robinson agreed that it did. They have a license for that already.

Jayne Ludwig asked that if these would be nightly rentals; "Will your mom have to check out every day?" Thomas said no, that particular unit is year round.

**Motion to close public session:**

**Motion: Norm Belanger      Second John Hettinger**

**All in Favor: (4,0)**

**Motion to approve the Application for Site Plan Review Approval for Change of Use/Expansion of Use to convert single family home with one attached apartment to a business use – a Tourist Home.**

**Motion: John Hettinger      Second: Norm Belanger**



**All in favor: (4,0)**

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

*Robinson is reseated.*

**Master Plan.**

Bont said that she spoke with Karen Fitzgerald of FitzDesign who is working on the Town's 2015 Master Plan update about the meaning of "stakeholders". At the last meeting Planning Board members had asked why we needed to contact stakeholders because we already had a very good response to the survey.

According to Fitzgerald, the reason you call specific people or businesses "stakeholders" is because those are people whose businesses or development plans could have a major impact on the community. For example, you would want to contact Dennis Ducharme and ask if he planned on making additional hotel space within the next ten years. You should contact the Lahouts because they own, and therefore their plans would impact, a major portion of downtown Main Street/NH Route 112. You want the stakeholders to buy into what the master plan is as well and to support it. Those are the reasons why we should contact these people and get input from them. If you contact a developer and he says I have these 50 lots on this side of the river and plan to sell them for single family residences, but I also have a piece of property across the river and I plan to build six (6) hotels or condominiums on those lots, you want to know about it. Karen said that the Master Plan is not just for the Planning Board, but for the entire community. So what you are trying to do is a) get them to buy in and b) let them tell you what their plans are so you can prepare for it.

Chair Spanos asked if we were looking for input from these people (stakeholders) as to what their plans are, what would that involve?

Bont said that Fitzgerald's contact with a shareholder usually involves a five (5) minute telephone conversation to see if they have anything they want to share that could be part of the Master Plan. Fitzgerald sent the information out to everyone on the list and only received three (3) responses.

Bont said that when Fitzgerald contacts stakeholders she does not expect a large response, however, Fitzgerald likes to go through the exercise. The buy-in signifies "this is our plan for our community for the next ten years". Fitzgerald would like to know if the Planning Board talked about adding some of the hotels on US Route 3 and one last chance to add people to the list to see if she could contact them to get more input.

The following people or businesses were on the list:

Burndy, John & Marcia Imbrescia who own the Village Shops, Forest Ridge, Ambulance, Fire, Police, Recreation, The Beacon Resort, Woodward's Resort, Indian Head Resort, Forest Ridge, Loon Mountain, and South Mountain (the former Centex property), and the Clarks.

Tamra Ham asked about properties on US Route 3 that are not hotels. Chair Spanos said that we should include anyone who has a significant amount of property that can be developed. Chair Spanos said that the Beacon Resort and Woodward's Resort are maxed out, but they both have a lot of units and if they decide to repurpose them it could have an impact.

#### **Annual meeting of the New Hampshire Municipal Association**

Bont said that the NHMA has an annual meeting and sometimes they have Planning and Zoning matters and invited the members to attend. Bont handed out pamphlets saying it is cheaper to register now because we receive a discount.

- 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 7:11PM.**

**Motion: OJ Robinson**

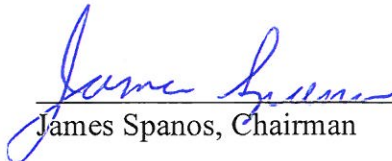
**Second: John Hettinger**

**All in Favor: (5,0)**

Respectfully submitted,

Wendy Tanner,  
Planning and Zoning Recorder

Dated: October 14, 2015

  
James Spanos, Chairman