

**LINCOLN PLANNING BOARD
REGULAR MEETING MINUTES
WEDNESDAY, AUGUST 28, 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.

Members Excused: Norman Belanger (alternate), and Taylor Beaudin (alternate).

Members Absent: None.

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

Guests: Eric Pospesil, L.L.S., Horizons Engineering, 34 School Street, Littleton, NH 03561 and Jay Polimeno, Principal broker for Loon Mountain Real Estate Company, 60 Loon Mountain Road, Lincoln, NH 03251

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 14, 2013

The Board reviewed the minutes. Strickon noted a correction needed on page ten, Patricia McTeague not present at the last meeting, rather it was OJ Robinson.

Motion to move consideration of the minutes, as amended.

Motion: Strickon.

Second: Spanos.

Motion carried (4-0).

III. NEW BUSINESS

- A. 6:00 pm. **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).

1. **Map 118, Lot 039**

2. **Address:** L/O South Peak Road

3. **Applicant:** Michael D. Norman, President

Horizons Engineering, Inc., acting as an agent for CVRI South Peak TRS, Inc.

34 School Street

Littleton, NH 03561

4. **Owner:** CVRI South Peak TRS, Inc. (“CVRI”)

C/o Ed Wendler

301 Congress Suite 500
Austin, TX 78701

(Former owners of this property were Centex Homes, and later MDR South Peak, LLC.)

Proposal: Application to Approve Subdivision of Five Lots:

Ed Wendler, Development Manager for Cypress Real Estate Advisors on behalf of CVRI South Peak TRS, Inc., by their agent Michael D. Norman, President of Horizons Engineering acting as an agent for CVRI South Peak TRS, Inc., requests approval of an application to subdivide five lots. Applicant proposes a subdivision of Tax Map 118, Lot 39 (presently 106.1 acres) to carve out five additional lots located near the East Branch Pemigewasset River. It will be called "Mountain Homes at South Peak, Phase II." The size of the proposed subdivided lots will be as follows:

1. Lot #1: 0.25 acres;
2. Lot #2: 0.21 acres;
3. Lot #3: 0.21 acres;
4. Lot #4: 0.21 acres; and
5. Lot#5: 0.60 acres.

The Planning Board previously approved 142 lots in earlier site plan approvals. If these five lots are approved there will be 732 remaining lots to be developed. Most of Tax Map 118, Lot 39, is located in the General Use (GU) Zone. A small portion is located in the Rural Residential (RR) Zone. All five proposed lots are located in the General Use Zone (GU).

Eric Pospesil, L.L.S., Horizons Engineering, 34 School Street, Littleton, presented the application on behalf of CVRI South Peak TRS, Inc.

Discussion

A. The Planning Board reviewed with Pospesil the maps associated with:

1. **NHDES Shoreland Permit Application**, named "Cypress Real Estate Advisors Tax Map 118, Lot 39, South Peak Road". This application appears to be CVRI's NHDES Shoreland Permit Application. The property owner is inaccurately listed as "Cypress – Real Estate Advisors" on the Shoreland Permit Application. The real property owner's name does not appear in the Title Box. [DES File #2013-02142]. Note: The abutting lot numbers need to be fixed. A number of the lots shown on the map are not approved.
2. **NHDES Alteration of Terrain Permit Application**, named "Cypress Real Estate Advisors Mountain Homes at South Peak Phase II". This application appears to be CVRI's NHDES Alteration of Terrain Permit Application. The property owner is inaccurately listed as "Cypress – Real Estate Advisors, Mountain Homes at South Peak, Phase II, Lincoln, NH July 2013" on the Alteration of Terrain Application. The real property owner's name does not appear in the Title Box. [DES File #130801-103]. Note: The abutting lot numbers need to be fixed. A number of the lots shown on the map are not approved.

3. *The various maps associated with this project are confusing because they describe this project using a number of different names including:*
 - a. *Pemi River Cabins, Phase II, South Peak Road;*
 - b. *Mountain Homes at South Peak, Phase II;*
 - c. *Pemi Cabins; and*
 - d. *Tax Map 118, Lot 39.*

B. Preliminary Matters – Two Lots Indicated As “Vacant” Are Not “Vacant”:

The Planning Board discussed some preliminary matters with Pospesil. The Planning Board had a number of questions about the maps Horizons submitted in connection with the two NH DES applications.

1. *There are two lots where Horizons has indicated that the areas are “yet to be developed” on the maps for the Shoreland Permit Application and the Alternation of the Terrain Permit, but these two lots are already developed.*
 - a. *There is a house on Map 121, Lot 041 where the maps indicate: “Area 2 To remain in an unaltered state 97,077 square feet.” The Town Manager/ Town Planner Burbank took a photo of the house today located on Map 121 Lot 041 with an address of “184 South Mountain Drive” - presently owned by Drake G. & Maria E. Behrakis of 23 Candy Hill Lane, Sudbury, MA 02776. Burbank was sitting in the car in the road on Yellow Birch Circle when he took the photo. This lot cannot be called “vacant land” as indicated on Horizons’ map. There is a house on it. Burbank was sitting in the middle of the road called Yellow Birch Circle at the intersection of Yellow Birch Circle and South Mountain Drive and he was looking at that house. (See Attachment A.)*

Pospesil will inform Horizons of this mistake. Pospesil said he was not involved in this project prior to this particular application. This map is part of the Application for a Shoreland Permit. This lot is no longer available to count towards the density of the lot for the purpose of clustered development.

When the Planning Board saw the hash marks on that lot (Map 121 Lot 041 – 184 South Peak Road) they made the assumption that that lot was common land for the development of Map 118 Lot 39. Pospesil opined that perhaps the leader should have been located elsewhere on the map associated with a different lot. This extent of this mistake will need to be ascertained and fixed.

- b. *There is a second lot with hatch marks indicating that it is a vacant lot available for further development; however, this lot supports the South Mountain Lodge associated with Loon Mountain. (Map 121, Lot 050 – L/O Crooked Mountain Road). This lot is also fully developed and is not available to be used to count against the density of the development for the purposes of clustered development.*

C. “Clustered” Lots Are Smaller Than Minimum Lot Size Requirement of 15,000 Sq. Ft. Per Housing Unit:

Chairman Romprey reminded Pospesil that this CVRI project (the whole original project) was originally approved as a condominium cluster development. And as such, the property owner at the time the Planning Board approved a certain number of units based on that proposal. Horizons now is projecting these lots to be 0.21 or 0.25 Acres for single family homes. Our minimum standing lot size for a residential unit is 15,000 square feet. (0.344+ acres). Why are these new lots less than 15,000 square feet?

Pospesil pointed out that the Planning Board approved a number of lots smaller than 15,000 square feet back in 2011 using the idea of “clustering” and those small lots were approved based on the approved clustered density. Several of those lots were less than 15,000 square feet. Pospesil showed the Planning Board copies of the 2011 plans on record and on the tax maps. There are several lots added in 2011 and they were all less than 15,000 square feet. Looking further down the road, there are a couple of lots that are 15,000 square feet or greater, but then down across the road, the lots sizes are also less than 15,000 square feet. Some lots approved by the Planning Board are entirely in the flood plain and most are less than 15,000 square feet. These lots were approved when the property was owned by CENTEX Homes. Pat Bahr was the representative of CENTEX Homes at the time.

