

**LINCOLN PLANNING BOARD
REGULAR MEETING MINUTES
WEDNESDAY, SEPTEMBER 25, 2013 – 6:00PM
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH**

APPROVED

Present: Chair R. Patrick Romprey, Vice-Chairman Jim Spanos, Clerk John Hettinger, Paula Strickon, and Selectman OJ Robinson, Taylor Beaudin (alternate).

Members Excused: Norman Belanger (alternate).

Members Absent: None.

Staff Present: Planning and Zoning Administrator Carole Bont, and Town Manager & Town Planner, Alfred “Butch” Burbank.

Guests: At 6:00 PM Richard “Rick” K. Elliott, of Elliott Custom Homes, 3 Amalia Drive, Nashua, NH 03063-3455, representing the remaining undeveloped part of the Forest Ridge project, including properties owned by Jori Properties, LLC, and Lincoln Development, LLC. Later, at 7:00 PM Raymond P. D'Amante, representing himself as one of five potential investors in the Forest Ridge Development project of D'Amante, Couser, Pellerin & Associates, P.A., of 9 Triangle Park Drive, PO Box 2650, Concord, NH 03302-2650.

I. CALL TO ORDER: by Chairman Pat Romprey at 6:00 P.M.

Chair Pat Romprey called the meeting to order. Norman Belanger (alternate) and Taylor Beaudin (alternate) were excused.

II. CONSIDERATION OF DRAFT MEETING MINUTES FROM:

- August 28, 2013

The Board reviewed the minutes.

1. *Romprey inquired about the status of the Application for a Subdivision (SUB #13-01) for property owned by CVRI South Peak TRS, Inc., (formerly owned by CENTEX Homes and later MDR South Peak, LLC). He asked whether Horizons Engineering on behalf of CVRI South Peak TRS, Inc. (“CVRI”) had come into the planning office yet to clarify the changes needed to the maps Horizons submitted to the Planning Board at the last meeting. Did they fix the owner names on the maps yet? Did they recalculate the acreages or put the proper map/lot numbers on the adjacent lots? Bont informed the board that Horizons has not come in yet to make any corrections.*
2. *Romprey inquired about whether the minutes included references to the same requirements to meet federal flood standards that they imposed on The Rapids project. In response to the minutes as set forth in Section G. Why Did the Board Approve Other Lots in the Flood Plain, the Planning Board told the people associated with Russ Cooley of The Rapids project the same thing as these people (Pat Bahr of MDR and previous owners of CVRI property) were told at the time that homes built on those lots within the special flood hazard area would have to be built to construction requirements to meet*

flood proofing standards established in the Floodplain Development District part of the Land Use Plan Ordinance. The homes will have to be built above the 100 Year Flood Elevation to meet construction requirements.

3. *Rompney inquired as to Section X. **How Many Acres Are Part of This Phase? Does The Acreage Include All Of The Land Under Water? Does the acreage include the water or not? Bont** According to Cartographic Associates, Inc., our tax mappers, Map 118, Lot 039 is estimated as having 106.1 acres left and that number appears to include the water – to the thread of the river – the land under the water of the East Branch Pemigewasset River.*
4. *The Planning Board discussed the NH DES letter to Horizons Engineering dated September 4, 2013, and attached to the minutes as Attachment C. NH DES sent back Horizons Engineering's "Alteration of Terrain" application and asked for additional information because the developer's plan was for each individual lot owner is take responsibility for addressing his/her own drainage issues. The application states that the "responsibility for individual lot impervious runoff will ultimately lie with the homeowner, who is free to choose any relevant or effective method, and is not restricted to the drip edges and infiltration trenches shown." Horizons Engineering needs to revise their drainage plans because NH DES thinks that addressing the drainage is the developer's job.*
5. *Hettinger noted a correction needed on page 9, Paragraph N - "Realtor" is incorrectly spelled "Relator".*

Motion to move consideration of the minutes, as amended.

Motion: Hettinger.

Second: Spanos.

Motion carried (4-0).

III. NEW BUSINESS

This subject was mistakenly put on tonight's agenda, however, it is properly noticed and scheduled for October 9th – the next planning board meeting.

A. 6:00 pm. **Application for Lot Line Adjustment**

1. **Application (SUB #2013-03)**
2. **Map 107, Lot 38 and Map 107, Lot 38.1**
3. **Address:** 50 Maltais Farm Road and L/O Maltais Farm Road
4. **Applicant:** James Donahue
5. **Owner:** James Donahue and Mary Donahue

Proposal: For Planning Board To Approve an Application for Lot Line Adjustment between 2 Lots– Applicant James Donahue proposes a Lot Line Adjustment between Tax Map 107, Lot 38 (58 Maltais Farm Road) and Tax Map 107, Lot 38.1. Both adjacent lots are located on the Maltais Farm Road. The size of the proposed subdivided lots will be as follows: Lot #38 will change from 0.34 acres to 0.27 acres. Lot 38.1 will change from 0.65 acres to 0.72 acres. Both lots are owned by James and Mary Donahue, 58 Maltais Farm Road, Lincoln, NH 03251.

Both lots are located in the General Residential (GR) Zone. The applicant's surveyor and engineer is Horizons Engineering.

If the application is accepted as complete by the Planning Board, a public hearing will be conducted during this meeting or scheduled for a future meeting of the Planning Board.

B. Richard K. Elliott – Conceptual For Forest Ridge Development

Richard K. Elliot was invited to come up to meet with the Planning Board. He informed the board that he was getting ready to start working up at Forest Ridge. He came to the Planning Board with conceptual information only and wanted input.

Idea #1: Subdivide Off 21 Acres Of Map 115, Lot 017 To Transfer To Robert Marcalus, President Of Green Acres Woodlands, Inc., An Abutter

Elliott gave the Board a short history of the Forest Ridge Development. He owns Lincoln Development. His kids own one half of the piece of property in back of the remainder of Forest Ridge that is owned in the name of a company called Jori Properties, LLC ("Jori") (Tax Map 115, Lot 017). In 2005, 2006 and 2007 Rick Elliott d/b/a Elliott Custom Homes built 100 housing units over at Forest Ridge Development and sold them. When the economy started slowing down the land partner in the back (Robert Houser) thought that he was not getting a fair deal and started a whole bunch of lawsuits that are now getting ready to go to trial so Mr. Houser now wants to settle. Houser has offered to sell his half of the remaining land to Rick Elliott's kids. Elliott is very interested getting that done and getting back to work over at Forest Ridge.

