

**LINCOLN PLANNING BOARD  
REGULAR MEETING MINUTES  
WEDNESDAY, FEBRUARY 10, 2016 – 6:00PM  
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH**

**APPROVED**

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

**Members Excused:** Chairman Jim Spanos, Vice-Chairman R. Patrick Romprey, Paula Strickon, Taylor Beaudin (alternate), Callum Grant (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 Engineer Present:** Ray Korber, P.E., Principal of KV Partners, LLC, Consulting Engineers, P.O. Box 7721, Gilford, NH 03247

**Guests Present for renewal of Alteration of Terrain Permit for RiverWalk:**

- William (Bill) R. Davidson, P.E., Chief Civil Engineer, Hoyle, Tanner & Associates, Inc., 100 International Drive, Suite 360, Portsmouth, NH 03801, for RiverWalk at Loon Mountain, LLC
- Dennis M. Ducharme, President, RRP, Riverwalk at Loon Mountain, LLC, 33 Brookline Road, PO Box 636, Lincoln, NH 03251-0636

**Guests Present for Consultation with Planning Board on how to apply Stormwater Management Ordinance to Single Family Homes and request for waiver for 3 Hemlock Drive:**

- Michael Conklin, Esq., Conklin & Reynolds, 264 Main Street, Lincoln, NH 03251, representing Jonathan & Elizabeth Harris
- Tyler Phillips CPESC, CFM, Horizon Engineering, Inc., 34 School Street, Littleton, NH 03561, representing Jonathan & Elizabeth Harris

**Other Guests:**

- Tom Tremblay – Owner and Real Estate Agent at Coldwell Banker LinWood Real Estate, 189 Main Street, Lincoln NH 03251

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

*The meeting was called to order at 6:00 PM.*

Alternates Ron Beard and Norm Belanger were seated.

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

- January 27, 2016

**Motion to postpone consideration of the minutes of January 27, 2016 at the next meeting on February 24, 2016.**

**Motion: Ron Beard Second: OJ Robinson**  
**All in Favor: (4-0)**

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

*None.*

### **IV. NEW BUSINESS**

**A. 6:00 PM – Request for Planning Board Letter to NH DES to renew the Alteration of Terrain Permit for RiverWalk at Loon Mountain, LLC, located at 22 South Mountain Drive (Map 118, Lot 044) owned by RiverWalk at Loon Mountain, LLC, PO Box 69, Lincoln, NH 03251-0069.**

1. William (Bill) R. Davidson. P.E., Vice President, Chief Civil Engineer, Hoyle Tanner & Associates, Pease International Tradeport, 100 International Drive, Suite 360, Portsmouth, NH 03801
2. Dennis M. Ducharme, RRP d/b/a RiverWalk at Loon Mountain LLC, PO Box 69, Lincoln, NH 03251-0069

#### **Applicant's Presentation:**

Engineer William (Bill) Davidson presented on behalf of Dennis Ducharme d/b/a RiverWalk at Loon Mountain, LLC. Engineer Davidson said that he and Dennis Ducharme are here for the RiverWalk project because the Alteration of Terrain (AoT) permit is expected to expire on March 6, 2016. Engineer Davidson explained that the AoT permits were issued for a term of two (2) years. Shortly after they received this permit, the New Hampshire Department of Environmental Services (DES) changed the length of the AoT permits to a five (5) year term. DES will not allow another time extension without a letter from the Lincoln Planning Board to confirm that the construction is still active and the project is moving forward. Engineer Davidson explained that he has filled out the time extension application with the other required information, pictures and proof that the building is currently under construction.

Robinson asked Engineer Davidson, if the AoT permit was for a specific phase of the RiverWalk project or for the whole project.

Engineer Davidson said that the AoT permit was for the entire project.

Robinson asked Engineer Davidson, if Phase II or III were not built within 5 years, would another extension for five (5) years be required.

Engineer Davidson said that he was talking somewhat about new ground; he could not speak to where the project would be in five (5) years, but it would continue to progress from where it is today. Engineer Davidson explained that the situation today is that if they had received the permit in 2009 they would not be in this situation because the term of the permit would have been for five (5) years not two (2) years.

Town Manager/Planner Burbank asked if the permit was for another five (5) years. Engineer Davidson concurred.

Dennis Ducharme said that he is almost positive that Phase II will be started before another five (5) years have passed. Ducharme said, in all honesty, if Phase I opens on schedule in June of 2016, they would not be starting Phase II immediately. There is still more planning to do “because of the theatre situation”. Financing is already in place for Phase II. Phase I has become very successful. Ducharme thought that Phase II might start within 18 months of Phase I being completed.

**Motion to open the public hearing.**

**Motion: OJ Robinson                      Second: Norm Belanger**  
**All in Favor: (4-0)**

*No public comments were made.*

**Motion to close the public hearing.**

**Motion: OJ Robinson                      Second: Norm Belanger**  
**All in Favor: (4-0)**

**Motion to sign the letter to NHDES to renew the Alteration of Terrain Permit that is set to expire on March 6, 2016, for the RiverWalk project.**

**Motion: OJ Robinson                      Second: Norm Belanger**  
**All in favor: (4-0)**

*There was an 8 minute delay while Bont revised the draft letter and produced the letter for signature.*

Hettinger mentioned that the Chamber of Commerce was looking for a volunteer from the Planning Board to work on the Workforce Housing Taskforce. There were no volunteers.

**B. 6:00 PM – Planning Board Consultation re: how to apply Stormwater Management Ordinance to an individual lot & how to process request for waiver for 3 Hemlock Drive (Map 121, Lot 006) owned by Jonathan & Elizabeth Harris, 284 Vanderbilt Lane, Portsmouth, RI 02871.**

1. Michael Conklin, Conklin & Reynolds, PA, 264 Main St, PO Box 849, Lincoln, NH 03251-0849
2. Tyler Phillips, CPESC, CFM, (Certified Professional in Erosion and Sediment Control, Certified Floodplain Manager). Horizon Engineering, Inc., standing in for Justin Daigneault, Project Engineer

**Applicant's Presentation:**

Attorney Michael F. Conklin said that his clients, Jonathan and Elizabeth Harris, filed an application for a Land Authorization Use Permit recently and were asked to submit a Stormwater Management Plan (because they are disturbing more than fifty percent [50%] of their lot). Attorney Conklin said that he thought there was a question as to the extent in which the Stormwater Management Ordinance (SM Ordinance) covered his client's situation and whether or not the SM Ordinance was intended for the average homeowner or only for developers.

Attorney Conklin explained that they were hoping that the Planning Board would discuss the SM Ordinance with them and give them some guidance as to what is required for the Harris's to be in compliance. Attorney Conklin said that Engineer Tyler Phillips CPESC, CFM, from Horizons Engineering, Inc., could answer any questions that the Planning Board may have of a technical nature.

**Town Manager/Planner Burbank:**

Town Manager/Planner Burbank said that the Applicant Harris called him directly to ask when the Stormwater Management Ordinance came into effect. Town Manager/Planner Burbank told Harris that the Ordinance went into effect on March 11, 2015.

Town Manager/Planner Burbank said that applicant Harris told him that the wording in Section III, titled "Applicability" meant the article V section E did not apply to his situation. Here are the two sections Harris is referring to:

**III. APPLICABILITY**

The requirements of this article shall apply to all subdivisions platting new roads, commercial, single family and multi-family developments and redevelopments which disturb 15,000 square feet or more in all zoning district(s).

**V. STORMWATER MANAGEMENT REQUIREMENTS**

All development activity must comply with the following provisions to reduce and properly manage stormwater post-development:

E. All applications for single family homes or duplexes which disturb 50% or more of the square footage of the lot shall submit a Stormwater Management Plan. This requirement may be waived by a majority vote of the Planning Board after a properly noticed meeting.

Town Manager/Planner Burbank said that when the Stormwater Management Ordinance was written for Lincoln, there were specific stormwater management issues in Town that the Town was trying to address. For example, at the Forest Ridge Development, poor drainage caused silt and construction debris to travel downstream and impacted the property owners downhill from Forest Ridge. Because the Town of Lincoln did not have any SM Ordinance at the time the development was approved, it was difficult for the Town to get the developer to adequately address the problems after the construction was complete. This problem prompted the Town to develop a Storm Water Management Ordinance.



Town Manager/Planner Burbank said that Town Attorney Malia agreed that the wording in the SM Ordinance is not clear. If the Planning Board deems it wants to change the language of the SM Ordinance to make it clear, this type of change will require a Town Meeting vote to amend it. Town Meeting occurs only once per year so this problem with language in the SM ordinance will not be fixed this year. There is not enough time to give proper notice and it is too close to town meeting time to amend it this year.

Town Manager/Planner Burbank said that currently, we understand that there are at least four (4) homes in the works to be built on steep terrain in that same neighborhood, including the Harris home. The Planning Board needs to decide how drainage for these homes will be handled. Town Manager/Planner Burbank mentioned that Engineer Ray Korber has been asked to sit in as the Town Engineer to offer comments and cautioned the Planning Board that the Board should be consistent and treat all requests equally.

Robinson said:

- The Planning Board discussion had a two pronged approach to this problem:
  - One was to cover the construction runoff and silt problems that occurred the during construction phase of a development;
  - The other, equally important part is the ongoing runoff caused by the construction of these large houses, by pouring water off of their land onto adjacent land, not just during the construction phase, but for years down the road as well.
- Some of the houses on Pollard Road are experiencing much greater runoff from the brook coming off of Little Coolidge from the construction that took place in the 1980's at Forest Ridge. The development at Forest Ridge has created so many impervious surfaces that the stormwater runoff caused the brook to run higher during rain events than it did forty (40) years ago.
- At "The Landing" at Loon Mountain the Town also saw that because some homes were being built on very steep terrain; those homes were built virtually to the setback limits. Robinson said that when Engineer Steve LaFrance was here last, LaFrance admitted that when Horizons Engineering did their hydrology water studies they based it on an average sized home of four thousand five hundred (4,500) square feet with an average footprint of between two thousand two hundred (2,200) and two thousand three hundred (2,300) square feet. The houses in these developed areas are being built much larger. Therefore, the general subdivision approved hydrology study that was submitted and approved has nothing to do with the reality of these six thousand (6,000) to seven thousand (7,000) square foot homes that are pouring much more water off of their land than was ever designed for in the original study. That is equally as important as the construction phase where you might have silt running off. Robinson said that he is concerned about twenty (20) years down the road when silt won't be a problem because the construction will have ended but larger houses are causing more runoff than anticipated by the developers. The over coverage of the lot is also what we are trying to take into account with this Ordinance and that has to be addressed in this project.

