

**LINCOLN PLANNING BOARD  
REGULAR MEETING MINUTES  
WEDNESDAY, JUNE 22, 2016 – 6:00PM  
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH**

**APPROVED**

**Present:** Chairman Jim Spanos, OJ Robinson - Selectmen's Representative, John Hettinger, Paula Strickon, Callum Grant (alternate), Norman Belanger (alternate)

**Members Excused:** Vice-Chairman R. Patrick Romprey, Ron Beard (alternate & Fire Chief),

**Members Absent:** None

**Staff Present:** Planning and Zoning Administrator Carole Bont, and Wendy Tanner (recorder)

**Staff Excused:** Town Manager and Town Planner Alfred "Butch" Burbank,

**Guests:**

- Hope Gyorgy – resident of 43 Hanson Farm Road, Unit #9, Lincoln, NH 03251 (Tax Map 105 Lot 004)
- Betty Houde – resident of 43 Hanson Farm Road Unit #9, Lincoln, NH 03251 (Tax Map 105 Lot 004)
- Raymond Mulleavey – resident of 403 US Route 3, Lincoln NH 03251 (Tax Map 106 Lot 016)
- Barbara Vitale – resident of 37 Hanson Farm Road, Lincoln NH, 03251 (Tax Map 105 Lot 003)
- Kevin McNamara -- Realtor or ReMax in the Mountains, 264 Main Street, Suite 2, P.O. Box 75, Lincoln, NH 03251-0175, agent representing property owner Michael E. Cotto.

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

*Norman Belanger was seated.*

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

- May 25, 2016

**Motion to approve the minutes of May 25, 2016 as amended.**

**Motion:** OJ Robinson      **Second:** Norman Belanger      **All in favor.**

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

**1. 6 P.M.: Site Plan Review:**

**(REQUEST TO BE CONTINUED TO WEDNESDAY, JULY 13, 2016, AT 6:00 PM.)**

Application for Site Plan Review approval for expansion of use from a motel to a combination motel and rental cabins. Applicant Mehul Patel (& Falguni Patel) d/b/a Rodeway Inn™ of 417-419 US Route 3, (also known as Daniel Webster Highway), Lincoln, NH 03251-0304 is currently operating the Rodeway Inn™ in the former Red Doors Motel on property owned by Kushi Corporation, 417-419 US Route 3, (also known as Daniel Webster Highway), Lincoln, NH 03251 (Map 106, Lot 017). The property is located in the General Use (GU) District.

Rodeway Inn™ currently has two buildings with the following:

- The larger building has 24 units.
- The smaller building has 6 units.

Applicant wants to build 10 rental cabins behind the Rodeway Inn™ with access to come from Hanson Farm Road.

Bont said that the applicant would like to continue to a time and date certain on July 13, 2016.

Chair Spanos asked if the Board had any questions. There were no questions.

**Motion to continue the application for Site Plan Review approval for expansion of use from a motel to a combination motel and rental cabins to July 13, 2016.**

**Motion: Norman Belanger Second: John Hettinger All in favor.**

#### IV. NEW BUSINESS

1. **6 P.M. Conceptual:** Kevin McNamara, Realtor of ReMax in the Mountains, of 264 Main Street, Suite 2, PO Box 75, Lincoln, NH 03251-0175, agent representing property owner Michael E. Cotto, PO Box 753, Forestdale, MA 02644, for a change in use from Mixed Use [Retail Business downstairs & Residential Apartments Upstairs] to Multi-Family Housing in the property described as 55 Main Street (Tax Map 112, Lot 066) located in the Village Center (VC) District owned by Michael E. Cotto.

Kevin McNamara said that the owner is looking to convert six thousand (6,000) square feet of commercial retail space into four (4), two (2) bedroom apartments.

Chair Spanos asked what was in the building now.

McNamara said there is 6,000 square feet of empty space.

Chair Spanos asked if it was commercial space.