Presently, Horizon's client, CVRI South Peak TRS, Inc., is proposing five new lots. Lots 1-4 are sandwiched between the J. Henry Trail (located right next to the East Branch Pemigewasset River) and South Mountain Drive. These four lots are located along and will have access from South Peak Road. According to Pospesil, based on what he has been able to interpolate from the Master Plan for the total development and the agreements that were made with the Town in the past, he believes the Planning Board means to follow the design intent, but being a Planned Community Development, ultimately the density for the total area wins out. Chairman Romprey agreed.

[Note: According to the application submitted: Total Lots Approved in Site Plan = 879 dwelling units = 142 already approved lots + 5 new lots proposed + 732 units left to develop. According to the initial Master Plan submitted: Total Lots Projected = 901 units. The correct total of approved lots will have to be ascertained prior to approving any more lots and will require a significant amount of research to be completed.]

D. Impervious Coverage:

The Planning Board discussed the allowable impervious coverage for the four of the five proposed lots along the East Branch Pemigewasset River. In the Shoreland Protection Area property owners are allowed 30% impervious coverage of the lot. "Protected Shoreland" remains defined as all land within 250 feet of the natural mean high water level. According to Pospesil, the plans Horizons submitted with the Alteration of Terrain Application and the Shoreland Permit Application all meet both the density open space requirements for the lots and the 30% maximum impervious lot coverage requirement.

E. Lots Are Located Between One and Two Feet of 2000 100 Year Flood Elevation:

According to Pospesil, calculations for the 100 Year Flood Elevation were made and all of the slab elevations are above the calculated flood zone by anywhere from one (1) foot to two (2) feet. The Planning Board asked Pospesil if he would be happy to be building within one (1) to two (2) feet of the 100 Year Flood Elevation. He said, "I am not building it. That is the flat basement elevation." [Note: Slabs, not basements are proposed.]

F. Recent Physical Evidence of Flooding:

The Planning Board asked Pospesil if he had been down at the site and seen the evidence of the recent high water from 2011. Pospesil answered that he had, but he argued that Tropical Storm Irene was not a 100 Year Flood Event and, therefore, should not be used as a measure of the 100 Year Flood Elevation. Horizons' clients need to base their proposal on what the adopted current flood standards are. "It is the Town's effective FIRM that governs the Flood Zone in this community." The Flood Zone is based on the effective FIRM maps. Even the Preliminary Maps prepared by FEMA for 2009 does not vary the elevation in this development. The flood elevations are still the same in this area.

G. Why Did the Board Approve Other Lots in the Flood Plain?

Pospesil asked why the Planning Board approved the other lots in 2011 using the same 2000 and 2009 preliminary flood maps. At that time Pospesil prepared the plans for the previous phase of the project and Pat Bahr presented it to the Planning Board. Hettinger reminded Pospesil that Pat Bahr and the previous owners of the CVRI property were told 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. The Planning Board thought they might consider reviewing their prior approvals.

Pospesil pointed out that for lots the Planning Board approved in 2011, and for lots the prior owners have already developed; "everything" was to take place outside of the Flood Zone, even the grading and drainage. None of the infrastructure is in the flood zone; it is all outside of the flood zone. The flood zone for the present five-lot subdivision is based on all the same flood data from 2000 that FEMA provided to the Town and the Town adopted with the Flood Plan Maps.

[Note: See Attachment C. Letter from NH DES, dated September 4, 2013, received after the hearing, paragraph 1. "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."]

H. The 100 Year Flood Elevation is Going To Change:

Hettinger reminded Pospesil that the Town of Lincoln had not adopted anything other than the original 2000 FEMA maps – the effective FIRM. [FEMA Flood Insurance Rate Map (FIRM)] Hettinger pointed out that Tropical Storm Irene hit Lincoln after the time the FIRM

maps were prepared in 2000 and after the project application in 200. The true impact of the 2011 flooding is clear and fresh in their memories.

Pospesil explained that he did not think Lincoln should expect any real changes to the Flood Zone even with an update. In 2009 when the most recent set of preliminary plans of FIRM maps were prepared by FEMA – all FEMA really did was to update their maps with “geo-references”. This means FEMA made available, through means of GIS, all the newer data that FEMA has through its satellite imaging and other sources to incorporate into their flood data base so that users could use it spatially. In the past what happened with FIRM maps is that FEMA had to digitize the flood zone because the flood data had no coordinate value in the real world. Starting in around 2008 FEMA told communities they were not going to allow people in the different communities to “rubber fit their geo-data to FEMA maps”; FEMA wanted to perform that task. FEMA will overlay their new data over the old FIRM maps and trace. Now what happens is that information is placed on a plan. If FEMA is using older mapping sources then the older mapping information gets digitized. Rather than let somebody else make the mistakes and fail to digitize the line in the correct location, FEMA will provide you with their geo-reference information. As long as Lincoln is surveying or mapping on established data, which is the NH Plane Coordinate System here in NH, FEMA will provide Lincoln with that line, rather than let Lincoln take the risk of digitizing the data itself.

According to Pospesil, once a property is identified as being in the 100 Year Flood Elevation, mortgage lenders require the property owner to have flood insurance on the property. If the property owners disagree and say they do not think their property is in the flood hazard area, then the lender still requires anyone who wants to take out the loan to buy flood insurance unless the owner can prove the lot is not within the 100 Year Flood Elevation. The property owner will contact a surveyor to see if the surveyor can show the lot is not in the 100 Year Flood Elevation. The surveyor will provide a letter or map amendment or an elevation certificate to say the structure is out of the flood zone so the property owner will not be required to have flood insurance.

I. How Old Is The Data Used By Horizons?

Hettinger asked Pospesil how old the data was that he used when he drew the 100 Year Flood Elevation line on the current plan. Pospesil advised that the location of the line had not moved since the original owners had Horizons draw it on the initial plan submitted in 2005.

Hettinger and Romprey advised Pospesil that staff from FEMA came to Lincoln a couple of years ago and said that they were going to increase the height of the 100 Year Flood Elevation in Lincoln. Lincoln was told that the information about the level of the 100 Year Flood Elevation that was going to be coming out was going to be considerably higher than the level in effect when the project was first approved in 2005. In fact, they said the 100 Year Flood Elevation may be a foot or more above the present levee system.

Pospesil advised the Planning Board that Horizons is required to work with the 2000 information that has been adopted and accepted as part of the FIRM Maps. Horizons’

present proposal on behalf of CVRI meets those requirements. If Lincoln is invested in the Federal Flood Insurance Program, then it is up to the Town and whoever the Flood Zoning Management Coordinator is to work with the federal agencies to update mapping information.

The Planning Board countered that the 100 Year Flood Elevation line on the CVRI plan is based on information from back in 2000 and 2005. The members of the Planning Board know that a higher level is coming out. They asked Pospesil, "Do you think we should go with the numbers from 2000 or 2005 or should we make you build to the higher standard?" Members of the Planning Board said they had ethical difficulty with failing to acknowledge that the new level will increase.

Pospesil asked the Planning Board to explain why the Board approved all of these other lots that were in the same development within the flood plain. The Planning Board responded that they now have the benefit of hindsight. They have seen exactly where the flood waters can rise to here in Lincoln with Tropical Storm Irene in 2011.

Pospesil argued that Tropical Storm Irene is not the 100 Flood Event so the Planning Board should not base their decisions on the flood levels of Tropical Storm Irene.