**Engineer Tyler Phillips' Response:**

Engineer Tyler Phillips said:

- He is not familiar with the other exact instances in Town that Robinson referred to, however, he does find that a lot of people will try to cut in ditches on the upslope side or intercept the water table; that creates water flow twenty-four hours/day, and seven days/week, (24/7) 365 days a year coming down ditches and so forth. In his opinion that is a problem that a Town would not ordinarily address with an ordinance like the Stormwater Management Ordinance. There are other factors that have an impact on stormwater drainage, like common infrastructure with under drains associated with sewer systems will intercept a lot of water that runs underneath the ground. Anyone can see the water running under the ground until the site is developed. That problem is present in most types of developments, but it is more present here with the type of soils Lincoln has.
- He was not familiar with what the exact square footage was that used by the engineers to develop the AoT. He reviewed some of the Planning Board minutes from ten (10) years ago when Phase 1 of this subdivision was approved. The plan was created by the engineering firm called "Provan & Lorber, Inc." and he does not have copies of the original plan. He does not know the exact square footage that was assumed when the application for an Alteration of Terrain permit was created. He did say that at the time there were some discussions about the same matters relating to excess runoff and whether streams were being diverted, not just relating to erosion, so he agreed that at the time of the approval the Planning Board had concerns about stormwater runoff.
- At the time, "deference was given to the State of New Hampshire Alteration of Terrain (AoT) program". The State of New Hampshire's AoT program is set up to deal with just these very items. The administrative rules that were in place at the time that subdivision was approved were different than they are today. Some would say they have improved, e.g. NH looks at more matters, and the plans are more detailed.
- In his opinion, it is important to realize that when Provan & Lorber laid out the lots, the lots were laid out with the idea that they would share common infrastructure. The site was to be served by public water, public sewer and in this case common drainage. If the engineers had been expected to put in individual wells or individual septic systems on each of these lots, the lots would have been considerably larger. Likewise, if at that time the engineers had known that the Town would desire property owners retain water on their site, not just manage water, "we" would have created a considerably different design. In most of these instances, the "infrastructure items" were not located on the individual lots. The lots were laid out with that in mind.
- The Planning Board meeting minutes as he understands them reflected the fact that the Planning Board's approval was conditioned upon receipt of that Alteration of Terrain (AoT) permit from NH DES. Ten (10) years ago when the Subdivision and Site Plan were approved, "we" satisfied those conditions.
- In his opinion, that does not mean that towns cannot learn or that there are not problems that arise that need to be addressed at a later date. However, he thinks the Planning Board needs to have at least an understanding that while those are common concerns, there are certain

constraints due to the size of the lots that may not be able to be accommodated on the lot. Is it “right” to ask the developer to go back now, after putting in all of this common infrastructure, to put in additional infrastructure to meet standards that have changed? Fairness is the basic question that underlies some of the Town’s concerns. He is “just concerned” that although the developer and his engineers met the standards in effect at the time of the conditional approval, now, ten years later, it is a challenge when he looks at some of the standards that may have changed.

- The Planning Board should try to think about applying the Town’s Stormwater Management Ordinance specifically to this lot. Engineer Phillips said he thinks the Planning Board will find the need to retain the increased volume of runoff from a twenty five (25) year storm is a common concern; a twenty-five (25) year storm in our area is about four and a half (4 ½) inches. Depending upon the site, a certain percentage of that rainfall would create runoff from the site during that twenty-five (25) year storm. However, it is exceptionally difficult to retain that much water on the site. Engineer Phillips said that describing what needs to be done in simplified terms, “you can really only do it by making a hole in the ground that has an outlet higher than the inlet”.
- The Town can put anything it wants to in its Stormwater Management Ordinance; there are all kinds of different approaches to the problem of stormwater management. However, NH DES will not allow the developer and his engineers to do what the Planning Board wants them to do on the Harris site. It cannot be done, it is prohibited; the site is too steep. NH DES prohibits developers from creating infiltration systems on sites that are steeper than fifteen percent (15%) grade. This particular site has a steeper grade than fifteen percent (15%) so Horizons Engineering could not create an infiltration system on site even if they wanted to; the State would discourage them under the Alteration of Terrain Rules and Regulations.
- The Planning Board should look at this ordinance and think about the dual intent. Is the primary intent erosion control or site runoff? The Planning Board should think about what has that property owner already done to meet some of those requirements and what can they physically do on the lot. Engineer Phillips said the Planning Board needs to consider the fact that some infrastructure has been put into the development as a whole to address some of these problems.
- He knows the particulars of “The Pines at Forest Ridge”. He does know that they took out some stop logs in their dams so their retention ponds do not store as much water there as they used to.
- There are a lot of factors that are hard to pinpoint that may impact how much stormwater runoff will come off a particular lot. If you build a home on a piece of land there will be more runoff at the lot level; it is just a matter of fact. How much of that stormwater runoff is going to make it off the lot during a “functional storm” comes down to soils and various other things. Engineer Phillips said that at this point when he looks at this site and he has looked at it a little bit, trying to meet some of these standards, he thinks it would be exceptionally difficult to meet these standards.
- He does not think it would be fair for the Planning Board to impose the conditions imposed by the Stormwater Management Ordinance on the homeowner considering the developer met the intended standards for drainage years ago. Changing the rules now is akin to requiring

someone to put in an individual septic system after they already have a common infrastructure (i.e., like a sewer line).

- Although it is up to the Planning Board to decide how to apply the Stormwater Management Ordinance, he thinks that requiring his client to store that much water on the site might be counterproductive; the Town may end up with the very types of problems the Planning Board is trying to avoid. Engineer Phillips said that storing that much volume of water on a site during construction is a recipe for a problem. He is not saying it cannot be done anywhere, but he thinks it is going to be a challenge to meet some of those requirements for this lot in particular.
- What he was hoping to do is learn from the Planning Board about what their specific concerns were that are related to this lot that the Planning Board feels were not addressed in the spirit of the original approval. Maybe Horizons Engineering can accommodate that.
- He can create an erosion control plan, but he is concerned when the Planning Board starts talking about retaining stormwater on a lot of this small size. Engineer Phillips said that going forward, if he knows he has to do an AoT permit and a lot level analysis for each lot, the Planning Board will not see lots this size. “I don’t think you will and I don’t think you can.” Whether that is a benefit or a detriment to the Town, he does not know. He does not think that Horizons Engineering, on behalf of developers, can create lots of this size and continue to meet the Stormwater Management Ordinance standards as written today. There may be sites in South Peak that can comply, but this lot cannot.
- The square footage of the impervious footprint for the Harris home and driveway is four thousand (4,000) square feet. If he counts the deck it is four thousand two hundred (4,200) square feet. Engineer Phillips said he does not tend to count a deck, some people do, but for purposes of lot coverage the Harris impervious surface is four thousand (4,000) square feet. That is also consistent with the Development Agreement which says that lots have to be less than what he believes is 35% or 33% impervious. The footprint of water shedding structures on the lot has to be less than that.
- That engineering site plan for the development by Horizons Engineering for the Harris house is between twenty-four and twenty-six percent (24-26%), depending upon how you measure, if you include roof overhangs. Engineer Phillips said he is not here to ask for waivers on other lots or other sites, but just for this lot. He is willing to go over some of the details of the Harris site. Engineer Phillips said he has been asked to prepare the erosion control plan but he has concerns about doing that before he understands if he is going to need to make changes to the infrastructure first. Engineer Phillips said he can certainly address the erosion control matter. Engineer Phillips said he would argue that Provan & Lorber, the engineering firm working with the developer at that time, designed a drainage system that collects the water and conveys it in a manner that met the standards at the time for the anticipated increased runoff.
- He does not know what Provan & Lorber’s assumption was for the footprint of the building used in the Alteration of Terrain (AoT) calculations. Engineer Phillips said he wished he had that number; he spent about five (5) hours looking through Horizon Engineering files trying to find it, but all he could find was Phase II information. Engineer Phillips said he would not know how close he came to those assumptions on this lot, “short of going down to Concord and doing a file review”. However, if the Planning Board believes that kind of information is



critical for their determination, (i.e., to see if we were following the assumptions set forth in the Alteration of Terrain), then he can find that out and get back to the Planning Board.

- At this point he really wanted to understand the kind of concerns the Planning Board had. Engineer Phillips said it sounds to him like the Planning Board is not only concerned with construction runoff, but is also concerned with some of the additional runoff over time after the project is complete.
- He thinks that anyone who sees a construction site can see “the dirty secret of runoff” – a lot of sites with the type of “no-till” soils such as we have around here – is very wet soils. You can dig anywhere up here and you are going to find wet soils; on a hillside you are going to find water underneath the ground. The water is usually riding on a harder surface.

**“No-till”:** No-till farming (also called zero tillage or direct drilling) is a way of growing crops or pasture from year to year without disturbing the soil through tillage. No-till is an agricultural technique which increases the amount of water that infiltrates into the soil and increases organic matter retention and cycling of nutrients in the soil. In many agricultural regions it can reduce or eliminate soil erosion. It increases the amount and variety of life in and on the soil, including disease-causing organisms and disease suppression organisms. The most powerful benefit of no-tillage is improvement in soil biological fertility, making soils more resilient. Farm operations are made much more efficient, particularly improved time of sowing and better traffic-ability of farm operations.  
[https://en.wikipedia.org/wiki/No-till\\_farming](https://en.wikipedia.org/wiki/No-till_farming)

- The soils around here are actually not too bad. The problem is that generally around here you will have several lots that are developed already. The classic engineering approach is to dig in on the uphill side, intercept the water table and then put in a French drain, an underdrain or a ditch. If you do that, it means that you are going to have water bleeding out of a bank or ditch for years “unless you influence the hydrology”. The classic approach gives you a certain amount of water that will always be in that ditch. Then you add the water you will get from storms on top of that. That classic approach would have “a pretty big effect on whether or not you experience downstream localized flooding conditions in small streams”.
- He is not trying to say that Lincoln’s Stormwater Management Ordinance is “bunk”. The Town of Thornton where he lives adopted a similar ordinance about ten (10) years ago. The standards are a little different and it has a little simpler approach, but the Town of Thornton had the same concerns. The Town of Thornton defers if the developer “has an AoT program”. The Town of Thornton just lowered its threshold. Now the Town of Thornton just basically says, “You follow the AoT program.” Engineer Phillips said he is very familiar with the Stormwater Management Ordinance and he can appreciate the Planning Board’s concerns. Engineer Phillips said he just thinks that in this situation where Lincoln has “lots that have gone through that process and design” there is not much the lot owner would be able to do on the individual lot/site to hold up the water and meet most of the standards that are in Lincoln’s Stormwater Management Ordinance.

#### **Impact of Stormwater Runoff on Stone Retaining Walls:**

Hettinger said that in connection with the stormwater management concerns, one thing that the Planning Board members do worry about is stone retaining walls. There is a pretty significant stone wall around the north side of the Harris property. The wall was put up a long time ago and stones have fallen out of that wall so it does happen. Engineer Phillips asked if the failed retaining wall was on this same property. Hettinger said, “Yes.”