McNamara said that it was retail space where Sport Thoma's outlet store was. There are two apartments upstairs now and he wants to convert the retail space into 4 apartments for a total of 6 and possibly 7 apartments. They may split the two bedroom into two one bedroom apartments.

Chair Spanos said that it appeared that when the Town was doing the research for the Minion last year, the apartments upstairs never received Planning Board approval.

McNamara said that the apartments have been there since the current owner Michael Cotto has owned the building.

Bont said that the assessment card for the building in 2006 showed no apartments in the building. The building was purchased in 2007 by Michael Cotto. The apartments were

discovered by the town when the Minion was going to move in last year and the building needed to be inspected by the Fire Chief for safety purposes. Since then the Town assessor has gone into the building to assess the apartments. No approval for the apartments was ever found.

When David Rodgers owned the building there was a woman living on the third floor for years. The second floor was an apartment/office that Rodgers used. The apartments predate zoning. The assessor may never have picked up the apartments in the building.

McNamara said that painting and remodeling of the apartments has been done over the years. Bont said that looking at the assessment card the building was built in 1900.

Stricken asked if there was a third floor. McNamara said that there is a third floor.

Strickon asked whether there was an apartment on the third floor and whether the plan was to put two more apartments on the second floor and two on the first floor. McNamara said that there is currently a third floor apartment and an apartment on the second floor. The first floor and the basement are retail space.

Strickon asked how many apartments will be in the building when it is finished. McNamara said there will be four (4) apartments on the first floor, one (1) apartment on the second floor and one (1) apartment on the third floor.

Chair Spanos asked if there would be any apartment in the basement.

McNamara said that there would not be an apartment in the basement, but that all the apartments would utilize the basement because they would be townhouse style apartments utilizing two floors with egress from the basement. One bedroom up, one bedroom down and one living area up and one living area down.

Chair Spanos asked if the apartments would be rented or turned into condominiums. McNamara said they would be rented. There would be a hallway down the center and the apartments would be made into small townhomes.

Chair Spanos said that the property size is 0.17 acres which is about 7,400 square feet; 15,000 square feet per dwelling unit is required. The lot is zoned Village Center (VC) District, which allows for commercial uses. (Multi-family use is a commercial use.) Because the lot is in the Village Center (VC) District the Planning Board could also waive the density requirement. Chair Spanos recommended that McNamara come before the Planning Board for a formal hearing to see if the Board would consider waiving the density requirements.

Robinson asked if the square footage of the building was going to change. McNamara said it would not. The footprint would not change, but the front would come off (currently a large glass store display window). The building will look more like residential housing than retail space, but will not to go outside the existing footprint.

Hettinger asked if the parking would remain. McNamara said that parking on the west side of the building would remain.

Chair Spanos asked how many spaces total were around the building. McNamara said that there were four (4) parking spaces out behind the building and eleven (11) parking spaces on the west side for a total of fifteen (15) parking spaces.

Chair Spanos asked if any parking on Main Street would be utilized. McNamara did not think so, but only if necessary. Chair Spanos thought that guests of the renters may be able to utilize Main Street parking.

McNamara said that the Planning Board was talking about square footage per unit and if there is no change to the square footage of the building would the Planning Board still have to waive it. Chair Spanos said that the square footage for density would have to be waived.

McNamara asked if the process for waiving the density requirement would take place in the context of Site Plan Review process for a “change of use”. Chair Spanos said that no binding decisions could be made in a hearing for a “Conceptual”, so the Planning Board could not say whether the Planning Board would accept a request for a waiver at this time.

McNamara said that they did not want to spend \$10,000 on plans and then get shot down. McNamara thought that doing sketches and coming before the Board to see what issues may come up before spending a lot of money on plans could be the route to take.

Chair Spanos said that the applicant still would need to come up with a rudimentary Site Plan to get a public hearing.

