

APPROVED

PLANNING BOARD
PLANNING BOARD MONTHLY MEETING
Wednesday August 10, 2022 – 6:00 PM
***Lincoln Town Hall, 148 Main Street, Lincoln NH**

*Hybrid meeting available both in person with social distancing & masks & via Zoom Meeting Platform to allow for town wide participation. A quorum of the Planning Board member must be physically present at the meeting. Although there is space in the room for 8-12 guests in addition to the Board members with social distancing, the public is encouraged to participate remotely using ZOOM.

Join Zoom Meeting

<https://us02web.zoom.us/j/81700766161?pwd=WUFKR2NlZk9xSzI1bVFPRWVzbyt4UT09>

Meeting ID: 817 0076 6161

Passcode: 179696

Find your local number: <https://us02web.zoom.us/u/kblNuPaMlG>

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

(See also town website www.lincolnnh.org for same link, meeting ID and passcode.)

I. CALL TO ORDER: Chairman James Spanos

Members Present: Chairman James Spanos, Vice Chairman Joe Chenard (leaves the meeting after 47 minutes), Selectmen's Representative O.J. Robinson, Paul Beaudin, Stephen Noseworthy

Excused: Mark Ehrman (alternate)

Staff Present: Town Manager Carina Park, Planner Carole Bont, Recorder Judy Sherrieff via Zoom.

Guests:

- **Kenneth Berglund**, (nonresident) (ABUTTER TO PROPERTY ON 12 PLEASANT STREET, MAP 113, LOT 092 OWNED BY JAYNE SUE LUDWIG), co-owner as Trustee with Grace Berglund Trustee of Kenneth & Grace Berglund Trust, 12066 79th Avenue, Seminole, FL 33772-4515 of property at 15 School Street (Map 113, Lot 099).
- **Raymond (Ray) Berglund**, (nonresident) (ABUTTER TO PROPERTY ON 12 PLEASANT STREET, MAP 113, LOT 092 OWNED BY JAYNE SUE LUDWIG), London, England, US Address: c/o Kenneth & Grace Berglund, PO Box 1295, Lincoln, NH 03251-1295 and property owner of 11 School Street, Lincoln, NH 03251 (Map 113, Lot 098). [His parents are Kenneth & Grace Berglund who live next door at 15 School Street (Map 113, Lot 099).]
- **Susanne (Susan) A. Chenard**, (resident) of 11 Liberty Road, Lincoln NH 03251 (Map 107, Lot 061) and Realtor for Loon Reservation Service, 264 Main Street,

Suite 12, PO Box 785, Lincoln, NH 03251-0785, and owner of 19 Maple Street (Map 118, Lot 069). Alternate member of the Zoning Board of Adjustment (via ZOOM).