Strickon demanded: "Ask the poor people whose basements were flooded and who lost everything what they think! We want you to have empathy!"

J. What Was the Magnitude of Tropical Storm Irene?

Members of the Planning Board asked Pospesil if he knew what the magnitude of Tropical Storm Irene was – if it was not a 100 Year Event, was it considered a 200 Year Event?

Pospesil responded that he was not a hydrologist so he could not tell them. Pospesil said he thought that "Noah would have been impressed with that one."

Pospesil continued to argue that he had to present his client's information based on what he knew to be the approved 100 Year Flood Elevation data and that he based his plans for CVRI on that level as well as what the Planning Board has been doing recently and what the current town's policies are.

Members of the Planning Board countered that they had ethical considerations to take into account. They had to consider this problem from a homeowner's perspective. They are not going to approve the proposed lots using old information that the Planning Board knows is no good. They do not want to have to justify their decision to some poor guy who gets flooded out and comes to ask the Planning Board why they approved these lots.

K. How Far Up Was the Water Today?

Rompney asked Hettinger how far up the water line was today. Hettinger guessed the water today was about 8-10 feet below the official 100 Year Flood Elevation line, however, he reminded the Board that August is a month when there is traditionally very little water flow. Hettinger reported that Burbank, Bont and he walked along the J. Henry Trail leading up to the lots down to Old Hole (swimming hole) to view the proposed lots. The trail is located

right between the four proposed lots and East Branch Pemigewasset River on the very edge of the proposed lots. They walked along the trail where they saw lots of sand that had been dug up and then deposited on the J. Henry Trail by Tropical Storm Irene. Hettinger is aware of when the sand was deposited there because he walked the J. Henry Trail regularly both before and after Tropical Storm Irene.

Pospesil argued that the new sand from Tropical Storm Irene was still all in the 100 Year Flood Zone as shown on the 2000 FIRM maps. The flood zone goes right up to the edge of the road. He argued that the four lots closest to the River were “upland”, and, therefore, not in the flood zone.

L. Map Does Not Show Good Elevations from East Branch Pemigewasset River:

Hettinger complained that Pospesil's map for the new subdivision does not show good elevations from the East Branch of the Pemigewasset River. Looking at the map with the elevations from the edge of the river, the lots appear to be right on the edge of and not much higher than the flood plain. Some of these lots are less than one or two feet above the 100 Year Flood Elevation.

Pospesil responded, “An inch is as good as a mile if you are out of the flood zone.” According to Pospesil, as far as FEMA is concerned and as far as the insurance companies are concerned that is true. “Ask the people who live out on the Great Barrier Island in North Carolina.”

M. Property Owners Are Not Getting Adequate Notice of Potential Flooding From Realtors and Sellers:

The Planning Board argued that the people who bought homes on the Great Barrier Island in North Carolina knew the homes were in danger of flooding in advance of buying. They could see evidence of it. However, in Lincoln potential buyers cannot see the flood issue; it is not as obvious. They see what appears to be a small peaceful stream nearby.

Pospesil responded that the decision to buy a house within harms' way is the buyer's choice. If the 100 Year Flood Elevation is mapped and the lot is above the 100 Year Flood Elevation and Horizons has detailed mapping information that Horizons says proves that the landowner can put the basement of that house outside of the 100 Year Flood Elevation Zone, Horizons can prove the structure will be out of the 100 Year Flood Zone and the Planning Board should grant the permit.

Strickon challenged Pospesil, asking him if Horizons would be willing to give potential home owners a warranty that they will never have water in their basement or experience flooding. Pospesil responded that compliance with the FIRM (Flood Insurance Rate Map) is not a warranty against flooding. There is still a 1% chance these lots will have flooding – one chance of flooding every 100 years.

N. What Is The Duty Of A Realtor To Notify The Potential Buyer That The Lot May Be Within Harm's Way?

Hettinger asked what duty would a real estate agent have if he knew the lot he was selling was potentially in harm's way or within the 100 Year Flood Zone? Do they have to tell the buyer of the situation? Does the realtor have any liability if he does not?

Pospesil is not a realtor so he does not know what ethical obligations a realtor has. Pospesil lives by two rivers between the Gale River and Meadow Brook. The flood was right up to the edge of his house, but on the opposite side of the river. His previous home was up on the side of the hill, but when he bought the house and was signing up for the mortgage, the lender wanted him to purchase flood insurance. He had to pay \$400 to have somebody check to determine whether his property was in or out of the 100 Year Flood Elevation zone. Because of his personal experience, Pospesil believes that realtors must have a mandatory obligation to disclose to a potential buyer that a property may be in the 100 Year Flood Elevation.

O. What is the Planning Board's Duty to Potential Buyers Of Lots That May Be In Harm's Way?

The Planning Board reiterated that they know that the 100 Year Flood Elevation is going to change; they were told as much by FEMA. Town officials have been told that FEMA does not believe that this 100 Year Flood line is accurate, but FEMA has not established a new line yet. (The federal Sequester has caused a further delay in FEMA's ability to recalculate that line because the funds to do so have been cut back.)

Pospesil argued that the Town of Lincoln needs to decide whether the Town is in the National Flood Insurance Program or is it out? If Lincoln is in the National Flood Insurance Program then Lincoln has to act in accordance with the effective policy. Lincoln cannot have everybody who owns property sit on hold with their piece of property and say they cannot develop this piece of property because Lincoln is waiting for the federal government to re-establish the 100 Year Flood Elevation line. WHO KNOWS when FEMA is going to do that?! Is FEMA going to change the line, and, is the line going to change in this location? The line is based on information that the Federal Insurance Flood Management Program had in effect at the time they adopted the FIRM (Flood Insurance Rate Map); that is what Flood Insurance is for.

P. What Conditions Shall the Planning Board Set Based on the Present Uncertainty of the What the 100 Year Flood Elevation Should Be?

*The Planning Board acknowledged that although Pospesil may have drawn these proposed lots to existing 100 Year Flood Elevation standards, the dilemma is a moral one because they know that the standard is going to change. Pospesil argued that the Planning Board could only hold his client to the current standard. But the Planning Board said, "You are going to have to elevate these lots another three feet" so that the slabs sit **five feet above the current 100 Year Flood Elevation**. The owners will have to bring in fill to meet that requirement and the Planning Board will note it on the Plan.*

Pospesil acknowledged that this was a reasonable solution.

Because of the uncertainty about how high the 100 Year Flood Elevation will be, the Planning Board did not want to approve a slab that is just two feet above the existing flood plain. On another project that was partially approved the property owners had to raise the level of the building sites up four (4) feet. They had to build closed septic systems too.

Pospesil interjected that he had actually laid out buildings on a commercial piece of property up in Littleton where the building was actually only 0.5 feet above the 100 Year Flood Elevation.

Pospesil acknowledged that he knew before this meeting that the Planning Board was concerned about the 100 Year Flood Elevation because the Planning Board made him aware of their concern when he was in here two months ago for a conceptual. At the same time he believed he had done his homework in trying to find out where FEMA is in the process of updating the Lincoln FIRM maps. He learned that nothing is happening with FEMA at the present time. The 100 Year Flood Elevation line as determined in 2000 might stay on that plan for another ten years. But in the meantime, we have somebody who owns a piece of property who wants to develop that piece of property and should be allowed to do so.

