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**LINCOLN PLANNING BOARD
REGULAR MEETING MINUTES
WEDNESDAY, OCTOBER 10, 2012 – 6:00PM
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH**

I. CALL TO ORDER by the Chairman; announcement of excused absences, if any, and seating of alternates(s), if necessary at 6:00 pm.

Present: Chair Patrick Romprey, Vice Chair James Spanos, Paula Strickon.

Absent: Clerk John Hettinger

Recused: Chester Kahn is here representing ReMax on behalf of the town and the applicants and has, therefore has recused himself from the planning board.

Guests: Tamra Ham (came later)

Mike Duffy of Horizons Engineering, on behalf of Saber Mountain Partners

II. CONSIDERATION of meeting minutes from August 8 & 22 and September 26, 2012.

Chair Romprey suggested the Planning Board pass over the minutes.

III. NEW BUSINESS

A. SITE PLAN APPLICATION REVIEW – PUBLIC HEARING - Development of a New Commercial Building & Business on a Vacant Parcel – Delia and Kevin Sullivan propose the construction of a 3,200 sq ft building for the relocation of their machine shop to Lincoln. The parcel of land involved in the proposed development is approximately 16,086 sq ft (0.37 acre) in area, located on Salem Way and identified as Tax Map 109 Lot 020. The parcel is situated in the Small Business District (SBD) Zone and Lincoln Business Park (Lot 6).

This is a review of the proposed acquisition/sale of municipal land under NH RSA 41:14-a.

Chester Kahn represented ReMax on behalf of Delia and Kevin Sullivan in their purchase of a lot from the Town of Lincoln in the Town of Lincoln Industrial Park. This is the first sale of a parcel in the Lincoln Industrial Park.

The Sullivans own a home in Lincoln. They plan to move their primary residence and their business to the Town of Lincoln. They want to purchase land in the Lincoln Industrial Park. Kahn presented the Lincoln Board of Selectmen with a Purchase and Sale Agreement for Lot #6 a couple of weeks ago. The Selectmen signed it. In Kahn's opinion, they came to a fair market price for the land.

The Sullivans are proposing to build an edifice on the site within the setbacks. They have already applied for a building permit and paid their fees for the building permit. The proposed building is 40'X80' and will house a machine shop. The Sullivans will employ two full-time employees – a husband and wife – and three part-time employees. They hope to eventually make the part time employees full-time.

The Sullivans chose lot #6 because the two lots on either side of it are vacant. They will design the building so they can break through on either side to put an addition on the building. If their business grows, like they

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anticipate, they will be able to expand the business by purchasing an adjoining lot.

Chair Romprey asked Planning and Zoning Administrator Michael Asciola questions and he answered as follows:

1. Does his research show the sale price to be a fair market value? Yes.
2. Is this proposed business for the industrial park is within the scope of the Lincoln Master Plan for Economic Development? Filling in the Lincoln Industrial Park with appropriate businesses like the proposed business here has been in the Lincoln Master Plan for Economic Development for almost three decades.
3. Do you feel that this transaction is an overall benefit of the residents of Lincoln? Yes.

Chair Romprey asked Kahn if there was a potential for additional local employment. Kahn answered that the Sullivans were going to be using all local contractors to build the building.

Chair Romprey asked for questions from members of the Planning Board.

1. Robinson asked where the Sullivans were going to get their customers from. Kahn answered: They have a consistent existing customer base. They are just going to make it up here and ship it to their customers wherever they are.

Robinson made the following clarifying comments:

- A. Who does Chester Kahn represent?
 1. Chester Kahn represents the buyers in this case, but on the notice it says Kahn of ReMax represents the Town of Lincoln. Kahn confirmed that he represents the buyers.
 2. Kevin McNamara from the ReMax Office represents the sellers (The Town of Lincoln).
- B. Is the price for the lot fair?
 1. The most comparable recent sale of land is a piece of land that is 1/3 of an acre which is almost exactly what this lot is which is up on Route 3 which sold a month ago for \$63,000.
 2. In response Chair Romprey said we have a letter about its fair market value. Kahn said “I did a CMA. It is in the file.”
- C. Are you waiving, in terms of the town, the water and sewer hook-up fees? No!

MOTION: “To vote in favor of the transaction of Lot #6 in the Town of Lincoln Industrial Park from the Town of Lincoln to Delia and Kevin Sullivan.”

Motion: Robinson.

Second: Strickon.

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

OLD BUSINESS**B. SIGN ORDINANCE AND TEMPORARY LAND USE ORDINANCE REVISIONS**

DISCUSSION: Review, discuss and comment on the latest draft ordinance revision.

Board reviewed second packet with Sign Ordinance and Temporary Land Use Ordinance Revisions. The

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majority of the ordinance is staying the same. There is some reformatting.