Engineer Phillips said that the failed stonewall that Hettinger is referring to must be another lot because the Harris lot has not been developed yet.

Hettinger said that he thought that the stonewall failure was on the lower side of the Harris lot along the road. Stormwater runoff from the lot could affect that lower stone wall, so the Planning Board has a legitimate concern. Hettinger said that he would like to see Harris’ engineers investigate the stone wall there to be sure that no stormwater runoff will adversely affect the retaining wall.

Engineer Phillips said that he would like to understand where that wall is on the lot. There was a brief discussion about if there was a wall on the property and where it was located. It was not confirmed that there was a wall on the property but Engineer Phillips said it would be researched.

Engineer Phillips said that he was just pinch-hitting for Justin Daigneault who did do this design on this lot. The rock retaining walls designed for the Harris house site are only three feet (3’) tall and “meet the Town standards”.

Hettinger said that the Planning Board members are mostly concerned about someone getting hurt.

#### **Impact of Stormwater Runoff on Roads:**

Hettinger said that repairs were made to Crooked Mountain Road and the asphalt was dug up recently – within the last year or so. Hettinger was not sure if the repairs to Crooked Mountain Road were affected by drainage.

Town Manager/Planner Burbank said that the specific Harris lot here is the least of our concerns. We have been informed that there are three (3) more homes in the queue to go up on Hemlock Drive. Those other particular lots are a lot steeper than the Harris lot and are going to have the same stormwater runoff issues as this lot. Then Planning Board also needs to consider as a factor the potential impact that stormwater runoff may have on retaining walls. We are just looking for guidance from the Planning Board to help us have some consistency so that when we issue the Land Use Authorization Permits between right now and next year’s Town Meeting when we can legally amend the language of the Stormwater Management Ordinance to make it clear that the Stormwater Management Ordinance does apply to single family homes and the individual lots the homes are built on.

Town Manager/Planner Burbank said we had the Stormwater Management Ordinance reviewed legally. We tried to use the proper language to apply the ordinance to single family residences built on individual lots; however, it appears that “we missed the mark”. We want to amend the language; however, we cannot make an amendment in time for this annual town meeting. We do

not want to stop construction necessarily, but we want to make sure that we are not causing problems for the downhill neighbors and allowing damage to the existing infrastructure.

**Engineer Tyler Phillips' Response:**

Engineer Phillips said:

- He thinks the intent of the Stormwater Management Ordinance is good, however, he thinks some of the standards in the Stormwater Management Ordinance should be looked at. When he looked at the Ordinance it was not clear to him **where** the standards were coming from that had to be met. Is it at the lot line? He thinks the applicability would be helpful if it was more specific.
- There needs to be a clear waiver process. Then the decision could be more of a clerical decision that can be made moving forward.
- It might make sense to review that volume standard in the current ordinance. While he thinks the volume standard is a good one, it is pretty stringent to require the property owner to store all of the increased water associated with the twenty five (25) year storm. Engineer Phillips said he did not run the analysis on this lot, but his guess is that the ordinance would require the property owner to keep between two inches and two and a half inches (2" – 2 ½") inches of rainfall on the lot. If you think about it statistically, a twenty-five year storm does not occur that often so if your building infrastructure is made to handle a pretty large and rare event, you are building infrastructure for that unique situation. Engineer Phillips wondered if the Town could adopt a "slightly lesser standard, maybe still with volume, but with an allowance for steep lots or [pre-] existing lots, [which] might accomplish what [the Town] want[s]".
- NH DES will not allow anyone to infiltrate on slopes with a steepness grade of over fifteen percent (15%). There are procedures that allow engineers to go around that prohibition, but generally it is prohibited under NH DES' rules. If Horizons Engineering were to go to the NH DES to ask for a waiver, NH DES would not let them meet the standards in the Lincoln Stormwater Management Ordinance in effect for this lot.
- He was talking about any infiltration whatsoever; he was not even talking about the potential additional increase in runoff caused by a twenty-five (25) year storm. Engineer Phillips said that erring on the low side, even assuming that a twenty-five (25) year storm translates into only two inches (2"), given these soils, NH DES would ask that they infiltrate only three tenths of an inch (0.3") or less; that amount is less than 10 percent of the amount of water the Town is asking them to retain on the lot. He said the Town is asking Harris to store ten (10) times the volume of ground water recharge that NH DES allows to be stored on the lot.
- NH DES has some other standards for streams and so forth. Those standards do require them to keep some water on the lot, but NH DES only allows them to do this in locations that are more predisposed to retaining water. The idea behind those standards is that they collect the drainage and convey it in a durable surface, like a ditch line to a location that is flatter where they can do more work in a safer area that is more conducive to building a pond; when they are down in the lower flatter areas the soils tend to be better. He thinks that is generally a good design approach. He understands that what is "in vogue" now is "trying to do a lot of stuff on a lot" and there is certainly a place for that. Those types of lots were designed with this kind

of density in mind using common infrastructure; it is kind of hard to move the finish line now and do redundant work on an individual home site.

Bont said:

- If the engineers made their calculations for the Alteration of Terrain permit for the overall South Peak Resort development based on the assumption that a house footprint would be two thousand four hundred (2,400) square feet, then the design for the Alteration of Terrain for South Peak Resort may not be adequate. Now people in the development have put up or are putting up houses that have an average footprint much larger than that original assumption. For example, the proposed Harris house is four thousand two hundred (4,200) square feet which includes impermeable surfaces like the tarmac associated with the driveway, the apron and other amenities. The Alteration of Terrain plan for the whole development is not designed for larger lot coverages. The Alteration of Terrain design is based on this smaller figure for impermeable surfaces. If the houses and the impermeable surfaces of the amenities were smaller – more like the size on which the assumptions were based, then arguably the common infrastructure would have taken care of all of the stormwater runoff, even if they limited their review to the standards from ten (10) years ago.

Engineer Phillips said:

- The footprint of the Harris home, plus the driveway, was about four thousand (4,000) square feet. Engineer Phillips said he did not know what the assumption was made about the average house footprint for the AoT permit, but he assumed that was something “we” could look into.

Robinson said for “The Landing at Loon Mountain”, the Engineer from Horizons Engineering, Steve LaFrance, gave the Planning Board a number of two thousand four hundred (2,400) square feet for the assumption for the house size for the Alteration of Terrain Permit.

Engineer Phillips said:

- It is entirely likely that the engineering firm of Provan & Lorber used the same number. If he had a copy of the permit here he could look at it and answer this question.

#### **Alteration of Terrain (AoT) Permits Have Expired:**

Bont said that all of the Alteration of Terrain (AoT) permits have expired for the South Peak Resort.

Engineer Phillips said:

- The AoT only needs to be in place for the infrastructure that is proposed within development. **This application for an AoT was not proposing homes; it was proposing only the roadways.** In calculating and in preparing the model for determining what the flows might be if they did assume a certain amount of development on the lot, however, the lot itself need not be developed when the AoT permit is active.

Bont asked Engineer Phillips if there had been **no** calculations associated with putting a house on the lot.



Engineer Phillips said:

- Relative to the expiration, Permit WPS-7129 which was subsequently amended three times [A, B, and C] could have been extension. The AoT permit needs to be in place until such time as the infrastructure shown on the plans or submitted with the AoT permit (which in this case was the roadways and drainage) has to be completely finished by the time the AoT permit expires. “There is never contemplation that the lots would all be developed in that period of time.”
- The South Peak Resort development is completely different from the situation where they have a site plan for a Home Depot, for example. With a Home Depot they need to build the building, the entire infrastructure, the roads and so forth, because it is all part of the AoT application.
- Another example is that an applicant can come in if they are going to do spec built homes. Engineer Phillips said *they can come in and prepare an AoT application that has a drainage infrastructure, as well as the roadways and the homes; but that was not done in this case.* The fact that the AoT for this development has expired does not have a bearing on the ability of the developer to develop the homes in the development. That is something you can check with Ridgely Mauck at the AoT program, but that is pretty well settled.

#### **What Was The Basic Assumption About Impermeable Surfaces for the AoT Permit?**

Engineer Phillips said:

- He does not know what the basic assumption was about the square footage of the homes for the AoT application. Knowing that number would be very helpful to determine if on this lot the assumptions that were used in the model are valid.
- “I won’t get into sausage making of hydrology models, but a lot of this land when you develop these models you figure out footprints. You come up with averages. But don’t misunderstand and think that these hydrology models take each individual lot as a little node and then combine all others.”
- Basically a hydrology model looks at a lot in its undeveloped condition; is it forest or what are the underlying conditions of the land? Then when the development goes in, there is going to be a plan for how to channel stormwater runoff from these 30 acres that might come down to a pipe or something. A portion of the lot is going to stay forested. A portion of the lot is going to be impervious, whether it is rooftop or pavement. These portions are then lumped together. He did not know what the average size of the home being built out there was.
- While the engineers assumed a certain number of square feet of impervious surface, “who knows where that fault is?” Engineer Phillips said at this point the common infrastructure is probably over designed and under developed because there are not that many homes built yet. Engineer Phillips said he does not know what that number of square footage was for the average size of the home being built out there was; he would need to look at the AoT application in order to discover what it is. Engineer Phillips said he was hoping the Town would have the AoT, but he understands that the AoT was from ten (10) years ago.

Bont said that in the South Peak Resort “Location Plan of 2006”, Horizons Engineering was talking about house sizes being between the of two thousand five hundred (2,500) and six thousand (6,000) square feet.

Engineer Phillips said:

- He does not know if that number in the South Peak Resort “Location Plan of 2006” refers to the square footage of living space or the footprint of the building. Engineer Phillips said that “...if you think about it, a skyscraper may have ten (10) floors at one thousand (1,000) square feet, but that does not create additional or any more runoff than if it were one floor of one thousand (1000) square feet.” It is really only the footprint we are talking about. We could all end up speculating what the lot coverage assumption was without that number.
- Engineer Phillips said that if needed he can make an appointment at NH DES, go down and do the file review and see what the engineers used for an assumption. Engineer Phillips said that he wishes he could just call NH DES and get the number but NH DES does not provide that service.

### **Town Engineer Korber’s Inquiry:**

Town Engineer Korber said:

- He was hearing two conflicting things from Engineer Phillips that he was trying to reconcile. He asked Engineer Phillips for clarification. Town Engineer Korber asked Engineer Phillips to confirm that although Engineer Phillips was not aware of the numbers in the AoT permit because he has not been able to review it, Engineer Phillips made the comment that the AoT did not include building in the calculations for the AoT permit.

Engineer Phillips said:

- Although he has not reviewed the South Peak Resort AoT, *not* including building in the calculations for the AoT permit would be consistent with all the developments at South Peak and would be consistent with every residential development that was done by Provan & Lorber, Inc. or Horizons Engineering, Inc. Unless the plans are for a spec-built home or a multi-family home, they would have used an assumed number for each lot.