Q. Why Is the Planning And Zoning Office Unable to Find the Recorded Plans or the Selectmen's Agreement with the Prior Owners in the Register of Deeds?

Romprey asked Pospesil if he knew why he could not find any of the plans associated with this development when he tried to look them up in the Registry of Deeds. Pospesil said that he knew he produced a Mylar and the plan is on record. Pospesil said he had the actual recording information.

Romprey told Pospesil that he remembered that the project was only about half completed and that the former property owners had an agreement with the Town of Lincoln for X number of units on X number of acres. Did Pospesil find the agreement? Was it a Selectmen's Agreement?

Bont found in the minutes that back when this project was being reviewed in 2011, the Town hired someone from HEB [Bergeron] Engineering. Although the minutes said the engineer made recommendations, the minutes did not record what the recommendations were.

Several members of the Planning Board members remembered that a good number of the units approved initially were supposed to be multi-story hotel units. Pospesil responded that because the developer(s) had changed his mind and was now developing single family homes instead of multi-story hotel units, the allowable density numbers had decreased a lot. Romprey clarified his understanding that Pospesil's client, CVRI, is knowingly decreasing their own allowable density on the lot by developing single family homes instead of condominium units. Pospesil responded, "Absolutely. Yes. Absolutely. We are very aware of that."

Pospesil pointed to the map set, where paragraph thirteen (13) has the recording information for one of the two 2011 subdivision plans recorded at the Grafton County Registry of Deeds.

Paragraph 13 on Sheet 1 of 4 submitted as part of the application says:

“13. “Mountain Homes at South Peak Resort, a subdivision for MDR South Peak, LLC” dated April 12, 2011, surveyed by Horizons Engineering, Inc. and recorded in Grafton County Registry of Deeds Plan Number 14038.”

[**Note:** Bont contacted the Grafton County Registry of Deeds. Some of the plans associated with this development are indexed under “Riverside Terrace at South Peak Resort”, “Mountain Homes” and “South Peak Resorts”. Some of the plans did not include the name of the owner of record and so do not appear in the chain of title. This particular plan is also indexed under “M”, first name, “D R” second name and would appear in the chain of title.]

R. Going Forward, How Will the Planning Board Calculate the Density?

Robinson asked about the pre-approved lots. The CVRI application says that the Planning Board previously approved 142 lots. If CVRI was going to build 142 condominium units on a lot is that considered just one lot? Romprey and Pospesil clarified that the 142 lots includes the condos and single family homes and everything else that has been developed so far. The development is all residential housing. The count also includes the whole area that was previously developed. Pospesil indicated the only place where there are any condos that have been approved and developed on the map. In the original Master Plan for the development, there were actually three sets of what they call “condo hotels” that were initially proposed. Since then MDR and now CVRI changed their intentions and now plan to build single family homes instead of condo-hotels. Two the three (3) condo-hotels were not approved in a detailed format, but in general concept. The developers only built one section of those approved condo-motels. The other condominium development at one time was going to be comprised of three family houses. Now, all of those multi-family homes have gone away.

Romprey warned Pospesil to be very careful about going in and trying to change the density of a project when he is dealing with a pre-existing subdivision.

S. CVRI Advised to Reinstate the Architectural Review Board.

Hettinger warned Pospesil to talk to CVRI about going forward with their present development. CVRI's predecessors have developed a beautiful residential area, but one or two of the recently approved homes have been and are being built within the setbacks. If they are not in the setbacks they are right up to the setbacks. If CVRI continues to create tiny lots, CVRI's development will result in \$1,000,000 homes that have no back yards and inadequate front yards. The house presently owned by Drake G. & Maria E. Behrakis of 23 Candy Hill Lane, Sudbury, MA 02776 (Map 121, Lot 041) at 184 South Mountain Road must be only fifteen feet from the road. The house being built at 6 Yellow Birch Circle is pretty close to the road too. The homes are just down from South Peak. When they plow the road they are going to push the snow from the road right up into his driveway. It is no longer a nice house when you do that. It looks like a nice house until the first winter when they plow the road and the new owner discovers that 5 feet of the road plowage is going right into his

front yard. It negatively affects the purchase price and whether you can sell it at all. No one is warning these people who are going to buy these places about that.

Pospesil responded that the best that Horizons can do once these lots are created and established, is when, occasionally, Horizons is hired by new property owners to do site plans for these homes they can advise the new owner.

According to the Planning Board, the developer was supposed to establish an Architectural Review Board (ARB). When Hettinger talked to Pat Bahr who used to be in charge of the development, she thought that the ARB was dissolved years ago. The Planning Board strongly advised CVRI that the ARB be restarted. Pospesil said that Mr. Yeager, president of the homeowners association, was very interested that the ARB be continued. Ultimately whether or not the ARB is successful depends on the people who purchase the lots and who become active members of the homeowners association to make sure that their rights are protected. The Planning Board urges CVRI to recommission their ARB. An active ARB will help Horizons as CVRI's representative, will help the Planning Board and it will help CVRI maintain a profitable high-end development.

T. What is the Agreement Between the Predecessor Developer and the Town?

The Planning Board asked Pospesil if he had the agreement document. Pospesil had a copy of the agreement. It is a "Resort Development Agreement". The agreement talks about a project total based on the maximum density. Then the other information is based on the original information found in the original Master Plan that was recorded.

[Note: South Peak Resort Development Agreement by and Between Centex Homes d/b/a Centex Destination Properties and the Town of Lincoln, Grafton County is recorded in the Grafton County Registry of Deeds on August 25, 2006 in Book 23320, Page 0027.]

U. How Many Acres Are Part of This Phase? Does The Acreage Include All Of The Land Under Water?

According to Pospesil, Phase I started out with 311 acres and the developers are still in Phase I. Bont asked if the original 311 acres included all of the land submerged under water as well. The CVRI property line goes to the thread of the East Branch Pemigewasset River. Pospesil replied, "No. I believe that it includes only Mountain Homes Phase I over here because it includes I and II. You[r] tax maps for Tax Map 118, Lot 39 say you have 106.1 acres here and then there was all this other development over there. This is actually Phase I."

Chair Romprey pointed out that the CVRI property line goes to the thread or the middle of the East Branch Pemigewasset River. Pospesil replied, "I am sure it does." Bont asked again if all of the water that is part of the CVRI property was included in the total base number of acres that the developer started with for determining density because she could not tell. The Horizons map says, "Remaining Land 81.59 Acres." Pospesil responded that he thinks the acreage figure comes from the original Master Plan prepared back in 2005.

[Note: The Property Tax Maps for Map 118, Lot 039 is estimated as having 106.1 acres left. According to Cartographic Associates Inc. who prepares the tax maps, the 106.1 appears to include the land under the water of the East Branch Pemigewasset River.

V. Does Horizons Have a List of Planning Board Approvals?

Chairman Romprey asked Pospesil if he had a list of Planning Board approvals as the Town Offices appear to be missing them. There were three (3) or four (4) different subdivision approvals for this one project over the years. Pospesil did not bring that information, but he had the information back at the office. He has copies of the different approvals for each different area- Crooked Mountain Woods and then Riverside. Chairman Romprey asked Pospesil if he would mail them to Carole. He agreed. Romprey explained that we were trying to backtrack from the most recent approval. Pospesil said that he does not think he ever had a town send a formal letter of approval.

