



PLANNING & ZONING DEPARTMENT

PLANNING BOARD AGENDA PLANNING BOARD PUBLIC HEARING AND MEETING

Wednesday, August 25, 2021 – 6:00 PM

Planning Board Public Meeting

Lincoln Town Hall, 148 Main Street, Lincoln NH

This hybrid meeting will be available both in person with social distancing and via the Zoom Meeting Platform to allow for town wide participation. There is room in the room for between 8 and 12 guests in addition to the Board members. The public is encouraged to participate remotely using ZOOM by going to:

Join Zoom Meeting

<https://us02web.zoom.us/j/82342852866?pwd=a0lIU9HTVYwTlB6SGpkR1JOemtDQT09>

Meeting ID: 823 4285 2866

Passcode: 495228

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

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

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

II. CONSIDERATION of meeting minutes from:

- **June 23, 2021**

- (Chairman James Spanos, Board of Selectmen's Representative O.J. Robinson, Member Steve Noseworthy, Member Paul Beaudin and Alternate Mark Ehrman)

- **July 14, 2021**

- (Chairman James Spanos, Vice Chairman Joe Chenard, Board of Selectmen's Representative O.J. Robinson, Member Steve Noseworthy, Member Paul Beaudin and Alternate Mark Ehrman)

- **July 28, 2021**

- (Chairman James Spanos, Vice Chairman Joe Chenard (arrived later), Board of Selectmen's Representative O.J. Robinson, Member Stephen Noseworthy, Member Paul Beaudin, Alternate Mark Ehrman (attending remotely via Zoom))

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

A. SPR 2020-11 M114 L080 Mt Coolidge Cn LLC - The Pines Detention Ponds

Site Plan Review Status Update Applicant/Developer/Property Owner requesting a site visit to inspect the rebuilt detention area at the Pines. Applicant signed an escrow agreement.

Engineer:

Marc Burnell, P.E., of Horizons Engineering, Inc.
34 School Street
Littleton, NH 03561

Applicant/Property Owner:

Richard (Rick) Elliott d/b/a Mt. Coolidge Construction, LLC
3 Amalia Drive
Nashua, NH 03063

Applicant's Representative: Michael Shepard, Esq.
The Shepard Law Firm, P.C.
160 Federal Street
Boston, MA 02110

Re: Application for Site Plan Review Approval

Property: The Pines at Forest Ridge, (Map 114, Lot 080), Property is in the Rural Residential (RR) District.

Project:

Modification of the Site Plan Review approval for The Pines at Forest Ridge which included ponds associated with Stormwater Management to convert a micro-extended detention basin and infiltration basin (dry pond) into a wet pond near Building 1 on Lincoln Tax Map 114, Lot 080. Mount Coolidge Construction applied for and received (on April 24, 2020) an Alteration of Terrain (AoT) permit from New Hampshire Department of Environmental Services (NHDES) for the modification of the existing micro-extended detention pond (MPI) and infiltration basin (INF1) to a wet pond. The modifications do not propose any additional impervious area to the existing AoT 1445 (expired), and will disturb approximately 15,000 square feet.

NOTICE OF DECISION

APPROVAL GRANTED WITH CONDITIONS:

On July 22, 2020, the Planning Board **GRANTED** the **Application for Modification of the Site Plan Review** approval for "The Pines at Forest Ridge" with the **FOLLOWING CONDITIONS:**

1. **The Owner/Applicant shall provide bonding which is payable to the Town for all on-site improvements (i.e., the construction, drainage and associated site work), in order to ensure that the Owner/Applicant will complete all site work in accordance with the plans.** In the event the bond is called by the Town, the Planning Board shall schedule and hold a public hearing to consider revocation of the Site Plan Approval per RSA 676:4-a. No further work may proceed on site, and no further Land Use Authorization Permits shall issue without Planning Board approval in the event the bond is called and the above-referenced revocation proceedings are initiated. The amount of the bond shall be based on the Owner/Applicant's engineer's estimate of construction costs for the project which includes a 15% contingency, which equals a total of \$82,167.00. The applicant can request release of the bond once all conditions have been met from the Planning Board. The bond shall be released at the discretion of the Planning Board after a public hearing.
2. **A maintenance bond of \$35,000 shall be provided.** Once the detention ponds have been constructed in accordance with the approved plans, the maintenance and operation of the ponds and associated stormwater management features shall be the responsibility of The Pines at Forest Ridge Condominium Association ("The Pines CA"). See letter from Richard K. Elliott, President of the Pines CA, to Carole Bont and the Lincoln Planning Board dated July 6, 2020. Maintenance and operations shall be in accordance with the approved Stormwater Inspection and Maintenance Manual for The Pines at Forest Ridge ("Inspection and Maintenance Manual"). In the event that The Pines CA lacks proper authority to take on the responsibility and exercise the power necessary to maintain and operate the ponds; then, unless and until such time as the Pines CA does have all necessary authority, the declarant ("MMC"), its successors or assigns shall be fully responsible for the maintenance and operation of the ponds. There shall be a bond so long as MCCC is responsible for the maintenance and operation of the ponds.