Town Engineer Korber asked Engineer Phillips whether he was saying that Provan & Lorber would not have used an assumed number. He asked Engineer Phillips: “I’m hearing that they [Provan & Lorber] did the calculations, not Horizons, correct?”

Engineer Phillips said:

- That was correct; Provan & Lorber did the calculations. There were a number of employees who worked at Provan & Lorber, Inc., who “ended up moving on to Horizons” Engineering Inc. Engineer Phillips knows and works with those employees. Some of those employees “are no longer with us but they are working for us”. Engineer Phillips said that although he is speculating about what the number would have been, he thinks it is a fair assumption; “you have to use a number”.
- The other approach is a “gross approach, is using zoning districts”. For example, are the lots in a particular zoning district comprised of quarter acre lots? Engineer Phillips said Horizons Engineering often uses the gross approach when there is land uphill or downhill from a project that is going to have an effect on their hydrologic model. However, those considerations are going to be consistent in both predevelopment and post development calculations. Engineer Phillips said “So in this case my assumption is that there would have been a square footage number but I don’t know what that number would be.”

Hettinger the Planning Board should try to get all the facts for the public hearing. Hettinger said maybe the Board needs to continue the public hearing to later Planning Board meeting when we can come back with all the data and details. Hettinger said that it seems to him there a couple of matters that need to be addressed.

- A lot of assumptions were made in connection with preparing the AoT for the South Peak Resort development that need verification.
- In his opinion there are a number of life safety issues that need to be taken into consideration as well.

Town Engineer Korber said:

- He concurs that the way the Stormwater Management Ordinance reads requiring a Stormwater Management Plan and the way it defines pre and post development flows is problematic when applied to a single family house lot.
- There are sedimentation control measures that can be incorporated into the construction phase of single family house lots to address some of the Town's concerns. It would be advantageous to have an erosion sedimentation control plan for the project.
- He can put together a bullet list of items that might give Engineer Phillips and his client some direction in terms of what the kinds of benchmark information the Town would be looking for. He recommends that as Town Engineer representing the Planning Board he come up with some parameters or a checklist about what the Town's expectations would be for these types of circumstances.
- For next year he could work on some clarifications of the ordinance language. In his and the Town's conversation with the Town Attorney, we understand that the ordinance does in fact apply to this particular circumstance. The issue is whether or not the Planning Board wants to come up with a different standard, for lack of a better term, "a lesser standard" for the single family residence. How would that play out? It would be like, "No. You don't have to send in a Stormwater Management Plan, but you do need to submit an Erosion Control Plan."

- On page 14 of the South Peak Resort plan Article 5 under Erosion and Sedimentation Control reads:

*“A. All construction and/or development activities shall incorporate design standards for erosion and sedimentation control which at a minimum reflect the recommendations of the publication Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire...”*

- The State of New Hampshire uses a document that supersedes that particular document. But if this set of standards was referenced in the Planning Board’s Notice of Decision (NOD) and as these are the approved plans that basically articulate that any activity that happens within that development needs to come to the table with an Erosion and Sedimentation Control Plan.

Town Manager/Planner Burbank said that an Erosion and Sedimentation Control Plan would be far less than a whole Storm Water Management Plan. Town Engineer Korber and Engineer Phillips agreed.

Town Engineer Korber said:

- Even though the Stormwater Management Ordinance does not address requiring an Erosion and Sedimentation Control Plan per say, an argument could be made that the developer made a commitment at the time he received PB approval to provide an Erosion and Sedimentation Control Plan for any construction activity that might occur within that subdivision. So therefore whether it is in their Ordinance or whether it is in their application that was approved by the Planning Board, one should be submitted and that would be our recommendation, that some sort of erosion and sedimentation control plan be submitted for this particular lot.
- In his opinion, the Town does not want a repeat of the scenario last year where people who owned property downhill below the Forest Ridge Development were phoning in to say, “Listen, the brook behind our house is all muddy; where that mud is coming from?” Town Engineer Korber said they went to look at “The Pines at Forest Ridge” because that was the active development that was going on that was near the tributary to that brook, only to find out that it was fine here but we found there was a problem somewhere else.
- Basically, that is what Town Manager/Planner Burbank thinks the community is looking for; construction should cause no adverse impact on the environment, public health, town infrastructure or other property owners.

### **Retaining Walls:**

Keeping those goals in mind, Town Engineer Korber said that the Town should look at the potential impact of drainage on putting up stone retaining walls.

Town Manager/Planner Burbank said:

- The failed retaining wall they were talking about earlier is down on the next lot.
- We want to be consistent; he was not hearing from anyone on the PB who wanted to stifle development up there. However, Town Manager/Planner Burbank said we have people who attended Board of Selectmen meetings and were irate for several weeks in a row because of



the impacts of stormwater runoff. The Town wants to avoid recreating another problem like that one as best we can.

Robinson said:

- He agrees with Hettinger that the original AoT application and permit with the assumptions and estimates are important. If the AoT indicates that the engineers calculated the drainage based on the assumption of two thousand five hundred (2,500) square feet of impervious surface per lot, he would say that the Planning Board or the town could just approve any building that comes in with that amount of square footage because basically we already have a hydrology report using the two thousand five hundred (2,500) square feet.
- However, if the proposed house is four thousand (4,000) square feet then it is obviously not equal to what the original drainage calculations were based on. Robinson said that in that case he would need see some proof to satisfy our engineer that says, “Ok, well, the four thousand (4,000) square feet of impervious surface on this particular lot is ok because...” based on whatever the engineering was, or this is going to be done to accommodate that increase in size.
- He is not looking at just this particular lot. He is looking at the whole subdivision. If the AoT was planned based on *X* amount of square footage coverage and each lot increases that by one thousand (1,000) or one thousand five hundred (1,500) square feet times forty (40) lots, pretty soon that little pipe at the bottom in that little flat field is not going to be adequate to handle the stormwater runoff anymore.
- “Now is that fair to allow this guy to build a four thousand (4,000) square foot home when it was estimated at two thousand five hundred (2,500)? What happens if I’m the last guy and I want to build a house and build it a little bit bigger? Then they would say, ‘No, there is already more runoff on the whole site than it was designed for.’ If the AoT design says four thousand (4,000) square feet per lot, I think we’re done. If it says less than that, I think it needs to be looked at.”

Engineer Phillips asked if the Planning Board is looking for some type of analysis. For instance, if a ditch is not overflowing.

Town Manager/Planner Burbank said:

- We have an individual lot owner in here who wants to build a home, however, some of these questions about drainage and stormwater runoff should be directed at the developer instead of the individual lot owner. The PB has figured out that probably Mr. Harris is going to be good to go with an erosion and sedimentation plan.
- We are talking about the AoT design of the development. These lots are starting to get more popular and it looks like the sales are coming through. We should not be attacking each homeowner who comes in to buy a lot. We should be looking at the development itself with the developer. If the infrastructure is not sized correctly then the developer has to make some tough decisions about limiting the size of the homes he is trying to market, which in the current real estate market is something the developers do not want to hear. It seems like everyone who comes in wants to build a very big house. We could have three more lot owners coming in to the Planning Board and you will keep hitting them when, in fact, the real issue is the infrastructure they are running their storm water runoff into.

Town Engineer Korber asked Horizons Engineer Phillips if, to his knowledge, the entire infrastructure (i.e., water, sewer and drainage) that was originally contemplated in that area had been constructed. Engineer Phillips said to his knowledge, it has.

Everyone agreed they were talking about Phase I of the South Peak Crooked Mountain Homes Project.

Town Manager/Planner Burbank said:

- Once the development of Phase I exceeds twenty-seven (27) homes, the developer has to install a water tank. That is the only part of Phase I that is not complete. That requirement of a water tank is all “set in stone and everybody expects it”.
- The other problem is that big homes are now “in vogue”. The proposed Harris house is relatively modest compared to some that are expected to go up. He understands that the next home going up is “gargantuan”.

Town Engineer Korber said:

- He does not know what the history of the project is – whether there is a history of “everyone sitting around the table”. He suggested the parties “get a collective understanding of what was approved, what was contemplated back then and what the Planning Board signed off on at that time”. Once everybody has that same shared understanding, the Planning Board can make a better educated and intelligent decision about any type of issue, not just for Harris, but for anybody else who might ask for a Land Use Authorization Permit in that development.

Hettinger said that maybe the Town needs to hire someone to review the original design.

Town Manager/Planner Burbank asked if Bont and Tanner were looking for paperwork from Provan & Lorber. Bont said they were searching for anything related to this development and they found only one (1) AoT for 2013.

Town Engineer Korber asked if the developer was still part of the project. Phillips said that the developer has changed a number of times since the initial approval. Bont said she thought that the ownership had changed about five (5) times since it started with Loon Mountain Recreation Corporation.

Fire Chief Beard said that he thought that Booth Creek sold it to Centex Destination Properties (CDP).

Engineer Phillips said that he thought that the change in ownership could have been reflected in some of the amendments to the AoT permits that were designated as “extensions”. Engineer Phillips said that “amendments can create a big obscuring effort in trying to find some of the details. Some of those amendments could have been owner changes, extensions or it could have been design changes.” Engineer Phillips said, “I’m pretty sure there would be an assumption, a number.”

Town Manager/Planner Burbank said that the drainage issue rests with the Town of Lincoln and its Planning Board. Right now we are dealing with an individual lot. It sounds like they have an erosion control plan. Perhaps the Planning Board can take care of Harris, but maybe we should be looking at a copy of the AoT to review it.

Robinson asked why the missing AoT wouldn't apply to the Harris lot. Town Manager/Planner Burbank said that it might.

Bont said nobody has reviewed it other than Mr. Harris who has submitted it.

Town Engineer Korber said one issue would be the erosion control plan, but the other issue is the allowable amount of impervious surface on this particular lot and what was openly contemplated by the Planning Board as the basis for their approval. The Town or the applicant might have to go down to NH DES and get the AoT permit and see what is in there. He assumed that for any AoT permit the engineers must have submitted a hydrologic analysis.

Engineer Phillips said that the AoT probably has everything in it (i.e., the hydrologic analysis); he would be surprised if it did not have an assumption. Trying to recreate the model and looking at the affects may be difficult, but if the Town had the original AoT he could at least look at what that assumption was. He was trying to figure out what he would do from there, though. He would like to have some closure tonight.

Robinson said to Engineer Phillips that if he found out the assumption was for four thousand two hundred (4,200) square feet of impervious surfaces [the size of the impervious surfaces for the Harris lot], he could come to the Town for a Land Use Permit and it gets approved. Because that would mean that the hydrology study for a home that size with that amount of impervious surface has already been done and the Town was satisfied with it.

Robinson said to Engineer Phillips that if he found out the assumption was for two thousand five hundred (2,500) or anything less than four thousand two hundred (4,200) square feet of impervious surfaces he will have to come to the Town with all his building plans and he will need to say how he is going to deal with all that excess water.