Part of the agreement that Elliott has with Houser is that he is going to break off a piece of property owned by Jori (Map 115, Lot 017) and annex it to the back of Bob Marcalus's property (Green Acres Woodlands, Inc.) on Route 112 (Map 122, Lot 001). Elliott is going to come in with a subdivision plan to do that. Robert Marcalus, President of Green Acres Woodlands, owns the front piece – the commercial piece (i.e., located in the General Use Zone). Jori owns the parcel immediately in back of that piece (Map 115, Lot 017). The Jori lot comes down the hill, around the ski lift and the Recreation Area and back down. Elliott wants to break this little piece off and annex it to Map 122, Lot 001.) Mr. Marcalus' attorney will come in with a set of plans for that subdivision request.

Idea #2: Subdivide Off A Small Piece Of Map 115, Lot 017 To Transfer To The Town Of Lincoln So The Whole Of The Town's Water Tower Will Be On Town Property Instead Of ¼ Of The Water Tower Being Located On Land Of Jori Properties, LLC.

About a quarter of the town water tank sticks out on a lot owned by Jori Properties, LLC (Map 115, Lot 017). On the town tax maps this lot is already included with the Kanc Rec Area, however, it should not be because the town never received a deed for the land. The survey pins are up there; the lot is properly located, but the tank is still located on property owned by Jori Properties, LLC. (Map 115, Lot 017). The land underneath the Town of Lincoln's water tower never got deeded over to the Town.

Elliott offered to deed the land to the Town in exchange for a right of way to get back to his piece of property. Romprey advised Elliott that he would have to communicate with the Town Manager and the Board of Selectmen about that matter as that decision would be their call.

The Town Manager indicated that this deed transfer had been part of the original plan. Elliott would like a right of way across where the road is now. There is a dirt road that goes up by the water tower now. Elliott said he will have the engineers figure it out. He is asking for a road right of way across the piece that gets deeded.

When Elliott transfers 21 acres of Map 115, Lot -017 to annex Map 122, Lot 001 he would also like to annex the rest of the land under the town water tower to the Kanc Recreation Area – Map 116, Lot 043.

According to Elliott, the property is in Jori's name, but this is the first time that John Houser wants that transfer to take place. The Planning Board advised Elliott that the transfer will be treated as a minor subdivision (lot line adjustment).

Idea #3: Develop Another Portion Of Forest Ridge, Decreasing Density In Two Areas

Elliott informed the board that before he shut down his operation he did the complete engineering for the next 32 units Map 114, Lot 80, with a dotted line inset. Inside that dotted line inset is where the 32 units were designed to go (Phase 2L). Across the road is Map 114, Lot 78 Forest Gardens (Phase 2M) where 72 Units were supposed to go. Those are the larger 12 unit.

Meanwhile, DES's regulations changed between the time he did the engineering and now current more restrictive standards apply. The 32 units are not going to fit anymore because of that change. He had someone prepare a conceptual showing 28 units.

Conceptually, Elliott is proposing to change from the large garden-style buildings to smaller duplex buildings. He cannot get 72 dwelling units in that little area, so he asked if between the two sides of the street the Planning Board might consider allowing him to do a cluster or a condominium design that is more spacious, allowing approximately 38 units instead of the original 48 units in that same space. He wants to decrease the number of units (density), but not the size of the units. He will have to re-engineer under current DES regulations so that 38 townhouse units will be spread in those two areas. He will have to go back and redo the whole impervious calculations associated with NH DES.

Romprey advised Elliott that he would need to come back in and put the additional land back into the green area.

Bont inquired as to whether the land subject to the Conservation Easement was set aside as open space to satisfy the density so he could cluster somewhere else. Elliott explained that he set aside the land in conservation easement so he could get the wetlands crossings that he wanted. When he went to DES for approval the state asked to see the whole plan instead of just twenty (20) units at a time. In addition, he had to show DES where all wetlands crossings were going to

be. One crossing has not been created yet, but he saved the land on either side of the proposed road so the Town will have an easement on both sides of the road.

The wetland easement got deeded to the Town of Lincoln because the NH DES does not accept land easements. Lincoln is a town and as a town, Lincoln was willing to take the easement. Elliott asked if the Planning Board was opposed to moving from 12 unit garden buildings to duplex units. The Planning Board was not. Romprey advised him to just deed it back as green area.

Elliott is looking to fill in a gap between the South Peak units and the Time Share Garden Units. He wants to build a little bit nicer unit, starting in the range of \$250,000 and up. Based on the Planning Board's recent experience the board advised Elliott to make sure his engineering firm addresses drainage issues and do not leave it up to the individual owners of the lots to address the drainage issues.

C. Realtors Code of Ethics – Do Realtors Have An Ethical Obligation To Give Prospective Buyers 100 Year Flood Elevation Information? How Should the Town Address Properties Within the 100 Year Flood Elevation?

At the last Planning Board meeting the Planning Board asked Bont to research the issue to find out what the liability is for a real estate agent in the State of New Hampshire if he/she does not disclose the potential flood issues for a particular lot. The NH Code of Administrative Rules for the New Hampshire Real Estate Commission is 49 pages long, however, the only relevant part is on pages 42 & 43:

Rea 701.02 Licensee's Duty to a Prospective Buyer. "A licensee shall disclose to a prospective buyer/tenant any material physical, regulatory, mechanical or on-site environmental condition affecting the subject property of which the licensee has actual knowledge. Such disclosure shall occur any time prior to the time the buyer/tenant makes a written offer to purchase or lease the subject property. This shall not create an affirmative obligation on the part of the licensee to investigate material defects."

Furthermore, the other subjects the realtor is concerned with are as follows:

Rea 701.03 Private Water Supply Disclosure.

Rea 701.03 Insulation Disclosure.

Rea 701.03 Sewage Disposal System Disclosure.