- **Dennis M. Ducharme, (resident) (ABUTTER & EASEMENT HOLDER FOR PARKING ON SUBJECT LOT MAP 118, LOT 002.1) d/b/a RiverWalk Resort at Loon Mountain, Developer & President, RRP, of RiverWalk at Loon Mountain, LLC, PO Box 69, Lincoln, NH 03251-0069 (Map 118, L044) and at 22 South Mountain Drive, Mailing address: 33 Brookline Road, PO Box 636, Lincoln, NH 03251-0636. Developer & President of 10 InnSeasons Resorts, headquartered in Hyannis, Cape Cod, Massachusetts, at 212 Mid Tech Drive, West Yarmouth, MA 02673, including two (2) InnSeasons Resorts in the Town of Lincoln:**
 - (1) InnSeasons Resorts Pollard Brook at 33 Brookline Road (Map 122, Lot 002 & Lot 003), Lincoln, NH and
 - (2) InnSeasons Resort South Mountain at 23 InnSeason Drive (Map 118, L047), Lincoln, NH.
- **Tamra Ham, (resident) Selectboard member, 13 Pleasant Street, Lincoln, NH 03251, (Via ZOOM), owner of:**
 - d/b/a Ham Rentals, LLC, 98 US Route 3, Lincoln, NH 03251 of 13 Pleasant Stret (Map 113, Lot 083); and
 - d/b/a Ham Rentals, LLC, 98 US Route 3, Lincoln, NH 03251 of 205 Pollard Road, (Map 113, Lot 058).
- **David R. Jordan, P.E., L.L.S., (nonresident), (APPLICANT'S ENGINEER) Director of Site Engineering, Greenman-Pederson Inc (GPI), 44 Stiles Road - Suite 1, Salem, NH 03079.**
- **Brian G. Norton, non-resident, of 20 Gray Road, Campton, NH 03223 (ABUTTER & EASEMENT HOLDER FOR COOPER MEMORIAL DRIVE ON SUBJECT LOT MAP 118, LOT 002.1), President and General Manager of Loon Mountain Resort, 60 Loon Mountain Road, Lincoln, NH, 03251; Loon Mountain Resort is owned by Boyne Resorts, 3951 Charlevoix Avenue, Petoskey, Michigan, 49770 (via ZOOM).**
- **Frank Pasciuto, (resident) co-owner with Virginia Marie Pasciuto, of 16 Valley View Lane, PO Box 192, Lincoln, NH 03251-0192 (Map 114, Lot 046).**
- **Virginia Marie Pasciuto, (resident) co-owner with Frank Pasciuto of 16 Valley View Lane, PO Box 192, Lincoln, NH 03251-0192 (Map 114, Lot 046).**
- **Ashok Patel (nonresident) (APPLICANT/ OWNER TO BE), President & Agent for Jamsan Hotel Management, Inc., and Amba Hotel, LLC, both with the address of 440 Bedford St., Lexington, MA, US, 02420 and Manager, Agent and Member of Ossipee Hospitality, LLC. These businesses own Woodward's White Mountain Resort, and the Holiday Inn Express & Suites, Lincoln East and possibly has ownership interests in other hotels in Lincoln (e.g., the former Beacon Motel owned by Ankit Hospitality, LLC).**

- **Andrew (Drew) Queen**, nonresident (APPLICANT’S ARCHITECT), of BMA World, BMA Architectural Group, 12 Middle Street, Amherst, NH 03031.
- **Jason (Jay) W. Scambio**, (resident) (ABUTTER & EASEMENT HOLDER FOR PARKING ON COOPER MEMORIAL DRIVE ON SUBJECT LOT MAP 118, LOT 002.1) and co-owner with Katie W. Scambio of 20 Pollard Pines Drive, Lincoln, NH 03251 (Map 117, Lot 048), currently Chief Operating Officer, Day Operations for Boyne Resorts, 3951 Charlevoix Avenue, Petoskey, Michigan, 49770 that is owner of 60 Loon Mountain Road (Map 126, Lot 020) a/k/a Loon Mountain Resort (via ZOOM).
- **Thomas (Tom) Tremblay** – resident, (APPLICANT’S REALTOR) Coldwell Banker Lifestyles, PO Box 235, 189 Main Street, Lincoln, NH 03251, of 19 Louann Lane (Map 117, Lot 017), owned by Thomas P. Tremblay, Trustee of Thomas P. Tremblay Revocable Trust, PO Box 235, Lincoln, NH 03251 and owner of the following properties:
 - a. Louann Lane #LO (Map 117, Lot 016)
 - b. 19 Louann Lane (Map 117, Lot 017)
 - c. Louann Lane #LO (Map 117, Lot 018)
 - d. Louann Lane (LO) (Map 117, Lot 019)
 - e. 30 & 31 O'Brien Avenue (Map 117, Lot 025) now subdivided into three lots:
 - i. Lot 1: 0.46 Acres
 - ii. Lot 2: 0.48 Acres
 - iii. Lot 3: 0.47 Acres
 - f. 189 Main Street (Map 117, Lot 004)

II. CONSIDERATION of meeting minutes from:

- **July 27, 2022**
 - Chairman James Spanos, Vice Chairman Joe Chenard, Selectmen’s Representative OJ Robinson, Member Stephen Noseworthy., Member Paul Beaudin