3. **The project shall be completed by November 30, 2020.**

Although the deadline to complete the ponds was November 30th and the ponds were well under way on that date, the ponds and the ponds' landscaping were still not "substantially complete" as of December 9, 2020. Mr. Elliot stated his intention was to purchase and position sod now so that the sod will germinate in the early spring. Furthermore, riprap and sod will be installed "as appropriate" down to the waterline. Mr. Elliot stated substantial completion would be done by the end of the next week (December 18th). Town Manager was expressed concern about the steepness of the incline down to the ponds and was concerned for life safety. Mr. Elliot stated that additional sloping would be done to create less of an incline into the ponds.

The Board planned to conduct a site visit prior to the next hearing set for January 20, 2021.

Elliott d/b/a Mount Coolidge Construction requested an extension and a public hearing on December 9, 2021. The hearing was continued to January 20, 2021 at 6:00 PM. Due to COVID-19, individual members of the Planning Board will visit the site separately prior to the meeting. Members of the public are invited to do the same.

At the hearing on January 20, 2021, Applicant Elliot explained that the detention ponds were not complete. The two (2) 20-inch (20") outfalls have not been raised up three inches (3") yet per the plan because the area was not yet vegetated enough to keep the soils from running off into the stream during the spring rains. After the spring runoff Applicant Elliott will raise those two (2) culverts up three inches (3"). Applicant Elliot will not ask the Board for a site visit or a release of funds until the project is complete and the engineer can sign off on the plan. Elliot's plan was to install temporary stop blocks to the twin culverts until spring when he will reconstruct the culverts to the correct elevations to match the approved plans. When Elliot installs a sidewalk in the spring, he will add vegetation to act as a barrier around the pond to keep young children out of harm's way. The Board will revisit this at their site visit. Mr. Elliot planned to have the project completed after the spring rains. The Board continued the hearing until April 28, 2021. On **April 28, 2021**, Elliott updated the Planning Board about the status of the work on the ponds. The Board continued the hearing until May 26, 2021. On **May 26, 2021**, Elliott updated the Planning Board about the status of the work on the ponds. The Board continued the hearing until July 28, 2021. On **July 28, 2021**, Elliott updated the Planning Board about the status of the work on the ponds. The Board continued the hearing until **August 25, 2021**.

IV. NEW BUSINESS

A. SMW 2021-02 M121 L025 (formerly Copley Properties, LLC), now Nathan Brunell.

Request for a Waiver of the Stormwater Management Ordinance (SMO)

Request for a Waiver of the Stormwater Management Ordinance (SMO) requirement for a Stormwater Management Plan for disturbing more than 50% of the lot in constructing a Single-Family Residence with an attached garage and a 14'x25'deck.

Applicant & Property Owners: Nathan & Sarah Brunell
14 P. Tree Lane
Kingston, MA 02364

Property: 169 South Peak Road (Tax Map 121, Lot 025) (0.49 acres or 21,344 SF).
The lot is in the General Use (GU) District.

Project: Appellant/Property Owners requested a Waiver of the Stormwater Management Ordinance (SMO) requirement for a Stormwater Management Plan:

- (1) to disturb more than 50% of the lot to build a single-family residence; and
- (2) to exceed 4,000 maximum square footage of impervious surfaces per alteration of terrain permit

Under the SMO, property owners are required to submit a Stormwater Management Plan if they disturb more than 50% of the lot. Property owners, Nathan & Sarah Brunell, received a Land Use Authorization Permit (LUP) in 2020 to build a single-family residence (SFR) with attached garage for 169 South Peak based on representations on their application that they would not disturb more than 50% of the lot, so they were not required to submit a Stormwater Management and Erosion Control Plan prior to being issued a permit. However, during construction of the home, contractor disturbed more than 50% of the lot.