Bottom Line: *As a realtor you have no affirmative obligation to investigate material defects. The areas of concern for the realtor are: Private Water Supply, Insulation and Sewage Disposal System. There appears to be no affirmative duty of the realtor to determine whether the subject property may be affected by flooding.*

In the case from the Planning Board's last meeting (CVRI) the fact that the lot is in the 100 Year Flood Elevation is a matter of public record because the subdivision plan will be recorded.

However, does the Realtor have to go and find that out or is it on the buyer to find that out? If you have a buyer who does not have to go to the bank to borrow money to buy the property the buyer is probably never going to find out unless they hire a building inspector.

The Planning Board advised Bont that when people come in to pull permits on those lots she should clearly state that they are building within the 100 Year Flood Elevation by writing on the permit. The flood maps are not on the computer or the tax maps. However, we spoke to Cartographic Associates, Inc., our tax mapping company, about the cost of creating flood maps for us. For \$600 they will put the 100 Year Flood maps as an overlay on our tax maps. The flood maps will not be great, but they will be better than nothing. This task will not be completed this year, but will occur in time for the next time we get a set of tax maps in 2014.

Next year our goal will be to note the fact that the lot is in the 100 Year Flood Elevation on the property assessment cards. It will become a consideration when the assessor determines a value for property tax assessment purposes. He will look at the tax maps and see that the property is in the 100 Year Flood Elevation. The realtor always gets a copy of the assessment card to look at when they list the property. Once they see that assessment card the realtors will know the subject property is in the 100 Year Flood Elevation area. Once they have pulled a copy of the card it will be hard to deny that they have seen that the lot is in the 100 Year Flood Hazard Area. Typically the buyer gets a copy of the assessment card from the realtor. Realtors are required to disclose that because they found it out. They did not have to investigate it. Once we put this in place and if FEMA ever redoes their 100 Year Flood Elevation Maps or (FIRM Maps) we will have Cartographic Associates, Inc., do another overlay map of the revised FIRM maps.

D. RSA 91-A Requests.

The Planning Board discussed the numerous RSA 91-A requests received and how to handle the requests. The Board also discussed ways to mitigate the negative impact these requests have on the day to day operations of the town offices.

E. Improvements to Filing System

The Planning Board discussed possible ways to improve the present filing system and what records are required to be saved for what periods of time. There is a whole set of regulations that tell municipalities what needs to be kept and what does not. It also tells municipalities how long to keep some things.

TITLE III
TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES
CHAPTER 33-A
DISPOSITION OF MUNICIPAL RECORDS – See Attachment A.

F. Raymond P. D'Amante – Conceptual – Jori Properties LLC

Raymond P. D'Amante intended to attend the Planning Board meeting when Rick Elliott was present, but Rick had left already. D'Amante arrived at 7:00 pm as he was advised. Ray D'Amante represents a group of five that is interested in lending Elliott money and investing in Forest Ridge. He is in the process of doing due diligence and a part of due diligence is to talk with the Planning Board and see what their views are about the project.

Idea #1: Jori Properties, LLC and Lincoln Development

The parcel located behind the Garden Style Units that Elliott thought was owned by Jori Properties, LLC, town records show are owned by Lincoln Development. The information Elliott gave D'Amante also said Jori Properties, LLC.

The project on Jori Properties, LLC, is focused on two areas: the area across the street from the Garden Style apartments and to that circle where the duplexes are. Elliott thought he had 32 units approved there. It turns out Elliott not only does not have them approved, but the lots need to go through the NH Department of Environmental Services. Although they were rushing to get in the ground this year on those units they have learned just a short time ago Elliott is 90 days away at best from getting his DES approval. Our concept of that parcel just to share some of our thinking...

Everybody in their group is a property owner in Lincoln. When they saw Elliott's layout plan for 32 units on that site, they did not think that level of density would be appropriate on that site. They said they would not finance that level of density. They want to see something that is much better quality and does not crowd the units together. Their discussions with Elliott were to reduce that number at least by perhaps 6 units in that area. Elliott's thought was that he was going to come back to the Planning Board to ask for 32 units as an interim approval since he had that engineered and then once he started on the first three closest to the circle where the townhouses were he was going to come back to reduce them and to put land in between them to give people some privacy and give people some yards.

The Planning Board showed D'Amante the map that Elliott showed them earlier in the evening showing 26 duplex units, reducing the number of dwelling units.

D'Amante liked the new conceptual plan much better. The plan was consistent with what the investors wanted to see – some land around the units with some privacy and more consistent with the initial character of Forest Ridge.

D'Amante also indicated the other area that they were going to go to next is, to the right of the club house where the road starts around (Woodland Loop). They would like to start to put units on the right in that first area on land owned by Jori. (Phase 2I and 2J on either side of the Conservation Easement on the unapproved "Final Master Plan" map.)

The Planning Board explained the Elliott has an overall agreement with the Board of Selectmen to build so many units for the acres. That number is dependent upon what he can actually get

NH DES approval for. Some of the DES issues are different than they used to be. Romprey explained that Elliott has enough green area if it does not get classified as wetlands. That might be an issue in some areas. Overall, it would be close, but not unrealistic.

D'Amante asked about the water pressure. He understood that the water tower is at a height that could serve 223 units. Town Manager Burbank explained that in talking with Public Works Director Bill Willey, he believes the water and sewer are stubbed into Elliott's Phase 2. There is some in that roadway, but he can check on that.

Hettinger advised Burbank to talk to Public Works Director Bill Willey about the height that the water that can be put in that tank because we were thinking about relocating that pump to a lower level or at South Peak to be able to fill that tank a little more. Burbank will ask questions on water issues there.

D'Amante asked about water capacity. Do we have the flow as well for that kind of building loading? Hettinger talked about the need to update the water study they were talking about at the CIP meeting. Romprey advised that when the Forest Ridge units were originally approved Lincoln had the capacity. His understanding is that Lincoln is a ways away from being maxed out. It is going to be a first come, first served thing. Romprey also thinks that Forest Ridge might have been one of the customers who prepaid for water tap fees. Romprey suspects the prepaid tap fees were for the units that were supposed to be on the foundations that were never built on in the Lincoln Development Area of duplexes.