Selectman Tamra Ham came in.

Asciola reviewed the proposed changes with the board.

1. Page 4. The **Application Review** is a new section designed as a framework for the review process. It is designed to clarify exactly who gets the permit application when it is complete and gives a time frame for the review process.
2. Page 4. The **Post Permit Approval** is new with a section called “Installation Completed”. We are requiring the applicant to take a photo of the sign after it is complete and submit it to the Town in order to schedule the inspection for compliance. That would put something on file to show exactly what sign is there and where it is in case there is an issue down the road with the sign being altered or moved on the lot.
3. Page 4-5. The section on **Exempt Signs** is mostly reformatting. No additions.
4. Page 5. The section on **Prohibited Signs** is the same with mostly reformatting.
5. Page 7. **Sign Classification and Standards**. We did major reformatting. We took the standards and the definitions sections from existing ordinance and we merged them together to eliminate page flipping through the ordinance for the applicant.
6. Page 9. **Flags. Free Standing Signs**. This section needs to be broken down.
7. Page 10. **Industrial Building Signs**. Changed it from Lincoln Business Park to Small Business District Zone (SBD) to reflect the change in zoning.
8. Page 9 & 10. **Free Standing Signs** and Page 15. Integrated Sign Plan is where we address the situations like “Whale’s Tail” where there is an issue with linear road frontage rule and signage.
9. Page 10. **Informational Signs**.
 - a. The Planning Board discussed how to address the issue of businesses that have additional signs outside of their businesses put up by them that restrict parking like “No Parking” or “Park Here”. These signs are not put up by the Town. There are a number of businesses in town that have signs that say “Restricted Parking” or “Parking Only for This Store”. Business owners come out of their businesses and tell people “Get out of this space!” The Board does not believe these signs are legal. If the signs are on private property then the signs limiting parking are okay. However, if the parking spaces affected are part of X number of parking places for an approved planned development the individual tenants do not have the right to tie individual spaces up. Restaurants tend to have these. If an approved site plan allows the association to assign designated parking spaces to specific tenants then they would have the right to erect parking restriction signs.

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b. **Questionable Informational Signs.** The Board discussed two businesses that have what could arguably be defined as “informational signs”. The Board questioned the legality of the signs at both places. Are the tenants leasing just what is within their four walls and is the parking common parking? Or does the Association have a right to assign a store tenant certain spaces and put that in their lease? Sometimes a lease will say you have the three parking spaces in front of your door. What about the parking for apartment located above the retail space? Did the landlord say they could place these signs? Do they want to stay out of the private sector? The only way you could determine if they were in violation of the ordinance is if they were to put aside more than the required amount of parking, shortchange another use of the property parking spaces. The Board asked Asciola to write a letter to the Association questioning their ability to do that where the parking is approved overall – so many parking spaces for so many square feet of retail space and let them deal with it. Asciola agreed to gather some additional background information.

- i. Honeys Convenience Store has two “15 minutes only parking” for two spaces, one space which is not even in front of their store; it is in front of the store next door.
- ii. Abbey Cellars (78 Main Street – Linwood Plaza) has signs outside saying “Parking Only for Abbey Cellars customers” Abbey Cellars’ putting up those signs might have something to do with the tenant in the Linwood Plaza whose customers do take up all of the parking spaces.

10. Page 15 – 16. **The Integrated Sign Plan.** This section was developed in response to the Board of Selectmen’s and the Planning Board’s discussions on atypical uses of properties. The section is set up like a site plan review. Basically for multi-occupancy properties such as office parks, etc., there is a procedure for relief from the sign ordinance by coming to the planning board, basically appealing what the ordinance says. The Board discussed whether they wanted the issue to be addressed by the planning board or the Zoning Board of Adjustment. The Board would prefer to have the applicants go before the Planning Board as part of a site plan review. There are other towns that do it this way, however, Asciola agreed to double check and make sure that at least one of these was from New Hampshire.

This section is designed to add flexibility to the sign ordinance. The Planning Board may permit up to 50% more aggregate sign footage than by ordinance within the General Use (GU) and Village Center (VC) Zones. The Board believes that this section is much more effective way of dealing with Lincoln’s sign issues.

11. Page 16. **Enforcement and Violations.** This section establishes the same procedure for a temporary sign and a regular mounted free standing sign. Where it is a temporary sign that they put up in violation of the ordinance and then we are going to give them thirty (30) days where it takes five minutes to put up and two minutes to take down would we want to decrease the time to correct the violation like seven (7) days. The Board believes that seven (7) days is fair and realistic, whereas thirty (30) days is half the summer season.