W. What is the Density Based On?

Strickon asked if the density for this project was based on 15,000 square foot lots per residential unit. Chairman Romprey explained that even though CVRI is creating a residential lot that is 0.21 acres CVRI is still giving up 15,000 square feet of development. Another way to look at it is that CVRI is giving up the difference between the actual lot size and 15,000 square feet which is the required lot size.

Pospesil admitted that he did not do the actual calculations, but he knew what he was told. He knows that based on the shoreland protection rules for coverage on a site (30% impervious surface) that all of the proposed lots meet those requirements "because we have clustered".

Romprey reminded Pospesil that for every house CVRI creates whether it is 0.10 acres or 15,000 square feet, it still counts as 15,000 square feet in the density calculation. The Planning Board allowed "cluster development". This means that even if CVRI creates a 0.20 acre lot that lot will still count as 15,000 square feet out of the whole package. In other words, they will have to make that land up somewhere else. That is how the density calculation works. It does not matter if they build an 800 square foot shack or a 4,000 square foot house; it still counts as 15,000 square feet out of the whole development, whether they chose to use it or not. Pospesil said, "Yes. Yes. I understand." Initially they were allowed that X number of units based on the 15,000 square feet minimum lot size.

[Note: Bont looked for minutes associated with this development prior to the meeting, however, the minutes refer to "Pemi River Cabins" or the "Pemi Cabins Subdivisions" so she did not think it was the correct subdivision. These housing units are not "cabins". There is one condominium-hotel and several multi-million dollar single family homes. "Pemi Cabins" is the name of the former Pemi Motor Court at 460 Us Route 3 in Lincoln.]

[Note: The initial acreage was allegedly 310.3 acres. In the master plan Horizons rounded the figure up to 311. 311 acres X 43,560 square feet per acre = 13,547,1160 square feet. 13,547,1160 square feet/15,000 square feet per unit = 903.144 units = 903 allowable units. The master plan broke the four lots down into subareas and came up with 901 allowable

units. Initially, based on the Master Plan submitted and approved, the Planning Board allowed 901 units.]

X. Did you count land submerged under water towards the 15,000 square foot lot density?

Bont tried to clarify with the Planning Board and Pospesil, the method for counting land submerged under water. Does the 15,000 square feet for these lots include the part of each individual lot – raw land – that may be under water or in a wetland or part of a stream? Map 118, Lot 39 goes to the thread of the East Branch Pemigewasset River and includes parts of islands whose borders may shift in the river.

Pospesil responded that Horizons was not supposed to count the area of the perennial streams, seasonal streams, wetlands and submerged land. That is one of the reasons Horizons and its client had all of these smaller developed areas broken up into different areas. He remembered seeing that information somewhere – either in the materials for this application or in the master plan for the development. Horizons and their clients agreed that those areas were not part of the calculation. They were not supposed to count wetland as part of the land available for development.

[**Note:** Bont checked with Cartographic Associates, Inc. after the hearing. The remaining starting acres prior to this subdivision and Lot Line Adjustment was 106.1 acres as indicated on the tax map. That number includes the land under the Pemigewasset River to the thread of the river.]

Y. What is the maximum of impervious surfaces allowed in the Shoreland Protection Area?

Robinson asked what the maximum lot coverage of impervious surfaces that would be allowed in the Shoreland Protection Area. Romprey and Pospesil informed him that the maximum allowable impervious coverage limit on a lot within the Shoreland Protection Area is 30%. Up to 30% of the actual lot is allowed to be covered with impervious surfaces based on the entire actual lot size and not based on the theoretical 15,000 square foot lot. It is 30% of this exact lot.

Z. What About the Driveway And Garage? Do They Also Have to Be Five Feet Above the 100 Year Flood Elevation?

Pospesil expressed his concern that if the property owners had to raise the level of the house lots that property owners would have to cope with an uncomfortable slope to get up into their driveways. According to Pospesil, when you add a slope to the driveway, then you need to account for additional safety issues associated with backing out of the garage and into the road. According to Pospesil, the lots are approximately 846 feet above sea level. They are relatively flat with something like a 1% grade slope.

Romprey countered that if the lots are brought up to five (5) feet above the 100 Year Flood Elevation, meaning adding up to 2 ½ or 3 feet of fill, there still will be only a 6% - 7% slope. Anything below a 10% slope is acceptable for a short driveway.

Robinson asked if the living area had to be five (5) feet above the 100 Year Flood Elevation did the driveway and the garage have to be raised to the same elevation also. Hettinger responded that if CVRI is just building slab homes without basements then CVRI would not have to tangle with the driveway elevations and pitches, but only the dwelling would have to be raised.

AA. What Conditions Will The Planning Board Require To Address The Presently Uncertain 100 Year Flood Elevation?

Romprey expressed his opinion that building homes only two (2) feet above the 100 Year Flood Elevation will not be adequate based on what FEMA told the Town about FEMA's intention to increase the 100 Year Flood Elevation. The Planning Board would prefer to see the bottom of the slabs be built five (5) feet above the present 100 Year Flood Elevation. If the lots are presently only two (2) feet above the present 100 Year Flood Elevation then CVRI should bring the lots up an additional three (3) feet so the slabs are a minimum of five (5) feet above the 100 Year Flood Elevation.

Pospesil said he was unclear about how to respond to the Planning Board's request because he never had a planning board ask him to engineer a dwelling above an elevation based on something other than the official 100 Year Flood Elevation. Romprey informed Pospesil that the Planning Board had actually required other applicants before to do the same thing because they knew that FEMA had indicated that the new 100 Year Flood Elevation is going to be much higher.

When the Planning Board reviewed the CVRI application in 2011, the Planning Board hired HEB Engineering to peer review the plans and application prepared by Horizons. According to the 2011 minutes, HEB gave the Planning Board a fair amount of information, but the minutes do not say what the information was. When the previous owners of this property first came in April of 2011 for a conceptual, Andy Nadeau described to the Planning Board what his overall plan was. Nadeau said there was a previously approved subdivision and site plan. His new proposal was to re-subdivide the land for single family homes rather than multi-family homes. Nadeau came in again the next month, in May of 2011. The minutes refer to some input that HEB had, but again the minutes do not reflect what that input was. HEB's recommendations are not in the record so we cannot find what they recommended having to do with the "Riverside Cabins". (This is the same project that was referred to earlier as "Pemi Cabins". Pospesil thought that for part of the project HEB recommended installation of some drainage infrastructure as part of the Site Plan Review Requirements.

Romprey asked Pospesil if he considered a requirement that the slabs be raised up to an elevation of five feet above the official 100 Year Flood Elevation to be a hardship. Pospesil responded that he did consider it to be a hardship from a cost standpoint because he thought it would be expensive for his clients to bring in that much fill to raise the lot up five feet. Romprey reminded him that the lots, as is, are already two (2) feet above the 100 Year Flood Elevation level so they would only be bringing the lots up another three (3) feet. In addition the lots are tiny. They would not have to elevate the garage. From a safety point of view the Planning Board would like to see the lots elevated five (5) feet above the flood elevation. We

already have precedent for requiring that with "The Rapids". Romprey did not think that the cost to do that would be excessive.