D'Amante asked about whether we had concerns about the sewer system capacity. Romprey answered, no.

D'Amante asked if there were any torpor issues we are aware of. Burbank responded that Lincoln has been told by our contractor who runs our sewer lagoons that we probably have 8-10 years before we have to look at an update of our present sewer system, providing that DES regulations do not change on open lagoons and Lincoln does not have to change. If we increase the water flow, we will increase the flow into the sewer lagoon. That system is meant to match 1,000,000 gallons per day. We came close a couple of times, but the average annual flow is below that so we should have plenty of space, but we can refine that. Burbank asked if D'Amante planned to build out 200+ units over more than a 4-5 year period. He responded that they are doing an absorption study. What they are projecting over a four year time frame at this stage is in the 40-50 dwelling unit range. Burbank did not see a problem with the sewer system with those kinds of loadings. Over the next four to five years across the river at RiverWalk, that is what kind of development schedule they are talking about. Sewer wise we are fine.

D'Amante asked if anyone know of any pipe-size problems. When they sized the pipes going through Forest Ridge for that area were the pipes sufficient in size so they can extend and take the capacity of further development? Burbank answered that he thought the pipes put in there was sized for the density originally planned so the pipe should be big enough. He will double check with Willey. Romprey advised that the water was put in the same way with all 8" mains so there should not be any issues.

D'Amante asked how big the sewer pipe is. Burbank did not know but he offered to check.

D'Amante asked if there were any issues with any other utilities. Do we know of any issues with getting electrical service? Romprey responded that there should not be any, however, there is a lead time on those types of transformers.

D'Amante asked what it meant that the 223 units were "reserved". He saw an appraisal that said that all of those units were approved, but as he dug into it he learned that the lots were reserved. To him "approved" means he can go build it. He got DES approval. He got planning board approval. He has a building permit. He is ready to go. Instead he learned that what Elliott has are lots that are reserved.

Romprey explained: A client comes in with a tract of land and asks, "How many units can I put on this tract of land?" They show engineering. They show documentation. They reach an agreement with the Board of Selectmen on a contract per se. The Planning Board reviews it. Basically, from the documentation the Planning Board reviewed the applicant is allotted X number of units on that number of acres of land. That is what happened here. That is what happened up at South Peak. They have 934 units total up at South Peak (he is not sure of the exact number).

D'Amante informed the Board that he represented the Single Family Home Owner's Association and the Town House Association on South Peak on various matters. Romprey asked D'Amante if they were going to re-establish their architectural review committee. He told them what happened. The members of the Architectural Review Committee all resigned. He got into record books. He set up a meeting of the Homeowner's Association to declare a vacancy and to appoint a board and to appoint an architectural design committee. The day before the meeting the Home Owner's Association appointed a new board and an architectural design committee. So his efforts had the desired effect. His understanding is that they have that committee in place now. He also pushed them to have a single family home owner on that committee. D'Amante agreed to provide Bont with all of the contact information for the architectural design committee because we would like to reference that on our permits. We want them to get architectural design committee approval before we sign a permit.

Romprey explained that for the 231 units, whatever the agreement says that number would not change. Certain parcels have already been approved for certain number of units. They have pulled permits accordingly. Elliott would have to provide engineering and other data for upcoming projects, but as long as he stays within that 231 dwelling units and he goes to the planning board with it that number would not be questioned.

Robinson clarified that when we say that the number is arrived at with the Board of Selectmen, what came before was that the planning board reviewed and approved plans similar to this with layouts and designs and then the agreement was written. These plans first go the Planning Board and are approved before they go to the Board of Selectmen. The process takes place before the Planning Board. The actual agreement is with the Board of Selectmen. Those agreements are recorded.

Robinson also cautioned that there is a caveat. They come in with a design and it is approved for 231 units. Now part of that approval included this little block where there were 32 units. Now Elliott says, "I think that this is a much better design, but it is only 26 units". When Elliott goes to redesign the other areas, he will have to make the roads compliant and the setbacks compliant. He might not be able to SQUEEZE those six lots in somewhere else.

Romprey noted that when Rick Elliott was here, he just thought he was going to put the difference in the green area. Elliott said he was dropping the ten units and he did not imply that he was going to put them somewhere else. He did not say he was going to put them somewhere else. He just said he was going to delete ten units from the parcel and make that green area.

Burbank asked D'Amante what the price range of the units would be. His group of investors is encouraging upgrades across the board, including the design of the units. They see a gap in price range from greater than \$339,000 - \$500,000. There is no inventory in that price range.

D'Amante asked about whether the Planning Board knew about any obligations Elliott owed to the Master Association. He learned that Elliott owes the Master Association in the range of \$50,000 to the Association for paving on the main road from the gate up to the clubhouse. The Master Association paid \$100,000 for the repaving due to the work that was done in his project on Lincoln Development. The Planning Board did not know anything about that.

D'Amante asked about outstanding taxes. Elliott owes property taxes on property owned by Jori, by agreement with the Town of Lincoln; he has until May of next year to catch up all taxes in arrears. Elliott has a written agreement with the tax collector and the Town as well as the ongoing tax bills. To catch up the arrears, he owes in the \$90,000 range. Burbank can provide a copy of that agreement.

D'Amante asked if the agreement about outstanding taxes would be assignable. The agreement is between the Board of Selectmen and Elliott. Elliott owed \$X in taxes and he could not pay them. If he could not pay them he would go to tax lien. In order to be assignable, both parties would have to agree. Burbank could see no reason not to, at least on the surface. He can see no reason why the town would not want to participate in an assignment if the whole idea was to have the town catch up on its missing taxes. D'Amante thinks an assignment would take a separate and specific vote of the Board of Selectmen. If the legal ownership does not change the agreement with Jori Properties, LLC would continue. If ownership changed the Board of Selectmen would have to vote on it.

Romprey informed D'Amante of two new developments. First, Lincoln is going to third party inspections systems on buildings. Second, from now on Lincoln is making everyone bond roads. It will increase the cost of development. These conditions are new as of 2013. We have actually made others bond ahead of this project.