Robinson said that if the assumption was for two thousand five hundred (2,500) square feet that would raise other questions:

- How is the whole subdivision system going to deal with that excess water?
- How is that going to affect all the other sixty-six (66) lots in the development that were approved?
- Does that mean someone else has to build smaller or that everyone has to build smaller?

Realtor Tom Tremblay said. "You can't have Mr. Harris paying for redesign of the drainage system for the entire subdivision!" Robinson agreed.

Robinson said, Engineer Phillips (on behalf of Harris) would have to:

- Deal with the excess water on his lot; or

- Have the developer dig bigger areas down at the base to handle the water; or
- Fit a house on the lot that is the size the development was designed for. If the development was designed for two thousand five hundred (2,500) square feet, then it will be a maximum of two thousand five hundred (2,500) square feet.

Realtor Tremblay said that in order to do what Robinson has suggested, they would have to cut trees down and mess up the forest floor itself; and as a result they would lose all of their filtration system and the water absorption system on the ground too.

Attorney Conklin said, “I am also a little troubled by making Harris responsible for the assumptions made by an engineer ten (10) years ago. They had to guess what was going to happen there and apply their best guess to the overall subdivision and then do their calculations. Now these people [Harris] come along ten (10) years later and they want to build houses that are bigger than the engineers thought they were going to build. I don’t see why it’s your place to say to them, ‘No, you can’t. This was the assumption that was made and we are going to hold you to that assumption. You may not build a house bigger than what the engineer assumed back when they were guessing what you might want to do.’ That doesn’t really seem right to me either.”

Robinson said that he is **not** saying that Harris cannot build a house bigger than what was assumed. He is saying that the runoff plan for the whole development was based on an assumption that the impervious surfaces of the house lots would be two thousand five hundred (2,500) square feet; if they want to build a ten thousand (10,000) square foot home and it meets the setback requirements, then they need to show the Town they have dealt with the stormwater runoff.

Conklin said “We have no developer anymore.” Bont said the developer is CRVI South Peak TRS, Inc. (CRVI) from Texas. Conklin asked what they owned. Bont said she knows that CRVI is responsible for all the roads. Town Engineer Korber said CRVI is responsible for the infrastructure of the subdivision.

Hettinger said:

- If CRVI South Peak TRS, Inc. continues with the South Peak Resorts development and lot owners are putting up homes with the roof areas and asphalt areas on these properties that are greater than was contemplated by the original AoT design, the Planning Board has to worry about public safety. Whenever he looks up at South Peak Resort he sees those big houses and worries about public safety.
- If the impervious surface associated with the proposed Harris home is within the square footage contemplated in the original AoT design he does not have much trouble approving this.

Robinson said:

- “Let’s talk about the guy who builds on Lot #87 and the people who live downstream from that lot. All of these [assumed] 2,500 square foot houses are now four thousand to six thousand (4,000 – 6,000) square feet of impervious surfaces. Where does all that extra water go? We know it goes downhill. But what happens to it down there? Or on the way down?”
- At “The Landing at Loon Mountain water is running in places where it was never intended to run – through people’s yards, down driveways and down over banks that are eroding away.



According to Engineer Steve LaFrance from Horizons Engineering, the AoT for “The Landing at Loon Mountain” was designed for two thousand five hundred (2,500) square feet of impervious surfaces per lot. Then when someone puts five thousand (5,000) square feet of impervious surfaces on a lot and does that multiple times in one area for each lot, the ground and the infrastructure cannot handle that volume of water. The Town has learned from that in other areas. What is the right thing to do so that does not happen?

Attorney Conklin said he still did not know what was going to happen.

Town Manager/Planner Burbank said that the key is to find out what the assumption about the size of impervious surfaces was. That could either solve everything, or complicate everything!

Fire Chief Beard said that he thought it was possible that the whole AoT design was overbuilt, meaning the design may have included a contingency factor “where it was sitting there with [*proposed impervious surfaces per lot of between*] two thousand five hundred and six thousand (2,500 – 6,000) square feet”. At the time Centex was building out Phase I of the South Peak Resort, Centex really did not spare any expense; Centex put a lot of work and effort into building. Beard knows because he worked for Loon at the time. Beard said he would hope that in the design phase Centex may have built in a contingency factor that we are not aware of, contemplating that perhaps in the future the homes were going to get bigger so in the future we may have to make elements of the infrastructure bigger, like the drains and ditches.

Town Engineer Korber said there may be a way to address that in terms of square footage of the homes. Town Engineer Korber asked if all the lots been sold in that development? Attorney Conklin said that they were all sold. The ones that are being built on now have been resold.

Fire Chief Beard said they when Centex originally started up they had a lottery. Attorney Conklin said that Centex sold out all the lots; it took a while, but then suddenly the lots were all gone.

Robinson asked if the developer Centex had ever bonded or secured the proposed water tower after the twenty-seven (27) homes were built. If the builder of house #28 wants to build higher than that defined elevation is the developer ready to pay for the water tower? Realtor Tremblay said that “we determined that there were only twenty-seven (27) [*homes*] there in that phase and it was the next phase they have to worry about”. Robinson said that the lots already created can all be built out, but beyond that the land is not subdivided and undeveloped anyway.

Realtor Tremblay said, “If they are higher than...” Town Manager/Planner Burbank said “nine hundred fifty (950) feet”. Robinson said, “For the next phase you are right.”

Engineer Phillips asked the Planning Board if they would like Horizons Engineering to look at what the engineer’s assumption was for square footage of impervious surfaces per lot. Then if the size of the house and the related impervious surfaces was greater than the basic assumption about impervious surfaces in the AoT, Horizons Engineer would provide some means of mitigation so it is consistent and so that the runoff coming off the lot will be consistent with the AoT if the lot was developed. He thought he had a reasonable way of doing that without making it too complicated. That would satisfy that and the erosion control plan is something you would want to see. Engineer

Phillips said that Engineer Justin Daigneault “did put some erosion control measures on the site plan”.

Town Manager/Planner Burbank said he saw the plan he saw the plan had some landscaping and showed where the silt fencing would go.

Fire Chief Beard said that he was concerned that Harris was incurring expenses to go through the Planning Board process. Fire Chief Beard suggested that Harris reach out to their neighbors to tell them he is doing is incurring a bit of an expense and that it would benefit all other lot owners who have not yet built to participate in this discussion. Town Manager/Planner Burbank thought that the word would get out.

Bont said that building contractor William (Bill) Cargill mentioned to her and Town Manager/Planner Burbank that there would be three (3) more homes going in soon right nearby. These houses will have the same issues.

Robinson asked Engineer Phillips, “When Provan & Lorber submits the AoT, do they assume a square footage for a typical house or square footage of typical impervious surfaces? In other words, do they include the driveway?”

Engineer Phillips said:

- Horizon Engineering generally assumes a square footage for a typical house or square footage of typical impervious surfaces when designing an AoT and it is likely what they did at the time for South Peak Resort. Engineer Phillips said that the model is not just for the developer’s own use. The engineers have to get the model approved [by NH DES] and the model has to make sense to the regulators. The regulators have been doing this for a long time. The standard for impervious surfaces includes more than just the rooftops; it also includes other surfaces like gravel surfaces, paved roads, and sidewalks.
- The number of four thousand (4,000) square feet of impervious surface includes the little entry sidewalk too. Some would argue that if you disconnect that sidewalk from the house, the sidewalk does not drain into your driveway and your driveway drains into a ditch. Some say that the sidewalk is isolated and the runoff just goes into the grass and you should not count it towards the impervious surface total.
- At Horizons Engineering, the engineers do not really make that distinction because they “cannot really dictate what all is included”. Horizons Engineering is already going out on a limb making an assumption about what the square footage is, “...so to try and then also constrain a homeowner to develop those impervious surfaces, I think that is the limit of assumption.”

Robinson said:

- When Engineer Phillips was explaining the twenty-five (25) year runoff, what I heard is that you have to contain it all, my impression is that whatever is on that lot right now today for a typical twenty-five (25) year flood, whatever is running off, that amount can continue to runoff, it’s just the excess amount from building a house.

Engineer Phillips said:

- Volume and rate, there are two different things.
  - **Rate:** Typically when they design stormwater infrastructure for a common system there is a certain flow rate that comes off the site. The water might fit in a twelve (12) inch pipe, but then when the lot owner develops that site, you might have twenty four inch (24") rate of water coming down. The only way you can slow the rate and not overtop that culvert is to route that twenty four inch (24") pipe into a big pond with no water in it, or into a storage tank with a lot of storage volume, so the water is still coming out the twelve (12) inch pipe, but coming into the pond or storage tank at a rate of twenty-four inches (24") so the empty pond or storage tank stores that water and the pond or storage tank slowly drains the water down by the end of the storm. So you have a longer duration of flow at twelve inch (12") inch flow rate, but you never have an increased flow of rate.
  - **Volume:** In addition to requiring the engineers to prevent the rate from increasing, the Town also wants the same volume of water coming off the site to stay the same; and the Town wants the lot owner to store that difference on the site. The lot owner can still put the water into a pond, but then the Town wants the lot owner to store that difference between the runoff before and after the storm. That means the Town wants the lot owner to store a whole swimming pool's worth of runoff water coming from a twenty-five (25) year storm. The Town says it wants no more than that swimming pool worth of water coming off the lot in the future. So the difference that is created by those impervious surfaces has to be forced into the soil on the site somehow.
  - **How Much Volume:** Although Engineer Phillips is not being paid to do an analysis, he guesses that the difference between a forested setting and a developed setting in a twenty-five (25) year storm would be about two and a half inches (2.5"). The runoff for a forested setting would be two inches (2"). The runoff for a developed setting on same the lot in the same storm would be four and a half inches (4.5"). So, if he assumes that two inches (2") inches came off before the lot was developed, and 4.5" will come off the lot after it is developed, that means the difference of two and a half inches (2.5") of water that has to be stored on site. "2.5 inches spread around on all the raw producing surfaces". Retaining that much water becomes an issue on a small lot because you have to create that retaining pond on the lot.

### **Retaining Walls:**

Engineer Phillips said:

- The other problem is that in order to accommodate the retention pond, he would be creating a steeper slope; he would "have to bench something out and create a depression". The Town of Lincoln has "pretty stringent standards for retaining walls and slopes and all that so it becomes very difficult to do". Beyond that is the question, will the pond actually drain? "You get into some soils and you saturate them continually, you can set yourself up for the very problem the Town wants to prevent." The Town has concerns about walls and slope failures. If a lot owner is going to store the water, he should do it somewhere it is reasonably flat.
- The concerns about walls and slope failures are reflected in the NH DES rules where NH DES will not allow infiltration on slopes above a 15% grade. The Harris's whole lot is over a 15% grade. So as an engineer he "would tend not to want to do that here". If the Town wants him

to do that, he would be arguing vigorously against it, but that is not really what the Town wants. The Town is looking for another solution. Without having to go through an AoT permit elsewhere, if we were dealing with just a single family lot, we would say we need a bigger lot or we need to find another place to store the excess water off site.