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12. Page 17. **Special Exceptions for Signs.** The Board of Appeals asked that section “e” be changed in their criteria in ruling on Special Exceptions signs. Previously the language was the sign “mends existing or potential hazards, unsightly distractions related to traffic, lighting, color, size, or the overall tranquility of the district area”. They expanded it. The Board discussed at great length the following issue: If you have a non-conforming sign that is structurally altered because it goes away for whatever reason – it blows over, for example, can you replace it in kind? Answer: If it is a nonconforming sign and it goes away for whatever reason you cannot replace it in kind.

Discussion: There was much discussion about what different acts of God that might destroy or knock down a nonconforming sign and whether sign owners should be allowed to replace it in kind depending on how damaged it was, how easy to fix and how quickly they could put the sign back up. There is a state statute when a house or a building is destroyed by fire or an act of god it may be grandfathered, but the statute does not apply to signs. If a sign comes down it is not grandfathered.

The purpose of these changes is to relax the standards. There are a lot of variables. If a nonconforming sign came down, with the added flexibility the sign owner might be able to put up a new and better sign than what they had before. The Board was concerned about placing an unnecessary financial strain on a small business owner who does not have a few thousand dollars in the bank to replace their sign. They discussed the loss of time applicants would have to spend to come before the Planning Board. If the sign owner takes down the sign to make it different, bigger or better, then it needs to conform to the current ordinance. If the sign does not conform, the sign owner will need to go the ZBA and get a variance.

The Board also discussed what “altering the structure” means versus maintaining it. For example, if the sign owner replaces the old posts with new posts in kind, he/she is not altering the sign he/she is maintaining it.

The Board discussed and rejected the idea of putting in a waiver for the right to repair the sign. The overall purpose of this part of the ordinance is to bring all of these signs into compliance. At some point, by attrition, the nonconforming signs are all coming down. It is pretty hard to have a nonconforming sign. The sign owner will come in for a site plan review if he/she changes the business.

The Board also discussed how many current signs would be affected. About 95% of the free standing signs are conforming and the owners would be able to be put them back up. The only signs that would not be would be allowed would be off-premise signs and if a property had more signs than the four allowable signs. If there is a chance to clean those nonconforming signs up the ordinance will help there. There is a procedure to go before the Planning Board and be granted a permit. To take the teeth out of this proposed ordinance change would not be good. There is already a provision to get an extension.

The Board recessed the discussion on the proposed amendments to the Land Use Plan Ordinance to address proposed changes to the design of two cul-de-sacs located at the ends of Back Forty Road and Buck Road into “hammer head” style turnarounds.”

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A. MINOR AMENDMENT TO AN APPROVED SUBDIVISION – PUBLIC HEARING -The Landing at Loon – Saber Mountain Landing, LLC proposes a minor amendment to a 2005 Planning Board approved subdivision. The proposed amendment involves changing the design of two cul-de-sacs located at the ends of Back Forty Road and Buck Road into “hammer head” style turnarounds. In effect they will also be proposing corresponding modifications to the approved stormwater management plan and lot line adjustments to the right of ways containing both roads and the adjacent parcels identified as Map 132 Lots 21-25 and 41-45 located in the Rural Residential (RR) Zone. The applicant’s engineer is Horizons Engineering.

Shorr Burman, on behalf of Saber Mountain Partners, came in for a consultation regarding Hammerheads vs. cul-de-sacs at The Landing. He was before Board with Mike Duffy of Horizons Engineering back in March 28, 2012. They asked for two things:

1. Saber Mountain Partner’s initial permit expired. They thought that the economy might be turning around and they wanted to come back and continue developing The Landing. They needed to meet the state requirements for water runoff so they came back to satisfy those requirements which they have met.
2. Saber Mountain Partners had two cul-de-sacs that they wanted to convert to hammerheads. At that meeting there was controversy about first, what constituted a change so it would have to have a full hearing and what did not. It was finally determined that they could satisfy the state requirement for water runoff. They withdrew their request to convert the cul-de-sacs to hammerheads. The main reason they withdrew that application was because the Planning Board expressed concern about how the fire chief would react to converting a cul-de-sac to a hammerhead. They went forward with the plan. They got that approval in March of 2012.
 - i. History: Saber Mountain Partners started developing The Landing in 2004. They came before the Planning Board in March of 2005 with a plan that was approved. At that time the plan had two hammerheads and two cul-de-sacs. At that time they did not want to take the full risk involved in developing The Landing. So they built out Landing Road and Hay Hill Road. They built out both Wanigan Road and Buck Road to the Four Season Stream. They did not touch Back Forty Road. They had great success that year and for the first year after that. They sold a number of lots and a spec home that sold. Then, in their euphoria of thinking their plan was working well, they talked to Lincoln Town Manager Ted Sutton. They received a letter from Sutton saying they could convert the cul-de-sacs to hammerheads.
 - ii. Saber Mountain Partners does not know whether Ted Sutton had the legal authority to issue the letter or not. From their perspective, they are talking to a town official, the town manager, so they went forward and contacted Horizon who developed a new map for them in March of 2008. There are now hammerheads where these turnarounds once were in August of 2008.
 - iii. At the end of 2007 and 2008 “the economy disappeared”. Saber Mountain Partners had no

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interest in going forward with The Landing. They hunkered down trying to get through the recession. Then in 2011, after four years, they felt the economy was starting to improve so they came to the Planning Board in March of 2012 to get an approval. They did not get approval for the cul-de-sacs, but they did go forward with the road.