Motion to accept by Member Beaudin
Second Selectmen’s Representative O.J. Robinson
All in favor

III. CONTINUING AND OTHER BUSINESS

1. CON => SITE PLAN REVIEW

#CON 2022-14 M118 L002.1 Presby d/b/a T&T Mountain Investments LLC – The Patel Group – new Hotel

Property Owner: Thaddeus (Thad) Presby d/b/a T&T Mountain Investments, LLC, 244 Main Street, Franconia, NH 03580

Potential Applicant: “The Patel Group” – members and addresses and contact information are not identified. (Ashok Patel d/b/a Jamsan Hotel Management, Inc., 440

Bedford Street, Lexington, MA 02420, & Ossipee Hospitality, LLC) (Co-Owner of Woodward's White Mountain Resort) Thomas Tremblay (realtor & agent), PO Box 235, Lincoln, NH 03251-0235.

Property: Map 118, Lot 002001-00-00000 (133,500 SF or 3.06 Acres) (49,214 SF of the lot is "buildable"); the lot is subject to the following easements:

- a. Permanent Easement for the benefit of Southern Peaks Development, LLC, BlueGreen Corporation, 4960 Conference Way No. #100, Boca Raton, FL 33431 (owner of BlueGreen Vacations South Mountain Resort, Ascend Resort Collection, a/k/a InnSeasons at South Mountain Resort at 23 Inn Season Drive) (Map 118, Lot 047). Easement used for parking for BlueGreen Vacations South Mountain Resort per Site Plan Review approval in 2014.
- b. Cooper Memorial Drive R.O.W. sixty-six feet (66') wide (See Book 3352, Page 186 and Plan #12,578, see note #5). Cooper Memorial Drive is a private roadway for benefit of Loon Mountain Recreation Corporation and South Peak Resort.

Presentation:

Applicant's Engineer David R. Jordan from Greenman-Pederson Inc. explains this project is in the very early stages of planning and they have surveyed the property. Engineering issues will be addressed soon. Currently, the plan is short on parking but will be worked out on the final plans to reflect the 1.25 spaces per unit, which is required.

Andrew (Drew) Queen of BMA Architectural Group discusses the project as a "Residence Inn by Marriott". He has supplied the Planning Board with a conceptual site plan for their review. The façade of the building will be facing Main Street and will be three (3) stories tall at street level. The building will be built to the Marriott brand standard and colors will be chosen that fit in with the locale. There will be a total of one hundred forty-eight (148) parking spots.

Questions:

Scope of Parking Easements

Planner Bont asks for clarification regarding the scope of the easement owned by Southern Peaks Development, LLC.

Mr. Jordan explains that there are "cross over easements" between the subject lot and the abutting properties. The property owners can work together to provide adequate parking for both projects within the easement area as shown on the plan. The property owners will work together to ensure a solution that works for both parties.

Adequate Number of Employees Parking Spaces

Vice Chairman Chenard raises concern about the parking spots not existing on the proposed site. Mr. Queen explains that the placement of the building takes into account the setbacks, grade, number of parking spots, and the number of hotel units.

Lot Coverage to Consider Parking Easement Areas and Cooper Memorial Drive

Selectmen's Representative O.J. Robinson asks for clarification regard the lot coverage as it relates to the parking areas and Cooper Memorial Drive. Mr. Queen states that

calculation has not been done yet. But they will be reviewing the survey and will figure out the lot coverage.

Studies Needed

Member Beaudin reviews portions of the Land Use Plan Ordinance and informs Mr. Queen and Mr. Jordan that they will have to comply with the zoning ordinance known as the Land Use Plan Ordinance (LUPO) and the Site Plan Review Regulations.

Studies will need to be conducted on:

- Water capacity;
- Sewer capacity;
- Water Capacity for Fire Prevention; and
- NH DOT will also require them to conduct a Traffic Study.

The Planning Board determines that they will require:

- One hundred sixty-five (165) parking spots which includes parking for guests and for employees (i.e., one additional employee parking space for every ten parking spaces for guests).
- Plans for snow removal.