Robinson said that if the applicant was proposing to build a new building on that property and was requesting the Planning Board to waive the requirements for density, that would be an issue. But where the building is already pre-existing, (whether that building is used as a restaurant or as a retail shop or as housing), the project as proposed is not going to change the square footage or the density. The biggest issue with density is storm water runoff and green space. Changing the use of this building is not going to change those factors on this site. Robinson does not see any big issues with this application. Robinson did go on to say that he was only one vote on the Board and other members may not feel the same way.

Grant asked if these apartments would be used for year round rentals rather than transient vacationers. McNamara said it would be for year round rentals and residential more than transient.

Robinson said that the Town’s Master Plan is geared toward the increase of residential year round permanent housing. If this is going to add four (4) dwelling units, although it

is not a lot of units, it is a step in the right direction. Grant thought that changing the use from retail to residential was a good move, especially for a building that is currently not fully utilized.

Chair Spanos thought that if the Town's Master Plan called for creating a walkable downtown area, the residences need to be downtown.

McNamara said that what the owner proposes will give that particular corner more appeal. The building has had many renovations in the past. The owner's current intention is to make the building look nice. The building only partially works as retail space, but none of the past owners wanted to put money into the building. The intent of the applicant is to make a substantial investment to make the building residential housing for the long term and improve the look of the building.

Chair Spanos polled the Board to see if there were any further questions. Grant, Strickon and Belanger said they did not have any questions and were agreeable to the applicant's concept.

Bont said that there is nothing in the Land Use Plan Ordinance (LUPO) or Site Plan Review Regulations that would limit the type of rental – year round versus transient rentals in the Village Center (VC) District. The owner's plan is to rent to year round residents, however, there is no restriction for transient rentals in the LUPO.

Chair Spanos said that once approvals were in place the applicant could rent it as a vacation rental.

Hettinger said that the big thing would be to meet fire codes. McNamara said that he and the owner have discussed fire codes and have a few ideas, but until they have a set plan there was really no way to have a set fire code plan. Fire codes rely upon egress, sprinklers and even building material. The owner of the building is okay with all of it and wants to have a safe building.

Chair Spanos said that the applicant would need to apply for a density waiver.

*McNamara thanked the Board and left the meeting.*

### **Planned Unit Developments (PUDs) up in Coolidge Falls Resort**

- 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.

Bont wanted to inform the Planning Board about the interplay between the Town granting Land Use Permits and trying to stay on top of the parts of the Land Use Plan Ordinance that address retaining walls and the Stormwater Management Ordinance that addresses stormwater runoff

management.

Bont said the Town issued two Land Use Permits up at the Coolidge Falls Resort. At a prior meeting of the Planning Board the members discussed not forcing the owners up there to go through the Storm Water Management Ordinance process because the lots up there are Planned Unit Developments (PUDs) surrounded by large areas of common land. Bont said she thinks the Town needs to monitor the situation up there to see how it plays out and whether the Planning Board should reconsider its earlier decision.

Bont said her research indicates that Coolidge Falls Resort was created around the same time the Town was trying to create a Planning Board, create a Master Plan and create and adopt a Zoning Ordinance (1986). Bont said she learned that the Coolidge Falls Resort was created before the State was issuing Alteration of Terrain (AoT) Permits. Instead the State had a system of granting a WPC (Water Conservation Plan) Permit based on a much more rudimentary view of building on steep slopes and erodible soils. There is an amended WPC Permit for Coolidge Falls from 1988.

Bont said she is not sure how building new dwellings up at the Coolidge Falls PUDs is going to play out, but right now the Town has an application pending for a large new duplex with a very large stone wall behind the PUD on common land. The house takes up almost the entire area of two adjacent PUDs. The retaining wall is approximately one hundred twenty-one feet (121') long and nine feet (9') feet high in spots (for about seventy-three feet (73')). The contractor came in with a set of plans where the retaining wall was "engineered". The person whose name is on the plans for the retaining wall is an architect, not a structural engineer as required by the Town Land Use Plan Ordinance (LUPO). The site plan for the retaining wall is from 2003. The State Building Code is based on the International Building Code 2009 (IBC 2009). The retaining wall typical is cribbed from a 2014 plan from Massachusetts.