Bont asked Phillips if he understood that the requirements for retaining walls are just the NH State Building Code requirements. The retaining wall requirements are not the Town of Lincoln's particular requirements. The Lincoln Land Use Plan Ordinance just has a reminder that people have to comply with the NH State Building Code when building retaining walls. It is not different than the NH State Building Code; it is the NH State Building Code.

Engineer Phillip said that he did not think the NH State Building Code would encourage putting a pond of water above a stone wall.

Robinson said that Bont was just reacting to Engineer Phillips' comment that the Town of Lincoln has very stringent rules about retaining walls; Lincoln does not. The State of New Hampshire has the rules; the Town of Lincoln just reminds people that they exist. The Town of Lincoln has no regulations above and beyond what the state requires.

### **Road Plans:**

Town Engineer Korber said:

- On page 19 and 20 of the conceptual plan that Horizons Engineering had put together, there is a list of documents. Korber read page 19 section 4B.

*"B. Road Plans – A base map showing the proposed roadway network, horizontal and vertical alignment of major roads, including preliminary curve data and grades by general profile, shall also be submitted."*

- What was in the document that Horizons Engineering submitted with the application? Town Engineer Korber underlined a list of plans and information that were to be submitted, so Horizons Engineering must have some detailed plans on this development on file at their office. There was a brief discussion about the different documents available at Town Hall and what may be available at Horizons Engineering.
- In the Conceptual Plan there is a list of documents that were to be submitted for this development. The Town may want to investigate whether or not stormwater management facilities that the developer was contemplating, were actually built. Engineer Phillips said that he has no reason to believe that the stormwater management facilities as shown in the conceptual plan were not built, but he does not know for certain.
- "We both know that often times that doesn't happen; that what is approved doesn't always get built. So I think it gets back to [Planning Board member] Robinson's concern that at the end of the day we want to be the good neighbor and take care of the downstream property owners." The Planning Board's concern is that whatever they approve going forward here they want to make sure that it is within the context of what ultimately what was approved by the Planning



Board or their predecessors. “Getting back to that collective understanding of what was proposed could be helpful as we go through the process with Mr. Harris.”

Engineer Phillips said:

- “If you play this all out on this lot and it [the size of the impervious surfaces for the proposed house] was larger than the assumption [of the impervious surface size in the AoT] and we can’t mitigate on the lot, then I think you have to look downstream to some fix downstream. If it came to that, I think it would be a different matter, but at this point I think that is something that the Town has an interest in kind of following up on. I don’t think Mr. Harris wants to pay for that.” Town Engineer Korber said he understands.
- Engineer Phillips said he has the meeting minutes, but he does not know what the Notice of Decision says, if that is the document.

Town Engineer Korber said:

- Horizons Engineering said they were going to submit this detailed information. His point is that although Provan & Lorber may have done the initial design for the AoT, there may be additional information in Horizons Engineering records that Horizons Engineer can readily put in the Town’s hands that might help the Planning Board make a decision.

Engineer Phillips said:

- That would require a little bit of research for him. He is partly pinch-hitting for Engineer Justin Daigneault, but ultimately he would be pinch-hitting for Engineer Steve LaFrance. Engineer LaFrance has been working on this development from the very beginning. Engineer Phillips is coming in with the knowledge of the Stormwater Ordinance but Engineer LaFrance would probably know where to put his fingers on the relevant plans and when the materials were submitted. Engineer Phillips will have to start looking from scratch and may not have the right answers.
- Engineer Phillips looked at the one plan the Town has dated January 2006. A brief discussion ensued about the document.

Hettinger asked Attorney Conklin and Engineer Phillips, if the Planning Board needed to continue the Planning Board consultation to a later date.

Attorney Conklin said:

- He originally planned to ask for a waiver of the Stormwater Management Ordinance requirements, which the ordinance gives the Planning Board the authority to give. This is an old subdivision which was approved a long time ago. “It is largely water over the dam.”
- He questioned whether or not the Stormwater Management Ordinance was intended to apply to a lot in an old subdivision. The Ordinance looks like it was primarily written to apply to new subdivisions except for this section that got stuck in about single family lots where they disturb more than fifty percent (50%) of a lot. The reason they are here is because they are disturbing more than fifty percent (50%) of the lot and because the Planning Board has the authority to waive the requirement for a Stormwater Management Plan; initially he was planning to request a waiver.
- He and “the Town” had a discussion about whether or not it was the right thing to do. Engineer Phillips said that he did not want to prepare an erosion control plan and then find out he would have to do some other work which would affect the erosion control plan and he would have to do erosion control plan over again. Attorney Conklin and Engineer Phillips need guidance about what they need to do in order to request the waiver.
- What would the waiver consist of? An application would be submitted to the Planning Board requesting to have the requirements under the ordinance waived probably on the basis of being required to submit a more extensive erosion control plan than what was originally submitted. Public notices would be posted with notices sent to abutters. The Planning Board would hold a public hearing.
- Town Engineer Korber gave Carole Bont a list with the things he would want to see in an erosion control plan.
- He was hoping the Planning Board would say he can request a waiver, meet the requirements that Mr. Korber set forth in his memo last week for the erosion control plan and come in with a request for a waiver and we’ll talk about it at the next meeting on March 9<sup>th</sup>. Would we have another consultation on March 9<sup>th</sup>?

#### **Request for Waiver Process:**

- **Notice:**

Bont wanted to verify with the Planning Board that she needed to post newspaper and full South Peak Resort development abutter notices for a public hearing on a request for a waiver from the Stormwater Management Ordinance as required - the ordinance says “after a properly noticed meeting”. Public hearings are all noticed. Bont said Attorney Malia said abutters needed to be noticed. Robinson suggested that Bont properly notice the meeting (i.e., both newspaper and abutter notices).

- **Request for Waiver:**

Town Manager/Planner Burbank said first Harris has to request the waiver.

Engineer Phillips said that Harris would ask for a waiver based on the fact that either:

- the Harris proposal meets the assumptions underlying the original AoT approval, or

- If the Harris proposal does not, then Harris will propose some other mitigation measure that will take care of the runoff. If the Town is also asking for an erosion control plan, Horizons Engineering would end up providing the erosion control plan.

- **Public Hearing:**

Robinson said that the Planning Department should schedule a public hearing on the request for a waiver and notify abutters. When Harris comes in for the waiver, the Planning Board could approve a waiver, conditionally.

- **Standards to Meet to Grant a Waiver:**

Robinson said, when the Town gets the AoT from NH DES, we will know whether or not the proposed impervious surface for the Harris house meets the AoT criteria and we are fine. If the proposed size of the impervious surface for the Harris house does not meet the AoT criteria, Harris has to have some way to mitigate the impact. Then the Planning Board would judge whether that the plan to mitigate the impact is adequate or not and then the Planning Board would grant the waiver or not.

Engineer Phillips asked the Planning Board and Town Engineer Korber whether the standard Harris would need to meet in this case would be, if the assumptions about size of the impervious surfaces for the AoT permit were met on this lot, the waiver will be granted.

Town Engineer Korber said the Stormwater Management Ordinance provides for granting a waiver from the stormwater management plan, however, he definitely would recommend the erosion and sediment control plan; he will put something more formal together based on his earlier e-mail with bullet points about what should be included in such a plan. Town Engineer Korber said the list of items could be produced fairly quickly.

Engineer Phillips said that the only thing that stood out on that list was the reference to volume. "I think we are kind of averse to having volume reduction at the time of construction."

Engineer Phillips said that in his mind the Planning Board is holding a public meeting on the merits of the waiver. "If you guys say as a condition of that approval that you want an erosion control plan, I think would be something we would submit because you are not looking for the erosion control plan to justify the waiver. It's not going to have its own track, is what I am saying."

Town Engineer Korber asked Engineer Phillips if Horizons Engineer put erosion control plans in the South Peak Resort AoT. Engineer Phillips said that Justin Daigneault put some erosion control measures on the plan. "Let's see what you have for a list, I would love to tell you that it meets everything on your list, but it might be a little bit more involved."

Town Engineer Korber said he put the list together as soon as possible and with the Town's approval would get the list to Engineer Phillips so Phillips can work off of that list.

Robinson said he was in agreement with that; the waiver would be conditioned upon getting that done. The plan does not have to be complete before the waiver is rendered. We want to see those

lots developed and that is what was intended. The Planning Board just does not want to see the downstream people affected by it.

- **When is the Request for a Waiver Due with the Proposed Stormwater Mitigation:**

Engineer Phillips asked when the Planning Board would need the waiver by. Bont said she would not need the plan itself, just the request for the waiver.

Attorney Conklin asked Engineer Phillips what happened to the assumption number for the AoT plan's impervious surfaces. Town Engineer Korber said that the Town should have a copy of the AoT permit. Ray Korber will get a copy of the AoT from NH DES and share that information .

*Engineer Phillips and Attorney Conklin thanked the board and left.*

**Realtor Thomas Tremblay re: Stormwater Management Ordinance applied to Other Developments:**

Tremblay said that stormwater management of water runoff is not a generic problem specific to South Peak Resort, it is just that South Peak Resort ("South Peak") is on the agenda for tonight.

- **Forest Ridge Resort:**

Tremblay talked about the Forest Ridge development ("Forest Ridge") and its impact on downtown and the homes at lower elevations below Forest Ridge that have been there for 100 years. Forest Ridge is totally different from South Peak because South Peak owns right down to the river. Tremblay said he has never noticed the retention ponds up in South Peak at all; the detention ponds might be there, but he has never seen them. South Peak probably did not worry about retention ponds because they have the East Branch Pemigewasset River there and they own down to the river so they just piped everything down to the river. Therein lays the solution to the retention problem for South Peak because they do have the river there.

- **Coolidge Falls Resort:**

Tremblay also talked about the Coolidge Falls Resort ("Coolidge Falls") development. Coolidge Falls' lots are fifty feet by fifty-five feet (50'X55') for a single family lot and eighty-five feet to fifty feet (85'X50') for a duplex lot. [The lots are Planned Unit Developments – "PUD"s.] Typically a duplex building is eighty feet (80') long and thirty-five feet (35') deep so they have just a few feet behind the building and a few feet on each side and in some cases a zero lot line. There are homes that are built right on the boundary line of the PUD up there which they are allowed to do. There is no way to retain any water on those sites at all because it is all house. It is really difficult to even set up some kind of erosion control system because typically you are just disturbing your little envelope.

- **Uphill Side:**

Tremblay said they could put something on the downhill side, in some cases it is an uphill lot and the downhill side is the road but there is a drainage ditch along the road. Essentially, there is no place to set "it" [retention pond] up because you have to access the site and you only have fifty feet (50') to do it.