- iv. In the spring of this year (2012) they started the Back Forty Road. They built a wall going in. They are only building this road back to the Four Seasons Stream. In part, they are stopping there because they did not want to deal with the issue of the turnarounds again.
3. The reason Shorr Burman is before the Planning Board is because that their contractor is presently building the roads. There is going to be 3,000 cubic yards of fill required to come and do the cul-de-sac for the turnaround and 7,500 cubic yards of fill in here on the Buck Road to do that cul-de-sac or hammerhead. Saber Mountain Partners are generating probably 8,000 yards of fill as they do the first part of Back Forty Road. So their contractor, Rex Caulder, said, "It does not make any sense at all that they are hauling this amount of fill off site when they are going to need it when they come here to finish off the roads." His opinion and the opinion of the engineers at Horizon is that they cannot bring the fill in unless they know what the turnarounds are going to be. Shorr Burman came to talk to the Planning Board to see if the Planning Board could reach a consensus that the turnarounds can be hammerheads instead of cul-de-sacs.

4. Arguments in Favor of Hammerheads.

- a. **Consistency:** A more consistent development does not have two hammerheads in one part of the subdivision and then two cul-de-sacs in another part. Generally, the turnarounds are consistent throughout the development. You could argue that you should have all cul-de-sacs in this development; however, in this case there are two hammerheads already in place.
 - i. The Conservation Commission where Mr. Asciola used to work favored hammerheads because it created a lesser impervious surface than a cul-de-sac would create as long as the design satisfied the needs of the emergency vehicles.
- b. **Environmentally Superior:** The State of New Hampshire and Horizons felt that having hammerheads was much more environmentally sound way to deal with turnarounds for emergency vehicles. Hammerheads leave less impervious surfaces than cul-de-sacs. Hammerheads leave much less surface disruption whereas cul-de-sacs sometimes need to have a number of retaining walls to support the turnaround. When Saber Mountain Partners went to the State to meet the new water quality and runoff standards the State said, "Why are you doing cul-de-sacs instead of hammerheads?" Saber Mountain Partners told the State it was because of the Lincoln Planning Board. Although Horizons has not calculated exactly what the positive aspects of the hammerhead plan would be as far as drainage and runoff goes, there would be a lot less impact. Horizons developed the plan for Saber Mountain Partners back in 2008. The requirements for the hammerheads are on the plan. They would only be disturbing about 30% of the ground with the hammerheads as opposed to disturbing a lot more with the cul-de-sac.
- c. **Fire Safety:** The Planning Board's issue with hammerhead turnarounds last time was that the fire chief objected to hammerheads as turnarounds. Shorr Burman spoke to the new fire chief.

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The new fire chief said he does not have an issue with hammerheads. Planning Board Chair Pat Romprey who is also on the fire department agreed.

- d. **Unauthorized Parking Curbed:** There were also some comments at the Planning Board meeting that there are rampant parking issues with hammerheads so that when you have an emergency situation there is no place to turn around. Saber Mountain Partners has had no issues at all with one hammerhead. They have had some issues with the second hammerhead because of its proximity to the national forest service trail. Shorr talked to the Police Chief and Saber Mountain Partners put a sign up a couple of months ago that said “no parking, emergency vehicles only, cars will be towed”. That was at the end of May. They have had no issues since then. They don’t think the other two proposed locations for hammerheads will have this problem because they would be located well back in the development and people do not really have a reason to drive out that way.
- e. **Minimal Lot Line Adjustments Required:** Burman showed the Planning Board the same plan Saber Mountain Partners came back with in March of 2012 where they proposed developing the two hammerheads that they then converted back into turnarounds. There are going to be only very minor lot line adjustments. The only difference in the lots is just exactly what happens around where the conversion of the turnarounds to the hammerheads, but the rest of the lots stayed totally intact. The only lot line adjustments happen exactly in those areas.

5. Request for Relief:

- a. **Hammerheads Instead of Cul-de-Sacs:** Saber Mountain Partners asked the Planning Board to allow them to make these two turnarounds into hammerheads to have a more consistent treatment of turnarounds throughout the development.
- b. **Keep Fill On Site:** Saber Mountain Partners also requests that the Planning Board allow them to keep the fill on site instead of requiring them to haul the fill off site. There are sound ecological reasons as well as financial reasons for them to do it this way as well.