Is Roof Top Bar Public Versus Guests Only, Affects Number of Parking Spaces

Vice Chairman Chenard asks about the roof top bar and whether or not it will be for guests only or will it be open to the general public. If the roof top bar is open to the general public the owner will need to include additional parking spaces for the bar in the plan.

Shared Parking Within Parking Easement Area Needs Clarification

The Planning Board discusses the issue of parking within the easement area and how they will deal with that.

Environmental Assessments

Planner Bont discusses the environmental evaluation of the subject property and asks about the possible presence of ash and other environmental contaminants on the property. She indicated that Dennis Ducharme whose business is the beneficiary of the easement on the subject property, did environmental testing and followed up with extensive cleanup for his property where the InnSeasons Resort South Mountain located at 23 InnSeason Drive (Map 118, L047) because the InnSeasons property was determined to be a “brownfield”. He learned that there were multiple types of waste on his property that needed to be mitigated in addition to the ash. He also had some testing done on his easement area of the subject property where some of his parking is currently located and had positive test results for ash.

The Planning Board discusses that that the environmental issues will need to be addressed.

Stormwater Management Ordinance (SMO) Applies

Member Beaudin reminds the applicant that they will also need to conform with the Stormwater Management Ordinance (SMO) which could affect the lot coverage.

Maximum Lot Coverage in Village Center (VC) District

Selectmen's Representative O.J. Robinson confirms that the property is in the Village Center (VC) District where the maximum percent of lot coverage is seventy percent (70%) and he is concerned with the calculations that will need to be presented.

Cross Easements

Selectmen's Representative O.J. Robinson said with regard to the easement, he thinks the Planning Board will have to consider the easement, but will not want to get involved with any legal interpretation of the cross easements. The two property owners will need to show the Planning Board an agreement between the parties.

Are Both "Buildable Space" and "Unbuildable Space" Considered in The Total Lot Coverage Calculation?

Chairman Spanos asks if the buildable space and the unbuildable space are considered in the total lot coverage calculation. The Maximum Lot Coverage in the Village Center (VC) District is seventy percent (70%).

The Planning Board reviews and discusses the relevant section of:

Land Use Plan Ordinance (LUPO):

Article VI District and District Regulations

Section B. District Regulations

Paragraph 4. Lot and Lot Coverage Requirements and Standards

Subparagraph b.

"Lot Coverage shall include the buildings, outbuildings, roads, parking areas (paved or unpaved), and swimming pools or other non-permeable recreational facilities. Treed islands within parking areas shall be excluded from this area."

A discussion regarding dimensional requirements begins.

Member Beaudin pointed out that in the same paragraph 4, there is an option for the applicant to request a waiver if needed.

Subparagraph d.

"Dimensional requirements for the Village Center (VC) District may be waived by the Planning Board so long as they meet all other zoning requirements."

Mr. Jordan responds that his intention is to come before The Planning Board with a plan that meets all the initial requirements and not to ask The Planning Board for any relief.

Member Beaudin asks about the planned architecture of the hotel.

The Planning Board briefly reviews and discusses the relevant sections of:

Site Plan Review Regulations (SPR):

Article XV. Site and Building Design Requirements

Section A. Purpose and Objectives:

...The Planning Board wishes to *promote a Northern New England village character to Lincoln's downtown*, as well as to *encourage New England style buildings* throughout the rest of the community....

Section B. Architectural Requirements

The following architectural requirements shall apply to all new structures....

Paragraph 1. Roofs ...variously pitched varieties *commonly found within the North Country*...

Paragraph 2. Roof Materials ...shall be constructed of materials, which are *commonly found in Northern New England*...

Paragraph 3. Siding. ...siding treatments most commonly *found in New England*...Naturals materials are preferred.

Paragraph 4. Architectural Features and Details ...balconies, decks, covered porches, decorative shingles, bracketed eaves, columns, balustrades, towers, turrets, skylights, and arches are among the details to be considered...