D'Amante asked about how the road bonding would work. Romprey explained that all roads must be paved and all utility installations completed before the developer can turn the property

over. If you are only going as far as the first house that is the only part that you need to have paved with utilities. The town can incrementally release the bond as the developer goes.

D'Amante asked if the roads need to be bonded. Romprey responded, yes because the town had a situation where it almost got caught with full responsibility for roads, water and sewer in a private development. The developer was going to bail out. We cannot allow that to happen to the town. All of these roads are private roads. Bonding can be done in increments, but if the developer is running equipment on the main road and damaged the road he should be responsible for any damage incurred as evidenced by Saber Mountain Road and Black Mountain Road that they are going to have to redo at some point.

D'Amante discussed the paving situation on Saber Mountain Road and Black Mountain Road.

D'Amante asked if there were any other obligations owed by Elliott that the Planning Board was aware of. Do we know of any disputes with the association? Bont advised him to check with David Larsen, Property Manager for Forest Ridge.

D'Amante asked about the capacity of the clubhouse. Romprey responded that if Elliott added 220 units the current clubhouse would not be large enough. The facility there now is what was anticipated to meet the needs of what is up there now. If he added that many units he would have to add to the facility there somewhere.

Burbank asked about the parking needed for the clubhouse. Romprey advised that there was plenty of room to add onto the clubhouse and there is plenty of parking.

D'Amante asked if the Town approved condominium documents. Romprey responded that no, the State Attorney General's Office approved those. D'Amante said that even though the state statute says the state approves them, they do not really because they just register them. There are very few communities that don't review them.

D'Amante asked if Elliott would have to come before the Planning Board to get subdivision approval, site plan review, approval for the floor plan or the elevation for developing a condominium. Romprey responded that we require that every single one of these buildings be approved with their physical plan – the floor plan, their site plan, their elevations, but we do not require the actual condo documentation.

D'Amante explained that under subdivision regulations most communities then approve the condo documents, the bylaws, the declaration, etc. Romprey replied that we rely on the AG's office to do that. The reason we did not do that is that there is so much variation to them up here.

IV. OTHER BUSINESS

None.

VII. 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.

No public input.

VIII. ADJOURNMENT

Motion to Adjourn.

Motion: Spanos.

Second: Robinson.

Motion carries unanimously by all members present (4-0)

The meeting was adjourned by at 8:02 pm.

Respectfully submitted,

Carole Bont, Planning and Zoning
Administrative Assistant

Dated: October 9, 2013


R. Patrick Romprey, Chairman

Attachment A.

**NEW HAMPSHIRE
CODE OF ADMINISTRATIVE RULES**

New Hampshire Real Estate Commission
64 South Street
Concord, NH 03301

CHAPTER Rea 100 ORGANIZATIONAL RULES**CHAPTER Rea 500 ETHICAL STANDARDS****PART Rea 501 CODE OF ETHICS****PART Rea 701 DISCLOSURE**

Rea 701.02 Licensee's Duty to a Prospective Buyer. A licensee shall disclose to a prospective buyer/tenant any material physical, regulatory, mechanical or on-site environmental condition affecting the subject property of which the licensee has actual knowledge. Such disclosure shall occur any time prior to the time the buyer/tenant makes a written offer to purchase or lease the subject property. This shall not create an affirmative obligation on the part of the licensee to investigate material defects.

Source. #5077, eff 6-1-91; rpld by #5207, eff 8-22-91;
ss by #5336, eff 6-1-92; ss and moved by #5576,
eff 2-11-93 (from Rea 701.04), EXPIRED: 2-11-99

New. #7164, INTERIM, eff 12-18-99, EXPIRED:
4-16-00

New. #7267, eff 5-6-00, ss by #7522 eff 6-28-01; ss by
#9301, eff 10-22-08

Rea 701.03 Private Water Supply Disclosure.

(a) A licensee, when listing property for sale, purchase or exchange which is served by a private water supply and is used or proposed to be used for a one to 4 family dwelling, shall ask the seller for at least the following information:

- (1) Type of system;
- (2) Location;
- (3) Malfunctions;

(4) Date of installation;

(5) Date of most recent water test; and

(6) Whether the seller has experienced a problem such as an unsatisfactory water test or a water test with notations.

(b) Such information and any other information pertinent to the private water supply shall be conveyed, in writing, to a buyer prior to or during the preparation of an offer. The fact that information regarding the private water supply is not available shall also be conveyed, in writing, when such is the case.

Source. #5077, eff 6-1-91; rpld by #5208, eff 8-22-91;
ss by #5337, eff 6-1-92; ss and moved by #5576, eff 2-
11-93 (from Rea 701.05), EXPIRED: 2-11-99

New. #7164, INTERIM, eff 12-18-99, EXPIRED:
4-16-00

New. #7267, eff 5-6-00, EXPIRED: 5-6-08

New. #9202, INTERIM, eff 7-16-08; ss by #9301, eff
10-22-08

Rea 701.04 Insulation Disclosure.

(a) A licensee, when listing property for sale, purchase or exchange which is used or proposed to be used for a one to 4 family dwelling, shall ask the seller for at least the following information:

(1) Type of insulation; and

(2) Location of insulation.

(b) Such information and any other information pertinent to the insulation shall be conveyed, in writing, to a buyer prior to or during the preparation of an offer. The fact that information pertinent to the insulation is not available shall be conveyed, in writing, when such is the case.

Source. #5077, eff 6-1-91; rpld by #5168, eff 6-21-91;
ss by #5338, eff 6-1-92; ss and moved by #5576, eff 2-
11-93 (from Rea 701.06), EXPIRED: 2-11-99

New. #7164, INTERIM, eff 12-18-99, EXPIRED:
4-16-00

New. #7267, eff 5-6-00; EXPIRED: 5-6-08

New. #9202, INTERIM, eff 7-16-08; ss by #9301, eff
10-22-08

Rea 701.05 Sewage Disposal System Disclosure.

(a) A licensee, when listing property for sale, purchase or exchange which is served by a private sewage disposal system and is used or proposed to be used for a one to 4 family dwelling, shall ask the seller for at least the following information:

- (1) Location of system;
- (2) Malfunctions;
- (3) Date of most recent servicing; and
- (4) Name of contractor or person who services the system.