6. Board Consideration:

- a. Both Horizons and the State’s contend that the hammerhead plan would be an upgrade to the site plan overall. Horizons will not have to revise the drainage assessments because Horizons already did a drainage plan for this plan. They will have to change it at the margin because the state law changed between 2008 and 2012. The hammerhead design is an upgrade to the environmental impact that will be on the site. The present trend is that developments are moving away from using the cul-de-sacs and requiring a hammerhead design instead.

7. How to Amend the Site Plan for the Subdivision with the Lot Line Adjustments:

- a. It is a minor amendment to the Saber Mountain Partners Subdivision Plan. Saber Mountain will submit a new plat with the hammerhead design, lot line adjustments, site plan and drainage.
- b. The Planning Board will hold a full public hearing with notice to abutters on the lot line adjustment and an amendment to the plan. Burman will have Horizons change the plat to reflect

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the changes in the lot lines to accommodate the hammerheads.

- c. Burman was asked to submit a copy of the letter from the State suggesting that they go to the hammerhead design. Burman did not think either Saber Mountain Partners or Horizons had an actual letter from the State suggesting the change to the hammerhead.
8. **Immediate Problem:** Work on the Back Forty Road is being done right now. The problem is that Saber Mountain Partners cannot wait for a decision about the hammerheads because of the high cost of having to haul the dirt off site and then haul the dirt back on site should the Planning Board approve the hammerhead design. The contractor's time is not changeable. If it takes a month to get the approval that would be too long. The first hearing date is available in two weeks. Notice will go to the paper by Friday. They would need to set up a temporary storage area. They talked to Horizons – they can put in a temporary culvert in to get over to put the dirt there. The issue is where to put the dirt. The contractor will put the dirt in different places, depending on whether it is a cul-de-sac or a hammerhead. There is some risk, but they will put the dirt where they would expect to put it if they were building hammerheads because with documentation and the engineering in place they have a stronger case for the hammerhead design.
- a. Burman said that Saber Mountain Partners would have some plan to submit as soon as Horizons can get it here – before the two weeks. Asciola will run the idea of hammerheads by the fire chief to make sure he can turn a fire truck around there.

The Board returned to the earlier discussion:

OLD BUSINESS**V. SIGN ORDINANCE AND TEMPORARY LAND USE ORDINANCE REVISIONS**

DISCUSSION CONTINUED: Review, discuss and comment on the latest draft ordinance revision. Discussion was continued...

15. Page 18. The new section: **Temporary Land Uses** – combines special events and the vendors ordinance and relocates the temporary sales locations into this section. The special event section is going to be in the Land Use Plan Ordinance. Previously, “Special Event” was defined in the Site Plan Review Regulations. We are putting the standards back into the Land Use Plan and then it will refer to the application process which will be a couple pages later. There is still a little bit of work that needs to be done on this section.

The ordinance in existence and in effect right now reads: “Article VI-C Temporary Land Uses, Section 1 Special Events, Part D, Applicability: This section is applicable to any public gatherings on private or public property which has not been specifically authorized by the Planning Board as an allowed use of the property. Special Events may include, but are not limited to a concert, a concert with associated camping, a craft fair, a foliage festival, a street fair, a motor vehicle rally, or a motorcycle rally.”

RSA 105:9 addresses police attendance at meetings and public functions. Do we want to add a sign off from the Police Department that they are aware of the event? Now we do not have the police

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department sign off, but the police do check it.

The board expressed interest in letting the staff do an administrative review on small events. We need to develop a threshold for that type of review where less than 50 people are anticipated.

The Board ran through a number of hypothetical scenarios to see what kinds of events would need to receive a permit under the ordinance and how they might be affected by the proposed amendments.

- Would a motor vehicle rally at a diner that has a “Cruise Night” have to get a Special Event Permit? They would just have 25 antique cars parked in a parking lot. They all show up and eat dinner. They go outside and talk about each others’ cars and then they leave. Is it a “Special Event”? For the motor vehicle rally at the diner would not have to get a permit because the sponsors of the event don’t charge a special fee to attend. It is not really advertised as a special event. They are not holding raffles and that sort of thing. They are coming to buy food.
- What if you bring up 400 Porsches up here for a road rally all day on Saturday and Sunday then you will need a permit?
- What about a poker party or bingo night? Do people advertise for their poker party and their bingo nights? They are open to the world now with the internet. It depends on what the use of the property already is. It depends on where they hold their poker night – is it inside or outside? How many people?
- What if you have an auto garage and you are sponsoring a block party?
- Would the requirement for permit apply to “The Beacon” or “Indian Head”? The permit requirement would not apply to the Beacon or the Indian Head because the use of their property has been already for functions. With bigger operations they have insurance and plans for accommodations and maintenance. They do not have to come to the town for any additional services than the town already knows about.
- Is it in support of their business? Everyone who has a special event does it in support of their business. Could you distinguish on the basis that the purpose of the special event is to make money? Not all special events are for making money – like charity. Then again, charities are trying to raise money.
- Would the fireworks up at Indian Head be a special event? Yes. Right now Indian Head gets permission from the Fire Chief. They are supposed to come for site plan approval. Are you looking to increase the level of enforcement or you looking to clarify? Clarify! You cannot possibly list everything that you can think of will be a “special event”! In the perfect world Indian Head would come in here and give us a list of what events they expect to sponsor and the parameters of what they expect their site can hold.

