

**LINCOLN PLANNING BOARD
REGULAR MEETING MINUTES
WEDNESDAY, NOVEMBER 14, 2018 – 6:00PM
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH**

APPROVED

Present: Chairman Jim Spanos, Vice Chair Joseph Chenard, Members Mark Ehrman, Stephen Noseworthy, and Alternates Paula Strickon and Deanne Chrystal

Members Excused: Alternates Callum Grant, and Selectmen's Representative OJ Robinson

Members Absent: None

Staff Present: Fire Chief/Forest Fire Warden/Code Enforcement Officer/Health Officer Ronald R. (Ron) Beard

Staff Excused: Town Planner Carole Bont, Ellyn Franklin, Recorder

Guests:

- **Mark J. Fougere, AICP, President of Fougere Planning & Development, Inc.,** 253 Jennison Road, Milford, NH 03055, AICP Land Use Planner, also municipal planner for Town of Hollis, NH.
- **Susanne (Susan) A. Chenard,** resident, 11 Liberty Road, Lincoln NH 03251 (Map 107, Lot 061) and Realtor for Loon Reservation Service, 264 Main Street, Suite 12, PO Box 785, Lincoln, NH 03251-0785, and owner of 19 Maple Street (Map 118, Lot 069)

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

Alternate Callum Grant and Selectmen's Representative OJ Robinson were excused.

Alternates Paula Strickon and Deanne Chrystal were seated.

II. CONSIDERATION of meeting minutes from:

- **October 24, 2018**

Present: Chairman Jim Spanos, Selectmen's Representative O.J. Robinson, and Alternate Stephen Noseworthy

- **October 30, 2018**

Present: Chairman Jim Spanos, Selectmen's Representative O.J. Robinson, Member Mark Ehrman

The Board cannot vote on these minutes without one more member to make a quorum – approval of the minutes was postponed until the next meeting.

III. CONTINUING AND OTHER BUSINESS (Staff and Planning Board Member/Alternates): 6:00 PM.

None.

IV. NEW BUSINESS**A. 6:00 PM. Presentation of Capital Improvement Plan (CIP) to Planning Board by Capital Improvement Plan Committee (CIPC).**

Strickon said the road to the transfer station (Recycle Road) needs to be fixed. Chair Spanos found item #30 on the spreadsheet under VIII. 1310-316 Solid Waste that says “Repave Recycle Center Roadway.” Fire Chief Beard recommended having a discussion with Public Works Director Nate Hadaway to push the issue.

Strickon wondered if there was a reason the Town could not combine item #60 [Dredge Lagoons & Sludge Removal for \$750,000] with item #70 [Design/Construct Upgraded Sewer Treatment for \$8,000,000]. Fire Chief Ron Beard said that Line Item #60 is a maintenance item while Line Item #70 is a total expansion.

Motion to adopt CIP: Strickon

Second: Chenard

All in favor: (6-0)

Motion carries.

B. Presentation re: how to address Town’s obligation to provide opportunities for Workforce Housing.

Mark Fougere, AICP (Fougere Planning & Development, Inc.) led this presentation. Staff and a member of the Board of Selectmen reached out to him to give a presentation to the Planning Board about workforce housing, to address the Town’s responsibility to provide opportunities for workforce housing, particularly as the economy is picking up.

Handout #1: Workforce Housing Statute (2010) - State Statutory Obligations:**TITLE LXIV PLANNING AND ZONING****CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS****Workforce Housing Section 674:59****674:59 Workforce Housing Opportunities. –**

- I. In every municipality that exercises the power to adopt land use ordinances and regulations, such ordinances and regulations shall provide reasonable and realistic opportunities for the development of workforce housing, including rental multi-family housing. In order to provide such opportunities, lot size and overall density requirements for workforce housing shall be reasonable. A municipality that adopts land use ordinances and regulations shall allow workforce housing to be located in a majority, but not necessarily all, of the land area that is zoned to permit residential uses within the municipality. Such a municipality shall have the discretion to determine what land areas are appropriate to meet this obligation. This obligation may be satisfied by the adoption of inclusionary zoning as defined in RSA 674:21, IV(a). This paragraph shall not be construed to require a municipality to allow for the development of multifamily housing in a majority of its land zoned to permit residential uses.

- II. A municipality shall not fulfill the requirements of this section by adopting voluntary inclusionary zoning provisions that rely on inducements that render workforce housing developments economically unviable.
- III. A municipality's existing housing stock shall be taken into consideration in determining its compliance with this section. If a municipality's existing housing stock is sufficient to accommodate its fair share of the current and reasonably foreseeable regional need for such housing, the municipality shall be deemed to be in compliance with this subdivision and RSA 672:1, III-e.
- IV. Paragraph I shall not be construed to require municipalities to allow workforce housing that does not meet reasonable standards or conditions of approval related to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection.