Based on the Alteration of Terrain (AoT) Permit for South Peak Resort, the basis of design was for a maximum lot coverage of impervious surface of 4,000 SF. The permitted house, attached garage, driveways & walkways had just under the maximum 4,000 SF of impervious surface (3,800 SF).

During construction property owners added a bump-out. Now Appellants want to add a 14'X25' deck that will disturb additional land and the total number of square feet of impervious surfaces on the lot will exceed the maximum of 4,000 SF of impervious surfaces per lot that is the basis of design for the Alteration of Terrain (AoT) for South Peak Resort. These changes exceed the proposed disturbed area of over 50% of the lot and also exceed the maximum number of square feet of impervious surfaces in the basis of design for the AoT Permit.

The lot is in the General Use (GU) District.

Appellants are requesting Planning Board grant a waiver of those requirement as provided for under Article V, Section E of the SMO. Appellants propose to mitigate stormwater runoff by including 6 inches of 3/4" stone under the deck and around the perimeter of the building.

B. Dipak Patel & Gary Patel d/b/a Mani, LLC, Conceptual/Consultation

Request for Consultation – are proposed changes to Hampton Inn Plans *de minimis*?

Dipak Patel & Gary Patel d/b/a Mani, LLC, hired Opechee Construction Corporation to construct a four-story 93-room Hampton Inn on Map 112, Lot 002 and Lot 003 as approved by the Planning Board April 10, 2019 (SPR 2018-05 M112 L002 & L003 – DelRegno + Patel per Notice of Decision granting Site Plan Review approval signed April 29, 2019. Two (2) subsequent Requests for Extensions were granted by the Planning Board.

Planning Board **GRANTED** the Application for Site Plan Review Approval of:

Applicant: Dipak Patel, d/b/a The Hampton Inn
1567 White Mountain Highway
PO Box 3299
North Conway, NH 03860-3299

(Former) Property Owner:

Victor R. Del Regno, Trustee
Toreign III Realty
6718 Fox Hollow Drive West
Palm Beach, FL 33412

Property: Main Street (Lot 3) #LO (Map 112, Lot 002); and
Main Street (Lot 2) #LO (Map 112, Lot 003).
The property is located in the Village Center (VC) District.

Project: Applicant who had a purchase and sale agreement with the property owner of two adjacent lots requested **Site Plan Review** approval for a change of use to change the use of two adjacent properties in the same ownership (i.e., two existing vacant lots with three rental billboards) and to make site improvements to include a new 4-story 93-room Hampton Inn & Suites, paved parking for hotel & a separate 15,000 square foot lot, five new stormwater infiltration systems and connections to municipal water, municipal sewer & electric. The proposed project also required a boundary line adjustment or subdivision.

Request for Site Plan Review Approval

Applicant's request for Site Plan Review approval for a change of use of two adjacent properties in the same ownership (i.e., two existing vacant lots with three rental billboards) to a new 4-story 93-room Hampton Inn & Suites, paved parking for hotel and the separate 15,000 square foot lot, five new stormwater infiltration systems and connections to municipal water, municipal sewer & electric was **GRANTED** by the affirmative majority vote (3-2) of the five (5) members of the Planning Board after a duly-noticed public hearing on April 10, 2019, subject to the following **CONDITIONS OF APPROVAL**:

1. The applicant shall design and propose an adequate fire suppression system that meets the State's Fire Code and satisfies the Town's Fire Chief. The Planning Board's approval of the applicant's fire flow for fire suppression proposal would have to occur **before any construction materials are brought to the site and before any above ground construction commences.**
2. The applicant shall obtain a NH Department of Transportation (NH DOT) Driveway Permit. If NH DOT requires the Applicant to move the building, then the Planning Board's conditional approval is voided.
3. The Applicant's engineers shall design and propose a plan to verify adequate accessibility around the entire building for fire-fighting purposes using the specifications for the Town Fire Truck that satisfies the Town Engineer and the Town Fire Chief. The Town Engineer will review the plan to verify adequate fire-fighting accessibility around the entire building **before** the Fire Chief will sign off on it for either a Town Land Use Authorization Permit or a State Building Permit.
4. The lot line adjustment shall be completed and approved prior to the commencement of construction.
5. The Applicant has one (1) year from the date of the April 10, 2019, Planning Board hearing to submit the relevant information required to satisfy these conditions to the Town Planner, Carole Bont, following which a Planning Board Public Hearing will be scheduled, and the Planning Board will determine if the conditions have been met.

The Planning Board's public hearing does not have to take place within one (1) year. Rather,

the information needs to be submitted to the Town within one (1) year, but the public hearing could potentially take place later than one (1) year from April 10, 2019.