16. Page 18. The new section: **Temporary Land Uses** – combines special events and the vendor

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ordinance and relocates the temporary sales locations into this section. There is presently a section in there called “Permanent Approval”. Asciola suggested the Board change the name from “permanent approval” to “recurrent approval” in case there is an event that going forward will stay the same.

Special Events.

The Board discussed the various scenarios where this change would apply. They were not in favor of giving a “permanent” permit. They preferred to use the word “recurrent” permit. This change would be helpful, particularly if, in the future the town needs to change the format or a special event itself changes too much or gets out of hand. If the Town has something in the file that a certain Special Event is going to happen prior to this specific date they can apply for any needed signage.

- Indian Head’s Fire Works. They come in once. They get “recurrent approval” and they can do it for the next 10 years. Done!
- Highland Games.
- Craft Fairs.
- Brew Fest.

What if the event changes significantly over time?

The Board discussed what would constitute a change in the event so that the event sponsors would have to reapply for a “recurrent” permit. The special event would have to change its existing condition in some way. For example, the attendance at the Brew Fest went from 200 people behind the Woodstock Inn to 3,800 people last year at the Village Shops Plaza parking lot. They outgrew their venue last year. When the Brew Fest sponsors received their last approval they were told that once they reach a certain level of population they obviously will have to expand to different quarters. Next year they should probably expect at least 4,000 people. We would want that event to remain here, obviously, but the question is where should they hold it? The Chamber of Commerce is investigating some options for that. They will probably have to find another area. The Brew Fest is becoming difficult to run this event at that location.

17. Page 19. Section 2. **Transient Vending**. This section is where the Street Vendors Ordinance got reformatted and placed in the Land Use Plan Ordinance.
18. Page 20. Section 2. **Transient Vending**, Section D. **Applicability**. The applicability section includes what the RSA says – almost verbatim. We tried to define transient vending, because there was a little overlap between Special Events and some confusion about what constitutes a Vendor versus a Special Event. This section clarifies that vending is selling or bartering in a place that is not usually designed for selling or bartering. This Section addresses the concerns of the Selectmen regarding small vendors that are here every year. The transient vendors can get a permit for so many days. The ordinance keeps the same standards in place as are already in place.
19. Page 21. Section 3. **Sales Events**. Asciola was still working on this. Skip over to Section 4.

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20. Page 22. Section 4. **Temporary Land Use Signage.** There are three categories of signage in this section. The reviewing authority administers the permits. For instance, if the reviewing authority is the administrative staff, the staff would review the application and issue the permit. If the reviewing authority is the planning board then the planning board would review the application as part of a special event.

21. Page 22. Section 4. Temporary Land Use Signage, G. General Regulations. 3. **Types of Allowed Signage.**

We have:

- a. Public Event banners;
- b. Portable Signs

They added:

- c. Non-governmental flags

The Board discussed how the ordinance would deal with feather signs. A feather sign is generically called a “banner” and would be covered under the new section of the ordinance.

22. Page 22. Section G. **General Regulations.** 1. **Number of Allowable Signs.** The Board discussed the number of allowable signs is an adequate number. The Planning Board or reviewing authority may allow up to four (4) signs per temporary land use application.

23. Page 22. **Discussion re: How Many Signs:** As proposed, a special event sponsor would be limited to the four (4) signs additional signs for the special event alone. It would be part of the allowed signage. You could mix and match any four types of signs. Those special events signs would be temporary signs. These signs would be in addition to whatever permanent signs for the business that the special event sponsor already has, just for the event.

The Board discussed a number of hypothetical scenarios to assess how the regulations would work.

- An event at a service garage, selling all of your husband’s favorite toys. How many signs do you think you would need? One hundred!
- Whale’s Tail. They are having a weekend special. Eleven or 12 or only 4 additional signs? How many feather signs do you want to see? They have roughly 800 feet of lineal roadway.
- Clark’s Bears: If you are Clark’s Bears four signs are not going to be enough.
- Dunkin Donuts with their road frontage – four signs would be overkill!
- The River. They do promotions for the River. They come up and they have the River Signs. We also have special promo signs on 92.5 Radio Station.