Fougere said the main crux of the state statute RSA 674:59 is that in every municipality that exercises the power to adopt land use ordinances and regulations, such ordinances and regulations **shall** provide reasonable and realistic opportunities for the development of workforce housing, **including rental multifamily housing**. In order to do that lot size and overall density requirements shall be reasonable. The community's regulations must allow for the construction of homes that are affordable.

Handout #2: Outline of Affordability: What is defined as affordable housing?

What is "affordable housing"?

Fougere said that in the state statute there is a definition of "affordable housing". The level is based on median income. There are numbers for the different regions put out every year by NH Housing Finance Authority. Those numbers are based on US Housing and Urban Development (HUD)'s median area income year populations.

Fougere said that Lincoln is in the region of Grafton County. The median income numbers for the entire Grafton County drive the cost figures for what is considered "affordable". The median income in the lower part of Grafton County is a lot higher than the median income in the northern part of Grafton County. The median income for all of Grafton County in 2018 was \$79,100 which provides for a maximum affordable house price of \$269,500.

Fougere said that on the rental side the formula requires you to take 60% of that income number (\$79,100), which is \$47,460, and use that number to calculate or find a maximum "affordable" monthly rent of \$1,070, which includes all utilities.

Fougere said that obviously, there is a lot of income variation in Grafton County. Lincoln's 2016 census and master plan show Lincoln's median income is lower than for the rest of Grafton County based on the US Census. In the 2016 Lincoln Master Plan the median income for Lincoln was \$48,594. As of today, Lincoln's median income has increased to around \$51,000. Therefore, home pricing will have to be a lot less for someone here with a median income in the Lincoln community to be able to afford housing than in the rest of Grafton County. However, under state law these numbers come from calculations required by the State statute. The higher numbers based on the county-wide median income figures would be the applicable rules at that price point of \$269,000. Regulations have to be in place to allow homes for \$269,000 to be built.

Fougere said that the same principle would apply to the maximum affordable rental expense. Fougere said he did not find much evidence of what Lincoln's rental housing costs. NH Housing Finance tracks not only sales prices and rental prices, but there was not enough available data or units for them to be able to generate any numbers to get a good accurate estimate. In order to find out what that would be in Lincoln he would have to do some deeper digging.

Fougere said that with the growth of your economy and increased opportunities for people to find employment in Lincoln, your concern is that people who work in Town be able to find housing nearby that they can afford. Providing affordable housing for those with necessary lower paying jobs in your community will be challenging in your community. With the employment-based characteristics that Lincoln has here and the money they make here is challenging.

Fougere said there are ways to meet those statutory obligations. The statute is very clear. The requirements within the Workforce Housing Statute are something you are legally required to follow as a Town – you HAVE to do it. You can ignore it to the point where someone comes in and challenges it, but then you are reacting to a legal challenge. The statute has specific language that addresses that. An applicant who is not satisfied or demonstrates that he cannot proceed with a project can proceed right to a judge and get a determination for approval of the workforce housing project and bypass the entire municipal permitting process.

Mark Ehrman asked, since the passage of this statute in 2010 are there any numbers published by the state or anyone as to how many affordable housing units are available on a county by county level either for rental or for purchase? Fougere replied no.

Ehrman said to his knowledge, there are zero workforce housing units available in this area that meet the statutory requirements. Is there a statutory threshold or enforcement provisions for judicial review of an application?

Fougere replied no. If an aggrieved party wants to take a municipality to court that incurs a significant cost. A developer is going to want to do a project. A developer does not want to fight in court. There is no penalty, per se. No one is going to come knocking on your door and say, "Hey. What's the problem?" A lot of communities like Londonderry have adopted Workforce Housing Ordinances to allow it to happen, not only because they think its good policy and to meet the legal criteria and comply with the spirit of the law. Fougere is a Planning Consultant to the Town of Hollis which is one of the wealthiest communities in the state. The Town of Hollis adopted a Workforce Housing provision in 2011. It can be done. Fougere knows a number of workforce housing units have been built around the state. He was project manager on two (2) developments that got built there. He does not have a handle on how many such developments have been built state wide. He thinks most of the workforce housing projects constructed or being constructed are in the southern tier.

Chair Spanos presented a question from O.J. Robinson who was unable to attend the meeting:

The Planning Board has discussed the possibility of drafting an ordinance that would create an overlay district in certain areas of Town that would eliminate the existing residential density requirements (minimum amount of square footage per residential unit) and allow a proposed building, or buildings, to rely solely on the existing commercial density requirements (a % of lot coverage), for any multi-unit residential building with a

single owner (therefore, not a condo development) in which the approved use is for long term (6 months +), full time (non-transient) residential use.