Pospesil responded that he needed to bring back the information to Horizon's client, CVRI, to discuss that with them. Horizons would need to determine a five (5) foot elevation above what the current 100 Year Flood Elevation is for those four lots and then draft some type of covenant requiring builders to set those slabs five feet above the current official 100 Year Flood Elevation. According to Romprey, the goal would be to base the elevation on what the new standard might be. Hopefully, the slabs of the new homes would be another foot or two above that.

Pospesil then asked the Planning Board what they expected his client to do about all of the other lots in this development that already have been established which are in the flood zone where homes have not been built yet. Romprey responded that when they come in for permits the Planning Department is going to request that they do the same thing – raise the lots so the slabs for the homes would be five (5) feet above the current 100 Year Flood Elevation. It is a very small cost. The members of the Planning Board believe they have a moral obligation to the buyers of those lots. If we have another Tropical Storm Irene and the water rises just two feet higher than the 100 Year Flood Elevation those houses are gone! Furthermore, weather patterns are changing. We are getting an increased number of these storms. From New Hampshire's perspective, Tropical Storm Irene was not supposed to be any more than a big wet day with some wind. Hurricane Sandy was not supposed to hit land or NH at all, but it did. (See Attachment B.)

Romprey spoke about the Planning Board's precedent for this requirement on the other side of the East Branch Pemigewasset River. When The Rapids filed their original project Romprey thinks the Planning Board required them to elevate their structures four (4) feet and go to all-sealed sewer systems, based on safety concerns and based on the same 100 Year Flood Elevation data that Horizons presented in this application. Romprey said, "People who are building \$1,000,000 homes are not going to care about another \$5,000 worth of fill. It is cheap insurance." The Planning Board expects to see many more of those low lots. This requirement will not add hundreds or tens of hundreds of thousands of dollars to the development costs.

Pospesil expressed his concern that a potential issue that might arise with this kind of requirement is that when you raise a lot with fill up that much, then you are going to start to get into areas where you have got fill slopes. What is going to happen to those fill slopes if they go off site in the flood zone? Are they going to have to be restrained by retaining walls? Romprey responded that they might need a retaining wall, however, based on the safety issues, the Planning Board does not feel it can do anything else.

Pospesil argued again that the 100 Year Flood Elevation in the Flood Insurance Program is intended to express and is based on the community's concern for and the level of public flood protection they want to have for the individual communities and people building and developing in those areas. He felt that the Lincoln Planning Board was definitely taking a conservative position.

The Planning Board agreed that it is going beyond the requirements of the bare interpretation of the Flood Hazard Area, but at a minimal cost to the developer. The Planning Board is concerned about potential residents who are coming up here from elsewhere who know nothing about construction or the potential for flooding. They say, "Oh, look at the pretty river!" They are not thinking about flooding. They are probably not going to hire anybody to look at the lot who would be concerned about it. The Planning Board members feel they have a moral obligation to do right by those people as much as possible. Pospesil responded, "Understood."

Motion to accept the application to subdivide five lots from Lot 118, Lot 39 as complete.

Motion: Spanos.

Second: Hettinger.

Motion carried (4-0).

Motion to Open the Public Hearing.

Motion: Hettinger.

Second: Robinson.

Motion carried (4-0).

Romprey asked for public comments. Jay Polimeno (Principal broker for Loon Mountain Real Estate Company, 60 Loon Mountain Road, Lincoln, NH 03251) indicated that he was just at the meeting as a spectator on behalf of Loon Mountain Real Estate Company. He spoke on behalf of Loon to say that Loon is excited about seeing some more activity take place at South Peak.

Romprey asked Polimeno the following question: If as a realtor you know that the lot is in a marginal flood plain would a realtor have an obligation to disclose that to the buyer? Polimeno responded that "...realtors have to disclose whatever they actually know".

Pospesil added that the lines indicating the 100 Year Flood Area show up on the map as a matter of record. When the property owner conveys a deed to that lot, they will convey the deed based on our survey plan. Part of the mapping standards in NH Plat Law is that the plat needs to show the 100 Year Flood Elevation lines to identify that a portion of the property has been mapped in the flood zone. As soon as the flood area lines are identified it is up to the lender to say what level of insurance will be required to cover and what they want on that asset. Then if the homeowner wants to try to negotiate with that insurance company or that lending institution, for what the level of protection they will be required to have, they will ask for an elevation certificate. That is when Horizons says, "Based on those lines that FEMA put on the flood maps this is where the flood hazard area is."

Strickon pointed out that a number of people buying these extremely expensive houses are paying cash which means they do not have to go through a lender. It also means they don't have to have the inspections performed before a bank will lend them money.

The Planning Board requested that Bont find out if there is anything the Planning Board can do looking at the future. They 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.

Motion to Close the Public Hearing.

Motion: Spanos.

Second: Strickon.

Motion carried (4-0).

Motion to APPROVE the Plan for a further SUBDIVISION of Tax Map 118, Lot 39 (presently 106.1 acres) to carve out five additional lots located near the East Branch Pemigewasset River. It will be called "Mountain Homes at South Peak, Phase II." Most of Tax Map 118, Lot 39, is located in the General Use (GU) Zone. A small portion is located in the Rural Residential (RR) Zone. All five proposed lots are located in the General Use Zone (GU). The size of the proposed subdivided lots will be as follows: Lot #1: 0.25 acres; Lot #2: 0.21 acres; Lot #3: 0.21 acres; Lot #4: 0.21 acres; Lot#5: 0.60 acres

Subject to the following CONDITIONS:

- 1) **Raise the elevation of the site of Lot #1, Lot #2, Lot #3, and Lot #4 using fill so that the top of the slabs of the residences to be placed on the lots will be raised to an elevation of five (5) feet above the existing 100 Year Flood Hazard Elevation.**

[The reason for this condition is for the safety of the future home owners who build or live on this site. The US Government by and through FEMA has indicated to the Town of Lincoln that it intends to raise the level of the "Special Flood Hazard Areas Inundated by 100-Year Flood" Zone AE higher than it is presently approved in the April 20, 2000 FIRM Flood Insurance Rate Map Panel 35 of 45 Community – Panel Number 330062 0035 D and the September 30, 2009 Preliminary FIRM Flood Insurance Rate Map Grafton County, Panel 445 of 1185, Map Number 33009C0444E.]

The raised elevation requirement does not apply to garages or the driveway.

Motion: Strickon.

Second: Spanos.

Motion carried (4-0).

B. Application for a Lot Line Adjustment (SUB #13-02) for property owned by CVRI South Peak TRS, Inc., (formerly owned by CENTEX Homes and later MDR South Peak, LLC).

1. Map 118, Lot 039

2. Address: L/O South Peak Road

3. Applicant: Michael D. Norman, President
Horizons Engineering, Inc., acting as an agent for CVRI South Peak TRS, Inc.
34 School Street
Littleton, NH 03561

4. Owner: CVRI South Peak TRS, Inc.
c/o Ed Wendler
301 Congress Suite 500
Austin, TX 78701

(Former owners of this property were Centex Homes, and later MDR South Peak, LLC.)

Proposal: *Application to Approve a Lot Line Adjustment for Three Lots:* Ed Wendler, Development Manager for Cypress Real Estate Advisors on behalf of CVRI South Peak TRS, Inc., by their agent Michael Norman of Horizons Engineering acting as an agent for CVRI South Peak TRS, Inc., requests an approval of an application for a Lot Line Adjustment of the remainder of Tax Map 118, Lot 39 (after the above subdivision is approved - presently 106.1 acres) with Tax Map 121 Lot 72 and Tax Map 121 Lot 73. These three lots are also part of the "Mountain Homes at South Peak, Phase II."