- **Downhill Side:**

Tremblay said then on the downhill side you could put the silt fence on the common land and protect the land below that site from getting any erosion which could be the houses below it or it could be the NH Route 112 (“The Kancamagus Highway”), depending on which road the building is on. If the building is on one of the downhill lots on Westview Road, the next border is the Kancamagus Highway. Tremblay said he almost thinks that this ordinance should be tossed out and that the erosion control seems to be way more important. Tremblay said he could see that if everybody built ten thousand (10,000) square feet of impervious surfaces on their lot up at South Peak there could be some issues there in a big rain storm.

Town Manager/Planner Burbank asked if Coolidge Falls Resort was all built out or whether there were vacant lots left to be built on. Tremblay said there are twenty six (26) additional homes that could be built up there.

Town Manager/Planner Burbank asked if it was with that zero lot line standard. Tremblay agreed.

Robinson said there is a difference at the Coolidge Falls Resort because the zero lot line goes up to common land. Town Manager/Planner Burbank said that the common land should theoretically be used to take care of the stormwater runoff issues. Tremblay said that “everything is on a slope so all the water is coming downhill”.

There was a brief discussion about what year the Coolidge Falls Resort development began. Tremblay and the Planning Board members decided that Coolidge Falls was in the early 1980’s and may not have gone through Planning Board review because there was no Planning Board at the time.

According to “Declarations of Covenants, Reservations, Restrictions and Easements for Coolidge Falls, PO Box 1086, Lincoln, NH 03251” Coolidge Falls Resort was established in April 1985, revised May 1985, July 1985, August 1985, September 1993. The Land Use Plan Ordinance (Zoning) was adopted in March of 1986.

Tremblay said that in Coolidge Falls there are three duplexes on the drawing board right now. Robinson said that is a unique situation because of the age of the development and the approvals that were done back in the mid 1980’s prior to adoption of the zoning ordinance.

- **“The Landing at Loon Mountain”**

Robinson said to Tremblay that up at “The Landing at Loon Mountain” development, there is a house on the corner that Robinson went to see during a rain storm because he was told about a drainage problem there. Robinson said he could not believe it so he had to go see it for himself. He was “just dumbfounded by how much water runs into this guy’s yard, up to his house, down his driveway, over a rock wall that was never intended to be a river to make its way, multiple places over the rock wall, down into where it finally goes into a ditch”.

Robinson said there are no houses on that whole road up above the house he looked at. Now if someone puts ten (10) additional houses with six thousand (6,000) square foot of impervious surfaces each up there or essentially paves sixty thousand (60,000) square feet up above that house, that house is going to be in the East Branch Pemigewasset River. Never mind the rest of the water that goes with it.

Robinson said that those are the kinds of development the Planning Board is concerned about. The Planning Board cannot continue to let people build huge monstrosity houses on these little lots and push all the water onto someone else's lot to become someone else's problem. The guy at the top is going to be fine. The guy at the bottom, he's going to get buried with water if we did not require stormwater runoff mitigation. Robinson explained that is why the Planning Board recommended the adoption of the Stormwater Management Ordinance in an effort to respond to these complaints and people's experiences.

- **Comparing Coolidge Falls Resort to Other Developments:**

Coolidge Falls has been in existence for 40 years, but have there been runoff issues related to that development. Robinson told Tremblay that he was correct; the water at Coolidge Falls goes down to the somewhat level spot before the stormwater runoff water "hits" NH Route 112 [the Kancamagus Highway a/k/a The "Kanc Highway"] and it "hits" the NH State Road drainage system there.

Tremblay said there are also a lot of trees between the houses at Coolidge Falls Resort and NH Route 112 as well so the development has the benefit of a forest buffer.

Town Manager/Planner Burbank said that three more buildings could change the topology of the common land area if those buildings were in the queue.

Robinson asked Tremblay if Coolidge Falls Resort owns all the way down to NH Route 112 (the Kanc Highway). Tremblay said, "Yes".

Robinson said that in Coolidge Falls Resort, the excess water is flowing onto common land. To Robinson that is a huge difference.

There was a brief discussion about the Coolidge Falls area and where the stormwater runoff goes. Tremblay and the Planning Board discussed the fact that Coolidge Falls Resort is very different from South Peak because the land around the homes is common land, it does not belong to another owner with a house.

Tremblay said that even up in Beechwood II, a few years ago there was a big rain event and the Town had exactly what was being described. There is a newer home that was built on one of the existing lots up there; the land above it is all National Forest. Water came down and washed out a small wall a little bit and filled up the driveway below with sand, dirt and "made a hell of a mess". Rex Caulder of Caulder Construction, LLC, had to go up there and rebuild the walls – Calder did not build the walls originally. Caulder really improved the drainage. Caulder put a lot of stone underneath the retaining wall and took all the water around the house and there has not been a problem since. It does take some careful consideration when you are putting "this stuff" together.

Tanner asked permission to speak and was granted permission. She asked the Planning Board to consider her situation on Mansion Hill as an example of the effect of stormwater runoff. Two people who own property uphill from her house recently clear-cut their lots. Tanner did not know what was disturbed underneath the ground when they clear-cut their lots, but there is a large volume of rotten silt that smells awful that is coming downhill from her neighbors' clear-cut lots onto her lot. The EPA came out and tested the black tarry substance. The EPA confirmed that the tarry substance was not E.coli, but they did say that nothing would grow on her property for over twenty (20) years. They were correct; nothing will grow in Tanner's yard. In addition, the silt has ruined one sump pump owned by the Tanners already. The rotten silt also seeps into the Tanner's basement.

Tanner said that the people who own the home downhill from Tanner's house have replaced their sump pump twice. These problems were not caused by activity in one of these huge developments like South Peak Resort or Forest Ridge Resort. These problems were caused by just two uphill adjacent lots. You have to take into consideration the fact that anyone can do something on their uphill lot that may negatively impact their downhill neighbors. These problems can be caused by not just a big developer who can pay an engineer to fill out an AoT and get a permit, but by the average home owner who builds on a lot who will not know how to fill out an AoT or be mandated to do anything under our ordinance.

Robinson said that his interpretation would be that if they try to develop their lots by constructing a single family home today, disturbing more than fifty percent (50%) of their lot; they would be subject to this ordinance and would need to prove to us that they are not going to increase water flow off their lot.

Town Engineer Korber said that every situation is different. The Planning Board cannot write an ordinance that really applies to just every single circumstance.

- On Pollard Road you had a building that was taken down and they built a new log cabin. There is basically a redevelopment situation on a flat lot, and no runoff is going to come off of that site to impact an abutter.
- If you are sitting on a steep slope such as a house in this case would be, you have to look at it definitely more closely because it does have the potential to impact an abutter. That is really kind of the yardstick. The Town is here to help Mr. Harris but not at the expense of somebody else.
- The situation Hettinger described where there was stormwater runoff and a stonewall gave way so Rex Caulder had to come and fix the wall, Caulder took all of the water and diverted it somewhere else. So the property owners think that their problem is solved but their water is now on somebody else's property.

Town Manager/Planner Burbank asked Hettinger whose lot Caulder diverted the water to. Burbank was not sure whose lot he was talking about.

Robinson asked the Planning Board, based on the discussion tonight and the large number of emails back and forth, do we need to look into rewriting this ordinance. Robinson added that

obviously it was too late to submit the proposed changes to this year's annual Town Meeting in March.

Bont said yes. Town Attorney Malia has recommended that the Town make changes as well. Attorney Malia sent us his recommended changes. Between now and next January/February when we need to get proposed changes prepared there may be other tweaks that need to be done.

Robinson said that he would certainly clear up the applicability language. Is it fifteen thousand (15,000) square feet or is it fifty percent (50%)?

Town Engineer Korber said that the fifty percent (50%) language was in the applicability section and that is where it really belongs.

Town Manager/Planner Burbank said that was what Engineer Phillips was saying when he told us that we have a very strict ordinance. It is very strict. Town Engineer Korber said it is better to start out strict and then "start working your way down".

Robinson said that he wants to keep in the language that allows the Planning Board to waive the requirement that the property owner submit a stormwater management plan. Robinson said he believes there is a huge difference between Coolidge Falls that existed in the 1980's and Tanner's uphill neighbors. Robinson said he would personally waive Coolidge Falls because of what it is (Planned Unit Development), where it is, how old it is and how few problems it has caused. Robinson said he might also waive it for something like Mansion Hill Road which is just a single family home neighborhood.

Town Engineer Korber said that we have seen what can happen and particularly now when the storm events we are experiencing are much more severe and much more intense. In a steep environment like this the topography is very flashy so it can cause a lot of damage in a very short period of time.

The Planning Board thanked Town Engineer Ray Korber for coming.

*Town Engineer Ray Korber left the meeting.*

**Other business – Letter from Alyssa Yolda, Executive Director of Lincoln Woodstock Chamber of Commerce, regarding a Workforce Housing Committee**

Bont said there was a letter from Alyssa Yolda Executive Director of Lincoln Woodstock Chamber of Commerce, requesting that someone represent the Planning Board on the Workforce Housing Committee.

Town Manager/Planner Burbank said that between Bont and him, they would be happy to represent the Planning Board. Robinson suggested asking Callum Grant or Paula Strickon to see if they are interested.



Town Manager/Planner Burbank said that it was his understanding that this is going to be a quick thing. This committee will get together and be assigned businesses to go and talk to, to see what their workforce needs are. Then they will get back together for a very short time and create a report. If we can get one person to represent the Planning Board they should have what they want. If necessary, Alysia did talk to Town Manager/Planner Burbank representing the Town of Lincoln from a Town Managers standpoint and he would go talk to the committee, but the Planning Board should be represented separately.

#### **Sign the Amended Site Plan Review Regulations.**

Bont said that the Planning Board had already voted to revise the Site Plan Review Regulations to get rid of the Ice Castle loophole. Bont said that the change does not have to go to Town Meeting and that two members of the Planning Board need to sign the change. We have already had a public hearing on the changes and this is the final document.

#### **Drop Box**

Tanner asked if everyone was able to get into the drop box that was set up by Karen Fitzgerald to review the Master Plan files.

Some people were having problem so a short class will be scheduled at the next meeting.

- 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 8:12**

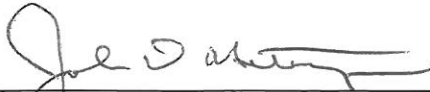
**Motion: Ron Beard Second: OJ Robinson**

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

Respectfully submitted,

Wendy Tanner,  
Planning and Zoning Recorder

Date Approved: March 23, 2016

  
\_\_\_\_\_  
Acting Chair John Hettinger

**Appendix A.**

See South Peak Resort Development Agreement effective May 22, 2006, between Centex Destination Properties (CDP) and the Town of Lincoln. (Appendix C).