The permitting process for these temporary banners would fall under the review for the Special Event. These signs support only the temporary land use. If the sponsor of the special event was a regular business with a banner it would still be exempt.

The Board decided they would be willing to allow more feather signs if it is only for an event that lasts a day or two. For those couple of days they were willing to let them advertise the hell out of it. Allowing those signs might help catch some of the traffic off the road. However, the Board wants to

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control the duration of banners off premise somewhere three weeks before hand and then a few days after the special event.

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Discussion re: Duration of the Temporary Signage for Special Events:

The Board believes there is a difference between allowing a lot of signage during a one or two day event and allowing all of the temporary signs to stay up for twenty-one (21) days like the ordinance says now. They only want to allow the additional signage for special events that last only one-two- or three days. Presently, there is a time limit of up to twenty-one (21) days prior to the event. Right now it says that we MAY display banners for up to 21 days prior to the event. It does not say we have to allow that. They would rather see 20 signs for one day than one sign for 20 days. They definitely would not want to see 20 signs for 21 days! That is too much!

The Board agreed that a special event sponsor could have four signs for 21 days, but then they could have lots of signs for the one-two-three days of the event. The Special Event sponsors want to bring attention to the event. A standard sign does not say anything to promote the special event. The Board suggested making the process a multi-stage one. They suggested starting with “No more than four signs for up to twenty-one days prior to the event, but on the day or two days of the event there can be up to 15 signs.

At the Castleberry Craft Fair they had twenty-two (22) signs, including the one big sign we put up at the location, so 15 signs is not an outrageous number of signs. If someone is going to hold a three day event then they need adequate signage.

As amended the ordinance would read: “Four (4) signs for up to twenty-one (21) days; and fifteen (15) signs for the three (3) days of the event. The signs need to come down sooner than the seven (7) days following the event. The Board proposed amending the ordinance to say that signs must come down within two (2) days following the event.

21. Page 23. Section 4. **Temporary Land Use Signage. G. General Regulations. 4. Location.** “Signs must be located at the site of the temporary land use, except when written permission is given by a private land owner at a location acceptable to the Planning Board or reviewing authority.”
22. Page 23. Section 4. **Temporary Land Use Signage. H. Enforcement and Violations.** The enforcement falls under the sign ordinance enforcement section.
23. **Site Plan Review Regulations Proposed Changes.** The proposed changes to the Site Plan Review regulations are necessitated by changes to the sign ordinance and the new temporary land uses section. The proposed changes include some changes to the required documentation for the site Plan Review applications. The same application process for Site Plan Review was made applicable to the temporary land uses. The existing regulations were reformatted. The number of copies of plans was changed to seven so that everyone on the Planning Board can have a copy of the plan to work with. The required size is an 11”x17”.
24. **Site Plan Review Regulations – The Appeal Section.**

The Board may move the appeal section into the land use plan under each of those subsections.

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25. **Page 5 - Yard Sale Signs.**

The Board discussed various duration limits on yard sale signs. Presently yard signs can be up for seven (7) days. They discussed reducing the duration to four (4) days. People can put their yard sale signs up on Friday. The sale could last for the full three (3) day weekend. Then the signs have to come down. If the sale lasts longer than three (3) days they can go back and put new dates on it. Otherwise, people will leave their yard sale signs up all summer long. Any signs put up outside of those parameters must be removed. Letting them put up the sign on Friday is like giving them a free advertising day. The yard sale signs must be removed the day after the event – one (1) day after. For example, if the yard sale is done at six o'clock Monday night they can remove their sign the next day.

25. **Page 6 – Non-Conforming Signs.**

Should the Town allow replacement of a nonconforming sign destroyed by act of God?

The Board discussed whether or not to allow people to replace their nonconforming signs in kind if they were destroyed by some act of God. Some of the worst signs in Lincoln are the old dilapidated nonconforming signs that are about to fall down. The Board discussed whether they wanted to allow people to put blown-over signs back the way they were within a certain amount of time – like within ninety (90) days. Why not longer? What if someone had to wait a long time for the insurance company to process an insurance claim? The sign owner might have a good reason why they have to wait awhile before they can fix it. What if they have to wait six months to get their check from the insurance company? Should they have ninety (90) days then? Strickon explained her experience as with insurance companies. She does not think the waiting times are that long.

What if a sign is damaged because the owner let the posts rot out and then the sign falls over?

Is that different than if a hurricane or an act of God comes along and blows the sign over? Are they going to distinguish between a sign that falls down from neglect versus falls over because of an act of God? If someone runs into your sign with a car should you be able to put it back up again? What if a tree falls on it? It would be hard to argue that the sign was neglected versus an act of God.