1. The lot line adjustment of Tax Map 121, Lot 72 will change the size of the lot from 0.50 acres to .37 acres.
2. The lot line adjustment of Tax Map 121, Lot 73 will change the size of the lot from 0.67 acres to .50 acres.
3. The remaining size of Tax Map Lot 118 Lot 39 will be 104.92 acres.

Tax Map 121, Lots 72 & 73 are located in the General Use Zone (GU). The remaining Tax Map 118, Lot 39 will remain mostly in the General Use Zone (GU) and a small portion in the Rural Residential (RR) Zone.

Pospesil explained that CVRI wants to make an adjustment to two lots so the ski lift tower is not on two house lots, but rather on the land CVRI has left. Originally the ski lift tower was built on both of these house lots – right on the lot line. These two lots are well over twenty-thousand (20,000) square feet, even after the lot line adjustment. CVRI is taking land from each lot that supports the tower, adding it to the larger overall lot.

Rompney asked Pospesil if he considered the area with the tower would be classified as "unbuildable". Pospesil responded. "Right." However, the land with the tower on it is now part of the larger overall lot. This is not a subdivision, but rather a lot line adjustment so there is not a small separate discrete lot with the ski lift tower on it.

Pospesil reminded the Planning Board that there are still two other contingencies. CVRI still needs to have the NH DES permits in place. CVRI has two permit applications still pending before State NH DES: (1) the Application for an Alteration of Terrain and (2) the Application for a Shoreland Permit.

[Note: The calculated acreages on the map set need to be fixed before the Mylar of the maps can be recorded.]

Motion to accept the application for a lot line adjustment as complete.

Motion: Robinson.

Second: Spanos.

Motion carried (4-0).

Motion to Open the Public Hearing.

Motion: Hettinger.

Second: Spanos.

Motion carried (4-0).

Motion to Close the Public Hearing.

Motion: Robinson.

Second: Hettinger.

Motion carried (4-0).

Motion to approve application for a Lot Line Adjustment of the remainder of Tax Map 118, Lot 39 (after the above subdivision is approved - presently 106.1 acres) with Tax Map 121 Lot 72 and Tax Map 121 Lot 73. These three lots are also part of the "Mountain Homes at South Peak, Phase II."

- 1. The lot line adjustment of Tax Map 121, Lot 72 will change the size of the lot from 0.50 acres to .37 acres.**
- 2. The lot line adjustment of Tax Map 121, Lot 73 will change the size of the lot from 0.67 acres to .50 acres.**
- 3. The remaining size of Tax Map Lot 118 Lot 39 will be 104.92 acres.**

Tax Map 121, Lots 72 & 73 are located in the General Use Zone (GU). The remaining Tax Map 118, Lot 39 will remain mostly in the General Use Zone (GU) and a small portion in the Rural Residential (RR) Zone.

Motion: Hettinger.

Second: Spanos.

Motion carried (4-0).

The Planning Board asked Pospesil to share the following with his client, CVRI:

- 1. The Planning Board requests that the Architectural Review Board (ARB) be re-established. An ARB is a group of homeowners that reviews house plans. The ARB uses the "Guidelines" spelled out in the South Peak Resort On Loon Mountain New Hampshire Design Guidelines - Residential Design Guidelines (January 30, 2006 Appendix D) that includes lists of specifications. The Guidelines tell you how you can build a home in the development. Hettinger brought in a copy. In the Planning Board's opinion, the ARB is quite effective and quite restrictive. As Paula Strickon said, "You cannot put up a cinderblock building there and paint it pink."*
- 2. The Guidelines include the 15,000 square foot lot formula. If you only use 0.21 acres it counts as 15,000 square feet. [15,000 square feet = 0.344+ acres] or [0.21 acres*

= 9,147.6 square feet]. The maximum density will never change. If anything the maximum will go down if CVRI starts overbuilding with single family homes.

3. *Whatever the elevation of the lot is, the Planning Board is asking for the builder/developer to bring the dwelling structure five (5) feet above the current 100 Year Flood Elevation. The Planning Board made the same request of the project called "The Rapids". The Rapids was required to construct sealed sewer systems and they were required to raise their lots approximately four (4) to five (5) feet above the 100 Year Flood Elevation. The lots in question were on the local levee.*

Rompney asked Pospesil to inform his client that when CVRI comes in for permits to build on those other lots that were previously approved that are marginal or within two feet of the 100 Year Flood Elevation that they will be required to build the lots up that were previously approved by the Planning Board. The Planning Board had a conversation with Pat Bahr when the Board granted the 2011 approval about the fact that the lots the Planning Board approved were very low and that the foundations were going to have to be built up, and Bahr just sat there and nodded her head. Two or three weeks later she was gone. Bont was asked to include this information in these minutes.

4. *Burbank requested that Pospesil tell his client that when they went on the tour of the lots down near the Old Swimming Hole they smelled a very strong odor of sewerage. They smelled it when they were just off the J. Henry Trail right next to the land where CVRI will be building these four lots next to the river. They were not near the pump station. There is a manhole nearby and the manhole cover says "sewer". The odor was gassing up from a sewer manhole. The sewerage smell was strong enough to indicate that something failed. CVRI should have someone check it out. They also told Public Works Director, Bill Willey. Pospesil said that there is a separate sewer line that runs along the J. Henry Trail. Pospesil wondered if there is not enough demand over there to have the septic system work properly. Perhaps the sewage is just sitting in the pipe because it is not getting used. The system might need a flushing.*
5. *Lincoln is going to a third party inspection process. When CVRI or a subsequent owner builds a structure, they will need to have someone fill out the Construction Control Affidavit. Pospesil was here when the Planning Board discussed it and he assured the Planning Board that he told CVRI about it already.*

IV. OTHER BUSINESS

Rompney spoke to Pospesil about the following:

1. *Provide the town with copies of past approvals for this project to help the Town rebuild its filing system on this project. Pospesil indicated that Horizons had all of that documentation. He offered to have Bont get together with Kathy LaFrance and try to put that information together.*

2. *The problem caused by Horizons jamming up against the filing dates for the Littleton Courier. Although the Town can put notices in the Manchester Union, no one local checks the Union Leader for Lincoln notices and the cost of publication is much greater. Romprey asked Pospesil to have Horizons provide the Town with the application for a subdivision or site plan review at least two full weeks in advance of the newspaper deadline so we can review it prior to putting it in the newspaper. This last application was not submitted until a day or so before the notice had to go to the newspaper. This last application had an original abutters list that was 49 pages long – “like a damn magazine”.*

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 7:06 pm.

Respectfully submitted,

Carole Bont, Planning and Zoning
Administrative Assistant

Dated: September 25, 2013


R. Patrick Romprey, Chairman

Appendix A.

Map 121 Lot 041 – Photo of the lot that was supposed to remain in an unaltered state now has a house on it.