Bont said the plans for the retaining walls did not look right to the staff so she had Fire Chief Beard look at the plans. Fire Chief Beard looked at the plans and he agreed. Fire Chief Beard has been doing a lot of research about boulder/rock walls and retaining walls. In his opinion, the design is the opposite of what needs to be up there. The land is extremely wet up there. He took photographs of water oozing out of the ground at the site. The land is very steep behind where the house is going. The apparent purpose of the rock retaining wall is to serve as a dike or dam to prevent water from going into the property owners' basement. The retaining wall appears to be about only nine feet (9') from the building itself. They are cementing behind the retaining wall. There is no provision for drainage either through the wall or under the wall. All stormwater runoff is being diverted around the wall onto other people's PUDs. We have requested that the contractor/owner get a structural engineer, which is what LUPO requires anyway, to review and approve the plans for the retaining wall. We need to have a structural engineer review the plans.

Chair Spanos said that it is the Fire Chief Beard's decision if the wall is not right. Bont agreed.

Robinson said that as part of Fire Chief's decision, he is glad that Fire Chief Beard is encouraging them to get a structural engineer. As good as Fire Chief Beard is with his learning

about the retaining walls, he would rather have an engineer approve the plan.

Bont said that Fire Chief wants a structural engineer to review the plans for the retaining wall. The Town said to the owner/contractor that they need to either have a structural engineer to sign off on the design or have a structural engineer design the retaining wall.

Chair Spanos said that the onus is on the applicant, not the Town to get an engineer.

Hettinger said that he wants to make sure that the structural engineer that the owner gets is knowledgeable about drainage. He would not want the owner to just get a structural engineer.

Bont said that the contractor told her that he hired an engineer who was going to occasionally inspect the building of the retaining wall. He said an engineer [Harry Wetherbee] was going to come up here to check on the construction of the wall. The engineer is from the southern part of the state, in Weare, NH. Oversight is good, but we need to have someone design it properly. It is a huge wall.

Robinson said that he agreed with Chair Spanos said that the onus is on the owner/contractor to find the structural engineer because when the retaining wall is all done a structural engineer needs to certify that this retaining wall was designed properly and built properly in accordance with the plans.

Chair Spanos said that the structural engineer is putting his professional license on the line by stamping those plans and signing off on them.

The Board also discussed the property owned by Litvins right down the street who have not received a Land Use Compliance Certificate for their new single family residence because the rock retaining walls are not properly constructed.

Belanger said that he thought there was a limit on the height of the rock retaining walls. Chair Spanos said that a retaining wall that is greater than four feet (4') is a "structure" and needs to be engineered.

Robinson asked whether the wall was designed by a structural engineer. Bont said, "no". Bont said that the State Building Code was in effect when the Litvin house and retaining walls were built. The retaining wall is not in accordance with the State Building Code (IBC 2009). Robinson asked what the status of it is. Bont said that we have not given a Land Use Compliance Certificate. Robinson asked if it was all built. Bont said yes. Robinson said that is an enforcement issue and not the Planning Board's jurisdiction. Bont said enforcement is within the Board of Selectmen's jurisdiction.

There was a brief discussion about walls and water seepage and the town denying the permit.

**VI. ADJOURNMENT**

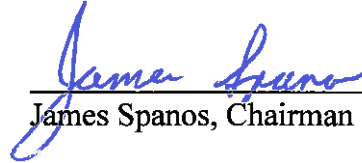
**Motion to adjourn at 6:31 P.M.**

**Motion: Paula Strickon      Second: John Hettinger      All in favor.**

Respectfully submitted,

Wendy Tanner,  
Planning and Zoning Recorder

Date Approved: 6/29/2016

  
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James Spanos, Chairman