(b) Such information and any other information pertinent to the sewage disposal system shall be conveyed, in writing, to a buyer prior to or during preparation of an offer. The fact that information regarding the sewage disposal system is not available shall also be conveyed, in writing, when such is the case.

Source. #5077, eff 6-1-91; rpld by #5208, eff 8-22-91; ss by #5339, eff 6-1-92; ss and moved by #5576, eff 2-11-93 (from Rea 701.07), EXPIRED: 2-11-99

New. #7164, INTERIM, eff 12-18-99, EXPIRED: 4-16-00

New. #7267, eff 5-6-00, EXPIRED: 5-6-08

New. #9202, INTERIM, eff 7-16-08; ss by #9301, eff 10-22-08

Attachment B.

TITLE III
TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES
CHAPTER 33-A
DISPOSITION OF MUNICIPAL RECORDS

Section 33-A:1

33-A:1 Definition of Terms. – In this chapter:

I. "Board" means the municipal records board.

II. "Municipal" refers to a city or town, county or precinct.

III. "Municipal officers" means:

(a) In the case of a town, the board of selectmen.

(b) In the case of a city which has adopted the council manager plan under RSA 49-A, the city manager.

(c) In the case of any other city, the mayor.

(d) In the case of a county, the county commissioners.

(e) In the case of a precinct, the precinct commissioners.

IV. "Municipal records" means all municipal records, reports, minutes, tax records, ledgers, journals, checks, bills, receipts, warrants, payrolls, deeds and any other written or computerized material that may be designated by the board.

V. "Active" means until termination or expiration of obligations or services, cessation of need for further attention, and completion or release of any pending legal processes.

Source. 1967, 105:1. 1977, 358:1, eff. July 1, 1977. 2005, 187:1, eff. Aug. 29, 2005.

Section 33-A:2

33-A:2 Authority Granted. – [Repealed 1977, 358:7, I, eff. July 1, 1977.]

Section 33-A:3

33-A:3 Municipal Committees. – The municipal officers or their designee together with the clerk, treasurer, an assessor, and tax collector of each city or town shall constitute a committee to govern the disposition of municipal records pursuant to this chapter. Unless otherwise provided by a municipal ordinance, the committee shall designate the office responsible for the retention of each type of record created for the municipality.

Source. 1967, 105:1. 1977, 358:2, eff. July 1, 1977. 2005, 187:2, eff. Aug. 29, 2005. 2006, 119:1, eff. May 12, 2006.

Section 33-A:3-a

33-A:3-a Disposition and Retention Schedule. – The municipal records identified below shall be retained, at a minimum, as follows:

I. Abatements: 5 years.

II. Accounts receivable: until audited plus one year.

III. Aerial photographs: permanently.

IV. Airport inspections-annual: 3 years.

V. Airport inspections-daily, including fuel storage and vehicles: 6 months.

VI. Annual audit report: 10 years.

VII. Annual reports, town warrants, meeting and deliberative session minutes in towns that have adopted official ballot voting: permanently.

VIII. Archives: permanently.

IX. Articles of agreement or incorporation: permanently.

X. Bank deposit slips and statements: 6 years.

XI. Blueprints-architectural: life of building.

- XII. Bonds and continuation certificates: expiration of bond plus 2 years.
- XIII. Budget committee-drafts: until superseded.
- XIV. Budgets: permanently.
- XV. Building permits-applications and approvals: permanently.
- XVI. Building permits-lapsed: permanently.
- XVII. Building permits-withdrawn, or denied: one year.
- XVIII. Capital projects and fixed assets that require accountability after completion: life of project or purchase.
- XIX. Cash receipt and disbursement book: 6 years after last entry, or until audited.
- XX. Checks: 6 years.
- XXI. Code enforcement specifications: permanently.
- XXII. Complaint log: expiration of appeal period.
- XXIII. Contracts-completed awards, including request for purchase, bids, and awards: life of project or purchase.
- XXIV. Contracts-unsuccessful bids: completion of project plus one year.
- XXV. Correspondence by and to municipality-administrative records: minimum of one year.
- XXVI. Correspondence by and to municipality-policy and program records: follow retention requirement for the record to which it refers.
- XXVII. Correspondence by and to municipality-transitory: retain as needed for reference.
- XXVIII. Current use applications and maps: until removed from current use plus 3 years.
- XXIX. Current use release: permanently.
- XXX. Deed grantee/grantor listing from registry, or copies of deeds: discard after being updated and replaced with a new document.
- XXXI. Deferred compensation plans: 7 years.
- XXXII. Underground facility damage prevention forms: 4 years.
- XXXIII. Dredge and fill permits: 4 years.
- XXXIV. Driveway permits and plans: permanently.
- XXXV. Easements awarded to municipality: permanently.
- XXXVI. Elections-federal elections: ballots and absentee ballot applications, affidavit envelopes, and lists: by the town clerk until the contest is settled and all appeals have expired or at least 22 months after the election, whichever is longer.
- XXXVII. Elections-not federal: ballots and absentee ballot applications, affidavit envelopes, and lists: by the town clerk until the contest is settled and all appeals have expired or at least 60 days after the election, whichever is longer.
- XXXVIII. Elections-challenge affidavits by the town clerk:
 - (a) Federal elections: until the contest is settled and all appeals have expired or 22 months after the election, whichever is longer.
 - (b) Non-federal elections: until the contest is settled and all appeals have expired or 60 days after the election, whichever is longer.
- XXXIX. Elections-ward maps: until revised plus 1 year.
- XL. Emergency medical services run reports: 10 years.
- XLI. Equipment maintenance: life of equipment.
- XLII. Excavation tax warrant and book or list: permanently.
- XLIII. Federal form 1099s and W-2s: 7 years.
- XLIV. Federal form 941: 7 years.
- XLV. Federal form W-1: 4 years.
- XLVI. Fire calls/incident reports: 10 years.
- XLVII. Grants, supporting documentation: follow grantor's requirements.
- XLVIII. Grievances: expiration of appeal period.
- XLIX. Health-complaints: expiration of appeal period.
- L. Health-inspections: 3 years.
- LI. Health-service agreements with state agencies: term plus 7 years.
- LII. Health and human services case records including welfare applications: active plus 7 years.
- LIII. Inspections-bridges and dams: permanently.
- LIV. Insurance policies: permanently.
- LV. Intent to cut trees or bushes: 3 years.
- LVI. Intergovernmental agreements: end of agreement plus 3 years.
- LVII. Investigations-fire: permanently.