What do the state law and Lincoln's LUPO say?

The state law says nothing about nonconforming signs. Under state law, the town has to allow property owners to rebuild a building that is a non-conforming use; however, the state statute does not apply to nonconforming signs. As the Lincoln Land Use Plan Ordinance presently exists, if a sign owner replaces a nonconforming sign with essentially the same nonconforming sign it is a violation. When a nonconforming sign blows over, the applicant for the sign permit to replace a nonconforming sign with another nonconforming sign would have to go to the ZBA.

What happens if they do not change the ordinance? What would be the effect of a waiver?

If they leave the ordinance intact, the town can look forward to seeing these nonconforming signs eventually go away. If they allow sign owners to replace blown-over nonconforming signs with nonconforming signs, the town could expect to see some of these nonconforming signs forever. This is a method other towns use to eventually get everything to fit into a model. Initially they let nonconforming signs go. When the sign owners come in to get a permit to fix their signs then the towns get them to conform to the standards.

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They can never design a process that is totally objective. The Planning Board would have to exercise some subjectivity to determine whether to okay replacing a sign that is nonconforming in kind. That is why you have more than one person on the planning board. The Planning Board cannot be all things to all people. On the one hand they want to help the small business owner whose sign falls down, but on the other hand they also have a duty to serve the people who want the non-conforming sign to come down. Their job is to find a happy medium. There is no right answer.

What is the cost to appeal? An application to the Board of Appeals costs \$75.00.

Action:

1. The Board asked Asciola to do some research and find out how other towns address this issue of how to handle nonconforming signs that are destroyed.
2. The Board asked Asciola to determine the earliest date for having a public hearing for these proposed amendments to include it for town meeting and to have the proposed amendments revised pursuant to the Board's discussion for the next meeting.

II. CONSIDERATION of meeting minutes from August 8 & 22 and September 26, 2012.

Romprey: We will do the minutes at the next Planning Board meeting.

OLD BUSINESS**V. RSA 236:92 RULES AND REGULATIONS FOR EFFECTIVE CONTROL OF JUNKYARDS AND AUTOMOTIVE RECYCLING YARDS.**

The Board reviewed RSA 236:92

236:92 Rules and Regulations

The commissioner of transportation is authorized to issue reasonable rules and regulations to provide for effective control of junk yards and automotive recycling yards in conformance with rules and regulations issued by an appropriate department or agency of the United States and pursuant to the declared policy of the state as set forth in RSA 236:90. Such rules and regulations shall include a regulation that where 2 or more unregistered, or old motor vehicles, no longer intended or in condition for legal use on the highways, or used parts or materials from motor vehicles which, taken together, include in bulk 2 or more vehicles are held on the property of a person or persons not operating an establishment or place of business which is maintained, operated, or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automotive recycling yard in violation of RSA 236:111-129 the commissioner shall enforce the provisions of RSA 236:111-129.

(Last revised in 1967.)

The Planning Board received several complaints about Mr. Brown's unregistered vehicles down on West Street. Some complaints were in writing. The written complaints should be in the Town Manager's Office. Mr. Brown told someone who later complained to the Planning Board that the Lincoln Town

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Manager told Mr. Brown that he had a right to put as many unregistered vehicles in his girlfriend's yard as he wanted. Mr. Brown area is relatively neat and tidy. He has a fence obstructing the view of the unregistered cars. He buys cars with the intention of putting them back on the road.

The Board discussed various interpretations of the ordinance. The statute says "or no longer intended for legal use on the highway" so someone could always say they "intended" to put the car back on the road. Mr. Brown is purchasing unregistered vehicles with the intent of putting the cars back on the road. In Thornton, Mr. Brown apparently won that argument several times in court. The statute does not distinguish between "residential areas" and "non-residential areas". What if the cars are "parts-ed-out"?

The Board also discussed the importance fairness - of treating everyone the same. The Town Manager received a number of complaints about junk cars in three or four different areas in town. The Town Manager asked the Planning and Zoning Administrator, Matt Henry, to look at them. One result was that Bill Walters had to register thirty (30) cars.

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.

- A. Asciola asked if any members of the Planning Board wanted to attend the North Country Council presentation about a regional master plan on October 16, 2013.

IX ADJOURNMENT: "MOTION TO RECESS AND RECONVENE TO MONDAY, OCTOBER 15, 2013 AT 9:00 AM."

Motion: Spanos

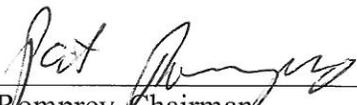
Second: Robinson

Motion carries unanimously by all members present 3-0.

The meeting was adjourned by at 7:32 pm.

Respectfully submitted,
Carole Bont
Planning & Zoning Administrative Assistant (from tapes)

Dated: February 13, 2013



Pat Romprey, Chairman