Paragraph 5. Windows and Doors ...shall be of a New England character...Large plate glass windows are discouraged unless they are broken up with mullions or muttons...

Paragraph 6. Lighting ...shall be designed so as not to spill onto adjacent properties...

Paragraph 7. Equipment ...shall be screened from public view.

Section C. Landscaping and Site Planning Requirements

Paragraph 1. Parking

Paragraph 2. Landscaping

Paragraph 3. Pedestrian and Automotive Circulation

Paragraph 4. Safety

Paragraph 5. Equipment and Service Areas

Paragraph 6. Fencing, Walls and Buffers

Paragraph 7. Drainage

Paragraph 8. Construction Requirements

Northern New England Village Character

Member Beaudin brings up his concern that the architecture as shown on the sketch for the planned hotel does not have a "northern New England village character" as required in the

Site Plan Review Regulations. He suggests the applicants review the Site Plan Review Requirements carefully.

Adequate Fire Truck Access

Member Beaudin also advised them to set up a meeting with the Fire Chief to be sure there is sufficient space for a fire truck to adequately access the hotel to fight a fire and to provide adequate room on the lot so the Fire Department can turn around the fire trucks.

Sidewalk

Selectmen's Representative O.J. Robinson suggests the applicant consider constructing a sidewalk in front of their property.

Access to Cooper Memorial Drive in Back

Member Beaudin adds it may be a good idea to create access to Cooper Memorial Drive in the back of the building that connects to Mr. Ducharme's property.

**Motion to open public comment by Member Beaudin
Second by Selectmen's Representative O.J. Robinson
All in favor**

Parking within the Easement Area:

Mr. Dennis Ducharme speaks about the project and the shared parking spaces.

- He does not agree with the current proposal being presented as he does not feel it is safe to have cars parking up to the edge of the street and backing out into the roadway.
- He doesn't want his current parking spaces in the easement to be in jeopardy.

Soil Contamination – (1) Coal Ash; and (2) Asbestos

Mr. Ducharme adds that he removed lots of contaminated soil in the area and per NH DES requirements, the contaminated soil was placed in an approved area and capped. He had previously done test holes on the proposed hotel site (subject lot) and found **coal ash** and **asbestos** and suggests the "buyer beware" and that the applicant do some soil testing of their own.

**Motion to close public comment by Member Beaudin
Second by Selectmen's Representative O.J. Robinson
All in favor**

**Motion to skip to Public Participation by Member Beaudin
Second Selectmen's Representative O.J. Robinson
All in favor**

IV. PUBLIC PARTICIPATION AND OTHER BUSINESS:

A. Update re: Drainage Problem Between Berglund, 11 School Street (Map 113, Lot 098) and Ludwig, 12 Pleasant Street (Map 113, Lot 092) and Plans for Solution from Planning Board Meeting of June 8, 2022.

Raymond (Ray) Berglund, owner of 11 School Street, Lincoln, NH has come to the meeting to introduce himself, in person, to the Planning Board and to give the Planning Board an update.

Berglund discusses his plan to put a fence between 12 Pleasant Street and 11 School Street. He will discuss his plan with Jayne Ludwig who owns 12 Pleasant Street. His plan entails regrading and creating a retaining wall in the rear of the 11 School Street property with an above ground drainage run off system to force water down to a dry well. He will email the plans to Planner Bont. He adds there will be French drains as well.

Berglund said there will be fencing installed after the drainage problems are fixed and the fence will be seven (7) inches onto the property of 11 School Street which will still allow both properties to access their garages. Mr. Berglund would like to have this matter put on the agenda in September, 2022.

Two-minute recess.

B. Request for Update on Proposed Plans to develop Legare Property of 16.7 acres on Mansion Hill #LO and Birch Hill Road (Map 114, Lot 049).

- (1) from Town of Lincoln to use property for water in 5 or so wells; and**
- (2) from Ethan J. Conley (& McManus) February 23, 2022 for multiple single-family homes and duplexes**

A brief discussion between Planning Board, particularly Selectmen's Representative O.J. Robinson and audience members Frank Pasciuto (and Virginia Marie Pasciuto) regarding questions they had on an earlier Legare property proposal for Town to purchase the property to use the wells for water.