- LVIII. Invoice, assessors: permanently.
- LIX. Invoices and bills: until audited plus one year.
- LX. Job applications-successful: retirement or termination plus 50 years.
- LXI. Job applications-unsuccessful: current year plus 3 years.
- LXII. Labor-public employees labor relations board actions and decisions: permanently.
- LXIII. Labor union negotiations: permanently or until contract is replaced with a new contract.
- LXIV. Ledger and journal entry records: until audited plus one year.
- LXV. Legal actions against the municipality: permanently.
- LXVI. Library:
 - (a) Registration cards: current year plus one year.
 - (b) User records: not retained; confidential pursuant to RSA 201-D:11.
- LXVII. Licenses-all other except dog, marriage, health, and vital records: duration plus 1 year.
- LXVIII. Licenses-dog: current year plus one year.
- LXIX. Licenses-dog, rabies certificates: disposal once recorded.
- LXX. Licenses-health: current year plus 6 years.
- LXXI. Liens-federal liens upon personal property, other than IRS liens: permanently.
- LXXII. Liens-hospital liens: 6 years.
- LXXIII. Liens-IRS liens: one year after discharge.
- LXXIV. Liens-tax liens, state liens for support of children: until court order is lifted plus one year.
- LXXV. Liens-tax liens, state meals and rooms tax: until release plus one year.
- LXXVI. Liens-tax sale and record of lien: permanently.
- LXXVII. Liens-tax sales/liens redeemed report: permanently.
- LXXVIII. Liens-Uniform Commercial Code leases: lease term plus 4 years; purge all July 1, 2007.
- LXXIX. Liens-Uniform Commercial Code security agreements: 6 years; purge all July 1, 2007.
- LXXX. Meeting minutes, tape recordings: keep until written record is approved at meeting. As soon as minutes are approved, either reuse the tape or dispose of the tape.
- LXXXI. Minutes of boards and committees: permanently.
- LXXXII. Minutes of town meeting/council: permanently.
- LXXXIII. Minutes, selectmen's: permanently.
- LXXXIV. Motor vehicle-application for title: until audited plus one year.
- LXXXV. Motor vehicle-titles and voided titles: sent to state division of motor vehicles.
- LXXXVI. Motor vehicle permits-void and unused: until audited plus one year.
- LXXXVII. Motor vehicle permits and registrations-used: current year plus 3 years.
- LXXXVIII. Municipal agent daily log: until audited plus one year.
- LXXXIX. Notes, bonds, and municipal bond coupons-cancelled: until paid and audited plus one year.
- XC. Notes, bonds, and municipal bond coupon register: permanently.
- XCI. Oaths of office: term of office plus 3 years.
- XCII. Ordinances: permanently.
- XCIII. Payrolls: until audited plus one year.
- XCIV. Perambulations of town lines-copy kept by town and copy sent to secretary of state: permanently.
- XCV. Permits or licenses, pole: permanently.
- XCVI. Personnel files: retirement or termination plus 50 years.
- XCVII. Police, accident files-fatalities: 10 years.
- XCVIII. Police, accident files-hit and run: statute of limitations plus 5 years.
- XCIX. Police, accident files-injury: 6 years.
- C. Police, accident files-involving arrests: 6 years.
- CI. Police, accident files-involving municipality: 6 years.
- CII. Police, accident files-property damage: 6 years.
- CIII. Police, arrest reports: permanently.
- CIV. Police, calls for service/general service reports: 5 years.
- CV. Police, criminal-closed cases: statute of limitations plus 5 years.
- CVI. Police, criminal-open cases: statute of limitations plus 5 years.
- CVII. Police, motor vehicle violation paperwork: 3 years.
- CVIII. Police, non-criminal-internal affairs investigations: as required by attorney general and union contract and town personnel rules.
- CIX. Police, non-criminal-all other files: closure plus 3 years.

- CX. Police, pistol permit applications: expiration of permit plus one year.
- CXI. Property inventory: 5 years.
- CXII. Property record card: current and last prior reassessing cycle.
- CXIII. Property record map, assessors: until superceded.
- CXIV. Property tax exemption applications: transfer of property plus one year.
- CXV. Records management forms for transfer of records to storage: permanently.
- CXVI. Road and bridge construction and reconstruction, including highway complaint slips: 6 years.
- CXVII. Road layouts and discontinuances: permanently.
- CXVIII. Scenic roads: permanently.
- CXIX. School records: retained as provided under RSA 189:29-a.
- CXX. Septic plan approvals and plans: until replaced or removed.
- CXXI. Sewer system filtration study: permanently.
- CXXII. Sign inventory: 7 years.
- CXXIII. Site plan review: life of improvement plus 3 years.
- CXXIV. Site plan review-lapsed: until notified that planning board action and appeal time has expired plus one year.
- CXXV. Site plan review-withdrawn or not approved: appeal period plus one year.
- CXXVI. Special assessment (betterment of property): 20 years.
- CXXVII. Street acceptances: permanently.
- CXXVIII. Street signs, street lights and traffic lights-maintenance records: 10 years.
- CXXIX. Subdivision applications-lapsed: until notified that planning board action and appeal period has expired plus one year.
- CXXX. Subdivision applications-successful and final plan: permanently.
- CXXXI. Subdivision applications-withdrawn, or not approved: expiration of appeal period plus one year.
- CXXXII. Subdivision applications-working drafts prior to approval: expiration of appeal period.
- CXXXIII. Summary inventory of valuation of property: one year.
- CXXXIV. Tax maps: permanently.
- CXXXV. Tax receipts paid, including taxes on land use change, property, resident, sewer, special assessment, and yield tax on timber: 6 years.
- CXXXVI. Tax-deeded property file (including registered or certified receipts for notifying owners and mortgagees of intent to deed property): permanently.
- CXXXVII. Time cards: 4 years.
- CXXXVIII. Trust fund minutes, quarterly reports, and bank statements: permanently.
- CXXXIX. Vehicle maintenance records: life of vehicle plus 2 years.
- CXL. Voter checklist-marked copy kept by town pursuant to RSA 659:102: 7 years.
- CXLI. Voter registration:
 - (a) Forms, including absentee voter registration forms: until voter is removed from checklist plus 7 years.
 - (b) Same day, returned to undeclared status, form and report from statewide centralized voter registration database: 7 years.
 - (c)(1) Party change form: until voter is removed from checklist plus 7 years.
 - (2) List of undeclared voters from the statewide centralized voter registration database: 7 years.
 - (d) Forms, rejected, including absentee voter registration forms, and denial notifications: 7 years.
 - (e) Qualified voter affidavit: until voter is removed from checklist plus 7 years.
 - (f) Domicile affidavit: until voter is removed from checklist plus 7 years.
 - (g) Overseas absentee registration affidavit: until voter is removed from checklist plus 7 years.
 - (h) Absentee ballot voter application form in the federal post card application format, for voters not previously on the checklist: until voter is removed from checklist plus 7 years.
 - (i) Absentee ballot affidavit envelope for federal post card applicants not previously on the checklist: until voter is removed from checklist plus 7 years.
 - (j) Notice of removal, 30-day notice: until voter is removed from checklist plus 7 years.
 - (k) Report of death: until voter is removed from checklist plus 7 years.
 - (l) Report of transfer: until voter is removed from checklist plus 7 years.
 - (m) Undeliverable mail or change of address notice from the United States Postal Service: until voter is removed from checklist plus 7 years.
- CXLII. Vouchers and treasurers receipts: until audited plus one year.
- CXLIII. Warrants-land use change, and book or list: permanently.