If the applicant completes the information needed to satisfy the conditions earlier than one (1) year, however, then the applicant can provide the information to the Town as soon as possible and ask for the public hearing to be scheduled.

6. In order to address the Town's sewer capacity, the Board of Selectmen recently adopted a "First Come First Served" resolution regarding the Town's Wastewater Treatment Plant. The Planning Board determined that the Applicant's approval tonight would qualify as "First Come." This means that even if another developer gets approval within the one-year period given to this applicant to satisfy these conditions of approval, the next developer will not move ahead of this applicant in terms of the Town's available sewer capacity.

On March 11, 2020, the Planning Board granted an extension, to April 10, 2021. On April 14, 2021, the Planning Board granted a second extension to April 10, 2022.

Applicant is trying to fulfill all requirements set forth in Site Plan Review Approval Notice of Decision in order to submit Application for Land Use Authorization Permit. Changes in the zoning ordinance since approval resulted in changes to proposed plan with a smaller building and additional parking spaces. Are those changes *de minimis* so that those changes will not require additional site plan review approval?

C. **Amir Khasanov – Conceptual** (property owned by Michael Donahue, Sr.)

Applicant: **Amir Khasanov**
PO Box 1521
Lincoln, NH 03251-1521

Property Owner: **Michael James Donahue, Sr. &**
PO Box 56
Woodstock, NH 03262-0056

Property:

- (1) **34 Franklin Street** (Tax Map 113, Lot 010) (0.29 acres or 12,632.4 SF].
 - (2) **Franklin Street #LO** (Tax Map 113, Lot 009) (0.19 acres or 8,276.4 SF].
- Both lots are in the General Residential (GR) District.

Proposed Project: Two (2) adjacent lots in the same ownership at the end of Franklin Street are for sale. One of the lots is developed with a mobile home and with frontage on the actual Franklin Street (Map 113, Lot 010). The second lot is vacant except for an outbuilding (Map 113, Lot 009).

Although the Town-maintained portion of Franklin Street ends at the end of 28 Franklin Street (Map 113, Lot 011) currently the pavement for Franklin Street extends beyond the end of Franklin Street for a private driveway that extends to the end the far end of the lot known as 34 Franklin Street (Tax Map 113, Lot 010) until the driveway reaches the mobile home on the far end of Lot 010.

The Town has permission from the property owner to use the paved driveway extension off

Franklin Street and to maintain it just enough to turn the Town plow trucks around during the winter as there is no cul-de-sac or turn around at the end of Franklin Street. The Town does not maintain the private driveway past the end of 31 Franklin Street (Map 113, Lot 011) where the Town Maintained portion of Franklin Street ends.

There is also a private driveway into 31 Franklin Street (Map 113, Lot 008) from the private driveway extension of Franklin Street.

If the two pre-existing nonconforming lots were merged, there is not enough acreage to support two fully compliant house lots in the General Residential (GR) District. They would need 15,000 SF per lot for a total of 30,000 SF. There is only 0.48 acres or 20,908.8 SF in both lots combined.

Proposed Buyer would like Planning Board input and advice about possibly doing a Lot Line Adjustment between Map 009 and Map 010, extending the private drive to grant access to Franklin Street to Lot 009, reconfiguring the two lots and putting one house on each pre-existing nonconforming lot.

V. OTHER BUSINESS

- A. **Site Work:** Discuss what constitutes “Site Work” (per Request of Paul Beaudin).

Article VII Administration

Section B. Land Use Authorization Permit

Paragraph 1.

Land Use Authorization Permits. It shall be unlawful to construct a new building or make exterior dimensional additions to a building without first obtaining a permit from the Board of Selectmen or their designee. Permits must be posted on the site and be easily visible. **Land Use Permits are also required before any site work is started on any proposed or approved site plan or subdivision.**

B. Letters of Complaint about Lack of Water in Fire Hydrants on Hemlock Drive

- i. July 28, 2021, Brian Crowley (11 Hemlock Drive – Map 121 Lot 004)
- ii. July 28, 2021, Arthur Remillard (7 Hemlock Drive) (Map 121 Lot 005)
- iii. July 28, 2021, Arthur Remillard (8 Hemlock Drive) (Map 121 Lot 008)
- iv. August 9, 2021, Stephen Klar (2 Hemlock Drive) (Map 121 Lot 010)

- V. PUBLIC PARTICIPATION AND OTHER BUSINESS:** Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate.

VI. ADJOURNMENT