*Note: There is no mention of “maximum lot coverage” in the Development Agreement dated 2006-05-22, signed on 2006-5-22 by the Town of Lincoln and on 2006-06-15 by Edward Brisson, Vice President of Operations for Centex Destination Properties (CDP). See attached as Appendix C.*

According to the document entitled “South Peak Resort<sup>SM</sup> on Loon Mountain, New Hampshire Design Guidelines: Draft Residential Design Guidelines Volume I, January 30, 2006 (Appendix E)” in Chapter III Site Planning and Design, Section B. Setbacks, Building Envelopes, and Lot Coverage, P. 16 it says:

“The maximum impervious coverage allowed for South Peak Resort lots is 35 percent of the total lot area. Impervious coverage will apply to all areas that do not allow water to infiltrate or which or which do not support vegetation.”

Residential Design Guidelines\*

**\*South Peak Resort<sup>SM</sup> on Loon Mountain, New Hampshire Design Guidelines: Draft Residential Design Guidelines Volume I, January 30, 3006 (Appendix E.) Chapter III Site Planning and Design, Section B. Setbacks, Building Envelopes, and Lot Coverage, P. 16.**

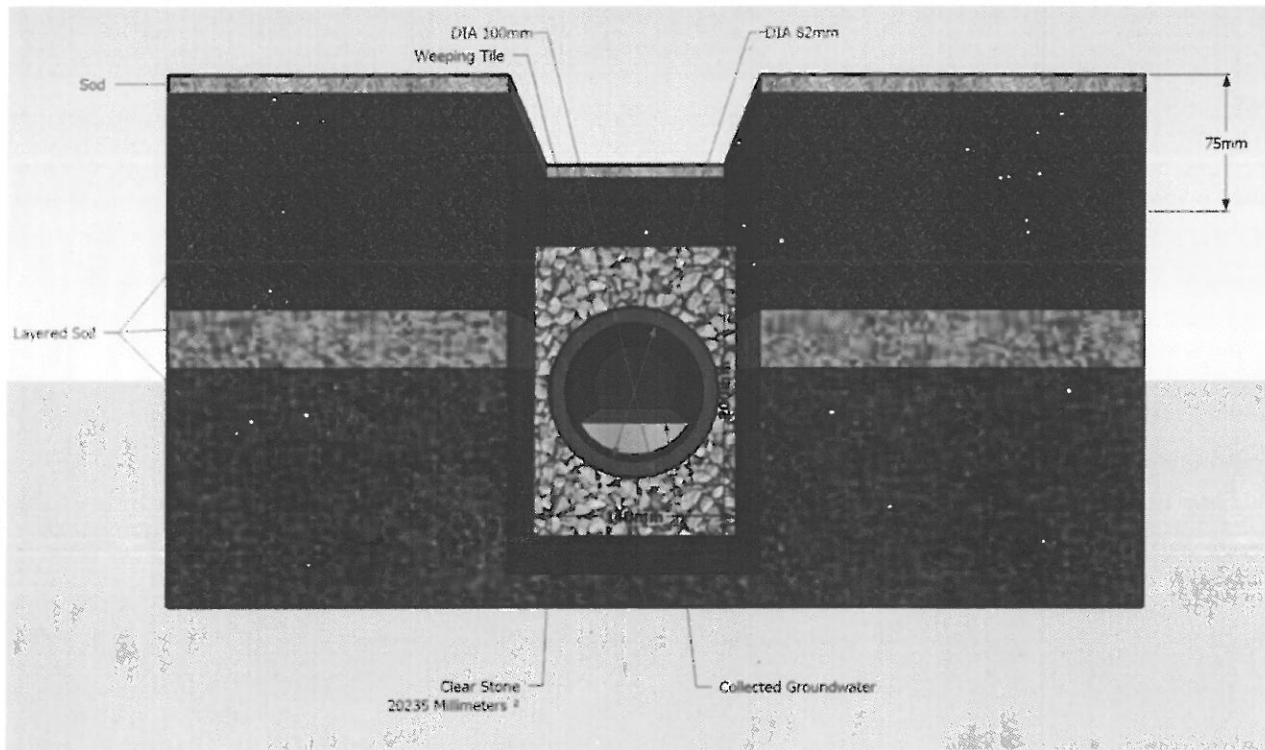
**4. LOT AND LOT COVERAGE REQUIREMENTS AND STANDARDS.**

- A. The area of any year-round stream or water body shall not be included in determining compliance with minimum lot size under this section.
- B. Lot coverage shall include the buildings, out buildings, roads, parking area (paved or unpaved) and swimming pools or other non-permeable recreational facilities. Treed islands within parking areas shall be excluded from this area.
- C. The area reserved for open space may include sidewalks, walkways, outdoor patios, courtyards, terraces, and permanent planters. Only 10% of the total lot area developed in this manner may be counted towards open space. Treed islands within parking areas shall be included in this area.
- D. Dimensional requirements for the Village Center may be waived by the Planning Board so long as they meet all other Zoning requirements.
- E. Lot Coverage Requirements and Standards may be impacted by Stormwater Management Ordinance. Lot shall comply with requirements of the Stormwater Management Ordinance.

2015 Land Use Plan Ordinance, P. 29

In plans dated January 2006 submitted by Horizons Engineering on behalf of the Applicant at the time, Centex Destination Properties the following “Applicant’s Response” was made:

**Applicant's Response:** The allowable lot coverage (70% in the General Use Zone) will be deterred by added [sic] the square footage of all buildings, roads, parking areas, and non-permeable recreational facilities within the master planned area.”

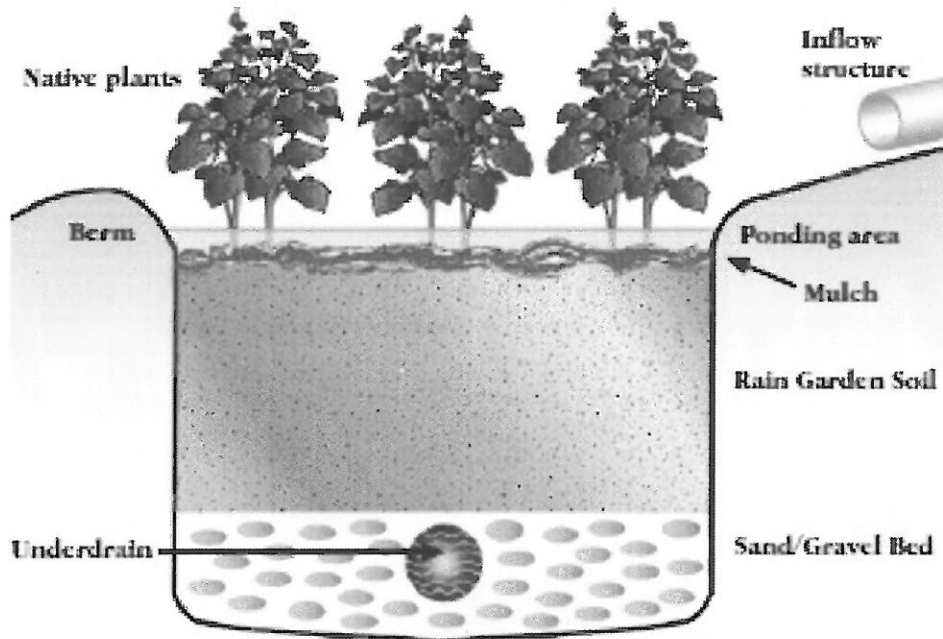
**Appendix B.****French Drain**

A **French drain** or **weeping tile** (also **blind drain**,<sup>[1]</sup> **rubble drain**,<sup>[1]</sup> **rock drain**,<sup>[1]</sup> **drain tile**, **perimeter drain**, **land drain**, **French ditch**, **sub-surface drain**, **sub-soil drain** or **agricultural drain**) is a trench filled with gravel or rock or containing a perforated pipe that redirects surface water and groundwater away from an area. A French drain can have perforated hollow pipes along the bottom (see *images*) to quickly vent water that seeps down through the upper gravel or rock.

French drains are primarily used to prevent ground and surface water from penetrating or damaging building foundations. Alternatively, French drains may be used to distribute water, such as a septic drain field at the outlet of a typical septic tank sewage treatment system. French drains are also used behind retaining walls to relieve ground water pressure.

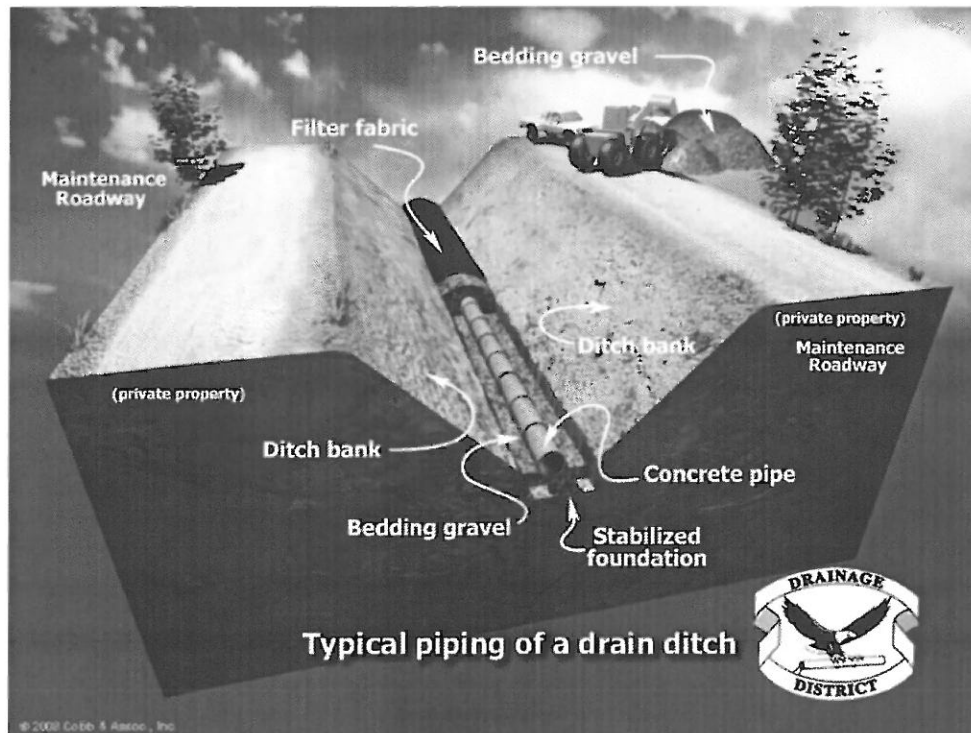
[https://en.wikipedia.org/wiki/French\\_drain](https://en.wikipedia.org/wiki/French_drain)





**Underdrain**

<http://www.fairfaxcounty.gov/nvswcd/drainageproblem/glossary.htm>



**Drainage Ditch**

<http://thedrainagedistrict.org/how-we-work/>