Attachment B. – Last Two Storms with Flooding in Lincoln

N.H. Begins Recovery After Superstorm Sandy Blows Through State

Gov. John Lynch updates members of the media on the effects of Hurricane Sandy on the state of New Hampshire; Tuesday, October 30, 2012. By TRICIA L. NADOLNY
Monitor staff
Wednesday, October 31, 2012
(Published in print: Wednesday, October 31, 2012)

While Monday's storm knocked out power for 210,000 New Hampshire residents, officials yesterday said the damage was more superficial than structural, with power lines snapped to the ground but most poles still standing and roadways littered with tree limbs but not washed out by rushing waters.

For some electric customers, the conditions could mean a quick recovery, and yesterday evening more than 110,000 homes that had lost power already had it back. But state officials warned that the outlying outages could remain for some time, possibly into the weekend.

"We don't see the damage caused by extensive flooding with this storm that we've seen in the previous storms," Gov. John Lynch said at a morning briefing as crews surveyed the effects of the storm that barreled through from about 3 p.m. Monday into yesterday morning. "However, to those people who are without power and who will end up going most of the week without

The 210,000 outages make Sandy one of the state's most significant storms, behind only the 2008 ice storm, 2010 wind storm and 2011 snow storm in terms of customers in the dark. Officials said the harshest damage this time was seen in Hillsborough, Rockingham and Strafford counties. Wind gusts were anticipated to hit the 50 to 60 mph range, and yesterday National Weather Service Meteorologist John Jensenius said blasts were recorded at 62 mph in Londonderry, 60 mph in Portsmouth and 52 mph in Newington.

In Concord, wind speeds hit 51 mph, according to Jensenius. He said Sandy delivered much of what meteorologists expected – wind surges strongest in the southern towns and about one to three inches of rainfall, more in the mountains.

After the winds tapered off, crews yesterday focused heavily on damage assessment rather than restoration, according to state officials.

Unitil, which services much of the Capital Region and saw about 41,000 outages at the peak, expected to nearly reach full restoration today with limited outages possible tomorrow. But Public Service of New Hampshire, which has more than doubled the size of its repair force with crews from as far as Texas, said its recovery effort could continue until Friday or Saturday,

Yesterday afternoon the company received confirmation that Hydro-Quebec would send 75 two-person crews down from Canada, news that PSNH President Gary Long said could knock days off the effort.

"We already have assignments for them," Long said, adding that teams could be here by this afternoon. "So as soon as they arrive we're putting them to work."

Early calls

Emergency calls began coming into the Concord Fire Department at about 3 p.m. Monday. Chief Dan Andrus said that through midnight his department had a steady stream of callers, about 50 in total, ranging from diabetics needing to keep their insulin refrigerated to parents wondering what to do if their children's ventilators cut off to elderly residents anxious over being in the dark.

"I was expecting we would have trees into buildings," Andrus said. "I was expecting we would have significant levels of structural damage and literally roofs peeling off. I was thinking there were going to be serious injuries associated with that."

After midnight, phone traffic dropped off to normal levels.

Andrus said that at the peak about 10,300 people in the city were without power, a number that had fallen to 2,000 by mid-morning yesterday and about 100 last night.

In Dunbarton, firefighters saw calls taper off around midnight. Chief Jonathan Wiggin said he and the other firefighters actually went home around 12:30 a.m. after fielding about 30 calls since the storm started.

Two callers reported having smoke in their homes, one because an electrical panel overcharged and another because a generator overpowered the outlets, Wiggin said.

PSNH crews had a quick response to initial outages in the town, Wiggin said, but after those repairs were made Monday afternoon, the storm picked up and knocked out power again. After returning to work yesterday morning, Wiggin said he found most of the town was without electricity, and last night outage data showed about a third were still in the dark.

"It's been pretty busy," Wiggin said. "Now we're just waiting patiently on the power companies."

Riverbanks still weak

Initial concerns of flooding subsided yesterday afternoon. But officials, while reporting that almost all of the rivers at flood levels were receding, warned that banks remain weak.

"Riverbanks may be very unstable, and we don't want to see riverbanks sliding off and people sliding off into the water," said Environmental Services Commissioner Thomas Burack. "So please, be safe. Love those rivers but give them some distance for the moment."

Saturated grounds contributed to one fatality in Lincoln yesterday morning, where the police said a man died when a stone wall fell on him. Lincoln police Chief Ted Smith said the man was helping pour a foundation for a home being constructed on a sloped mountainside.

"The entire area was soaking wet, and the hole was filled with water from runoff. They apparently tried to pump the water out," Smith said. "The ground gave way and basically you had a mud slide and water slide because the foundation itself became a dam and he was carried down a two or three story fall."

Construction workers and paramedics administered CPR, but the man was pronounced dead shortly after being moved into an ambulance, Smith said.

State police Director Col. Robert Quinn said there were no major car accidents reported during the storm, and Lynch attributed the small number of serious incidents to residents heeding warnings to stay off the roadways. He applauded businesses who let employees leave work early.

About 275 public schools were closed yesterday, and another 75 opened late, education officials said.

The state ran five shelters Monday and about 40 people stayed there that night. Yesterday evening only shelters in Auburn and Nashua were still being used, but state officials said others could be reopened if needed.

Closed roadways – about 32 state and 201 municipal roads at one count early yesterday – were slowly being cleared yesterday. Department of Safety spokesman Jim Van Dongen said last night the number had fallen to about 11 state and 141 local roads.

"It's simply a lot of grunt work to clear trees and wires out. It's also dangerous, and it's not something you can rush," he said, adding that officials expect the road openings to coincide with the electricity restoration effort.

President Obama granted Lynch's request for a state of emergency declaration yesterday, a move that officials say will allow New Hampshire communities to more directly receive federal aid. Damage reports from municipalities are due to the state by noon today, according to Andrus, who encouraged businesses and residents to report property damage and any potential economic loss to the fire department this morning.

Amy Ignatius, head of the state's Public Utilities Commission, said she doesn't expect Tuesday's elections to be impacted by the outages. She said electricity should be fully restored by then, and state officials are making it a priority to have power and telephones turned on at voting places well before the polls open.

(Tricia L. Nadolny can be reached at 369-3306 or tnadolny@cmonitor.com or on Twitter at [@tricia_nadolny](https://twitter.com/tricia_nadolny).)

Lynch inspects tropical storm Irene damage, progress in Lincoln

Thursday, September 8, 2011

CONCORD, N.H. (AP) — New Hampshire Gov. John Lynch is inspecting progress of repairs to the Loon Mountain Bridge and Kancamagus Highway, both in Lincoln.

The Loon Mountain Bridge collapsed into the east branch of the Pemigewasset River Aug. 31, its north pier eroded by rushing water in the wake of Hurricane Irene.

The Kancamagus — officially Route 112 — was closed after Hancock Brook chomped away large sections of the scenic highway.

New Hampshire transportation officials hope to open both tourist gateways by Sept. 15, and possibly sooner.



New Hampshire Gov. John Lynch meets with officials from the state's Department of Transportation on the Kancamagus Highway that cuts through the White Mountain National Forest, Wednesday, Aug. 31, 2011, in Lincoln, N.H. Flash floods from Hurricane Irene washed out part of the road. (AP Photo/Jim Cole)

Lincoln Flooding Links:

http://www.youtube.com/watch?v=8_gbuWCkMYA

<http://www.youtube.com/watch?v=2OX1PXW676k>

http://www.youtube.com/watch?v=vjpeLcE_26A

<http://www.youtube.com/watch?v=O3FDXRaDGT4>