Selectmen's Representative O.J. Robinson said in 2019 there was an agreement between the Legare Family and the Town of Lincoln to purchase the land and develop the approximately 5 wells. Chair Spanos said the proposal failed at Town Meeting. Selectmen's Representative OJ Robinson said when the Town had a professional company test the wells. According to the report, one of the wells showed a significant volume of water, however Lincoln Water Plan Operator David Beaudin said that was not correct.

The Town paid a lot of money for a company to prepare the report. Subsequently, Water Plant Operator Beaudin was determined to be correct and the company was a decimal point off in their reporting – there were merely dozens of gallons of water per minute, not 100s of gallons of water per minute as cited in the report. In addition, the quality of the water was poor and there was a substantial cost to treat the water, although recent technology has since reduced that cost. Selectmen Robinson said there is still value in the water to use for fire suppression, but not enough to supply potable water. They would need to construct a large underground water tank to store the water. They could pump the water from those five wells and store that water in the underground water tank until it was needed. However, the Town hopefully will solve its current water problem with another solution.

Chair Spanos said that since then, a private group has purchased the land. The private group came in for a conceptual on February 23, 2022.

V. OLD BUSINESS

c. Review Sign Ordinance to recommend changes to comply with Clyde Reed et. al. v. Town of Gilbert Arizona, 576 U.S. 155 (2015), 135 S Ct 2218 (2015).

The Planning Board reviews the “Sign Ordinance” which is part of the Land Use Plan Ordinance (LUPO) starting on the top of Page 64.

Selectmen’s Representative O.J. Robinson starts a discussion regarding public safety and traffic signs. Looking at the Town of Warner’s Sign Ordinance, he sees that traffic signage can be regulated when it comes to content.

The Planning Board reviewed and compared the “exempt signs” list in the LUPO to the Town of Warner’s Sign Ordinance. According to the Town of Warner’s Sign Ordinance, signs that are no larger than one square foot (1 SF) are exempt and do not require a sign permit.

The Planning Board discusses exempt signs and decides to take language from the Warner Sign Ordinance to update the Lincoln Sign Ordinance.

The Planning Board reconsiders the size of the exempt signs and will allow for signs that are two square feet (2 SF).

Directional signs are discussed next and slight changes are suggested and recorded by Planner Bont.

Signs that are considered exempt cannot contain advertising. If a business wants to advertise, they will be able to apply for a sign permit.

The Planning Board discusses the issue of exempt signs and content regulation.

Selectmen’s Representative O.J. Robinson clarifies that when someone applies for a Sign Permit, the Planning Board has to abide by the US Supreme Court decision in Clyde Reed et. al. v. Town of Gilbert Arizona that the Planning Board’s decision has to be “content neutral”. However, if the sign is exempt per the Sign Ordinance, then the Planning Board would not have to make any decision regarding the content of the sign. This scheme would abide by the US Supreme Court decision that the evaluation of the sign would have to be “content neutral”. If the Planning Board has to determine whether or not to grant a permit, the Sign Ordinance that is to be applied has to be “content neutral”. Signs that are considered exempt will not be judged.

Member Beaudin is concerned with the enforcement aspects. The Planning Board is trusting the opinion of the attorney that took part in writing the Town of Warner’s Sign Ordinance and if, in the future, there is an issue they will address making any necessary changes. The Planning Board discusses temporary signs (commercial and residential) and changes are suggested and recorded by Planner Bont.

***** Planner Bont records proposed changes to the Sign Ordinance. *****

VI. CONTINUING AND OTHER BUSINESS (Staff and Planning Board Member/Alternates). *NONE*

VII. ADJOURNMENT

Motion to adjourn by Member Beaudin

Second by Selectmen's Representative O.J. Robinson

All in favor

Respectfully submitted,

Judy Sherriff
Recording Secretary

Date Approved: 9/8/2022

James Spanos
Chairman Spanos