- CXLIV. Warrants-property tax, and lists: permanently.
- CXLV. Warrants-resident tax, and book or list: permanently.
- CXLVI. Warrants-town meeting: permanently.
- CXLVII. Warrants-treasurer: until audited plus one year.
- CXLVIII. Warrants-utility and betterment tax: permanently.
- CXLIX. Warrants-yield tax, and book or list: permanently.
- CL. Welfare department vouchers: 4 years.
- CLI. Work program files: current year plus 6 years.
- CLII. Writs: expiration of appeal period plus one year.
- CLIII. Zoning board of adjustment applications, decisions, and permits-unsuccessful: expiration of appeal period.
- CLIV. Intent to excavate: completion of reclamation plus 3 years.
- CLV. Election return forms, all elections: permanently.

[Paragraph CLVI effective September 1, 2015.]

CLVI. Affidavits of religious exemption: until voter is removed from checklist plus 7 years.

Source. 2005, 187:3, eff. Aug. 29, 2005. 2006, 119:2-5, eff. May 12, 2006. 2010, 172:1-3, eff. Aug. 16, 2010; 191:1, eff. Aug. 20, 2010. 2012, 113:1, eff. May 31, 2012; 284:13, eff. Sept. 1, 2015.

Section 33-A:4

33-A:4 Disposition Schedule. – [Repealed 1977, 358:7, II, eff. July 1, 1977.]

Section 33-A:4-a

33-A:4-a Municipal Records Board. –

- I. There is hereby established a municipal records board consisting of the following persons or their designees:
 - (a) The director of the division of archives and records management.
 - (b) The director of the New Hampshire Historical Society.
 - (c) The state librarian.
 - (d) The presidents of the New Hampshire Tax Collectors' Association, the New Hampshire City and Town Clerks' Association and the Association of New Hampshire Assessors.
 - (e) The registrar of vital records.
 - (f) The secretary of state.
 - (g) A municipal treasurer or finance director appointed by the president of the New Hampshire Municipal Association for a 3-year term.
 - (h) A professional historian appointed by the governor and council for a 3-year term.
 - (i) A representative of the Association of New Hampshire Historical Societies appointed by its president for a 3-year term.
 - (j) A representative of the department of revenue administration.
 - (k) The state records manager.
- II. The board shall elect its own chairman and vice-chairman. The board shall meet at the call of the chairman, but not less than once every 2 calendar years. Five members of the board shall constitute a quorum for all purposes. Board members shall serve without compensation. Administrative services for the board shall be provided by the director of the division of archives and records management who shall serve as secretary of the board.

Source. 1977, 358:3. 1985, 102:1. 1991, 197:1, eff. July 27, 1991. 2003, 97:4, eff. Aug. 5, 2003; 319:56, eff. July 1, 2003.

Section 33-A:4-b

33-A:4-b Powers and Duties of Board. – The board shall advise the secretary of state on standards and procedures for the effective and efficient management of municipal records. Such standards and procedures shall

govern the retention, preservation and disposition of municipal records. The board shall oversee the local government records management improvement program as provided in RSA 5:47-5:51.

Source. 1977, 358:3, eff. July 1, 1977. 2002, 145:3, eff. July 12, 2002. 2005, 187:4, eff. Aug. 29, 2005.

Section 33-A:5

33-A:5 Microfilming. – If municipal records are disposed of by microfilming, 2 films shall be produced. One film shall be retained by the municipality in a fireproof container and properly labeled. One shall be transferred to a suitable location for permanent storage.

Source. 1967, 105:1. 1977, 358:4, eff. July 1, 1977.

Section 33-A:5-a

33-A:5-a Electronic Records. – Electronic records as defined in RSA 5:29, VI and designated on the disposition schedule under RSA 33-A:3-a to be retained for more than 10 years shall be transferred to paper, microfilm, or both. Electronic records designated on the disposition schedule to be retained for less than 10 years may be retained solely electronically if so approved by the record committee of the municipality responsible for the records. The municipality is responsible for assuring the accessibility of the records for the mandated period.

Source. 2005, 187:5, eff. Aug. 29, 2005. 2006, 275:6, eff. June 15, 2006.

Section 33-A:6

33-A:6 Exception. – Notwithstanding any other provision hereof, original town meeting and city council records shall not be disposed of but shall be permanently preserved. Such records prior to 1900 need not be microfilmed unless legible.

Source. 1967, 105:1, eff. July 10, 1967.