Is there any reason that we cannot draft this ordinance and have it on the official ballot in March 2019?

The intent is to allow apartments (to be used by full-time tenants, not vacationers) the same density requirements as hotels or condos.

Would it be preferable to create a new use definition of “non-transient apartments”) as a commercial use and seek to allow these in certain existing zones, as opposed to specific targeted areas that could be done with an overlay district?

Fougere said given that it is the second week in November, this project would be challenging to do by March. Meeting the deadlines would be challenging. He recommends taking time to think it through, because this is important issue to address for the community.

Chair Spanos said OJ Robinson was looking to make these changes without doing an evaluation of the housing stock and determining the number of units the community would need to provide its share of workforce housing units.

Fougere said he likes to “test drive” ordinances, which means writing up an ordinance and then having a civil engineer look at it and try to break it, especially when it comes to density requirements. He likes to work with Steve Keach from Keach-Nordstrom Associates, Inc. (KNA) from 10 Commerce Park N # 3B, Bedford, NH 03110. When you rush you make mistakes. You do not want unintended consequences. We team up together. You want to make sure that with what you enact you end up with what kind of development you want to see. For example, you do not want to end up with thirty (30) extra units on a parcel that you did not expect to see based on the math in your ordinance.

Stephen Noseworthy asked, do you have to write an ordinance or can you just allow a workforce housing development on a case-by-case basis?

Fougere said the Town definitely would want a specific workforce housing ordinance. If the Planning Board created an overlay that would affect a section of the community, they would need to have a provision that this housing must stay affordable over time. The Town would need to make sure there are proper covenants in place. The Town is giving a density bonus to create workforce housing that has to meet the Workforce Housing Act caps each year, so the Town will have to monitor that and reports will have to be submitted to the community. The Town does not want to give a density bonus and suddenly learn that the developer is charging \$1,500 per month because there is no cap on the cost to rent. For example, the Town of Amherst passed zoning a number of years ago and created workforce housing but there were no covenants. They were allowed a maximum of 1,200 square feet per home so the initial homes were affordable, but when the market increased there were no covenants and the owners just sold them for as much money as they could get for the units. The entire thirty (30) homes that got built to provide workforce housing under that provision were no longer affordable and they did not have to be. The lesson here is the Town would need to create covenants to make sure that the units would stay affordable over time.

Fougere suggested that the ordinance be written with a mix of market rate and affordable, not just an affordable project, which will offset the cost. Building multifamily housing is expensive. It is also good to have a mix of market rate and affordable units.

You cannot convert this housing in the future, you are only increasing this density for a specific reason. They cannot all be single family homes, and the units cannot be age restricted.

Mark Ehrman asked if the State had a summary of the various Workforce Housing legislation or ordinances and their impact on those communities and whether they conform to NH law.

Fougere said Attorney Benjamin D. Frost, Esq., AICP, Director, Public Affairs, New Hampshire Housing might have that type of data. He was personally involved in two projects in Londonderry with seven hundred (700) units between the two (2) projects. The first project was right off exit 5. For the first project the ordinance required that fifty percent (50%) of the units be set aside for workforce housing. That was controversial, but not too bad. The second project met all of the requirements based on where it was located, but in hindsight the Town did not think that through. The project was very close to single family home neighborhoods. The road was not adequate for putting that much density on it. It probably was not the best place to locate that particular project.

Vice Chair Chenard cited the problem when workforce rental housing units are later sold as very expensive condominium units and were no longer affordable rental units. Fougere explained that is why the projects have to include covenants to prevent this. The covenants would make it clear that the building has to stay as rental units.

Vice Chair Chenard cited some materials he obtained that spelled out seven (7) scenarios for developing Workforce Housing. Vice Chair Chenard said that in one scenario the workforce housing units and the market rental units looked exactly the same at first glance, but the market priced units had plush carpeting whereas the affordable units had linoleum floors and other differences. A second scenario would allow the developer to put up multifamily housing comprised of condominiums with covenants that the units cannot be converted to condominium units to be sold at market rates with a significant profit for the owner. The units had to go back to a board and be made available as workforce housing units. Fougere agreed. If the Town is targeting rental housing the project has to stay rental housing forever.

Chair Spanos asked if the Town said “no further subdivision” would that address that issue without getting into the covenants. Fougere said the whole project is going to have covenants preventing conversions of this type. The only reason we are allowing this amount of density is to serve a specific purpose – to help with the issue of providing Workforce Housing. The developer/owner cannot convert it in the future. There is a covenant that runs with the property for 100 years. For the project in Londonderry the owner cannot convert the rental apartments into condominiums. For the client in Londonderry, all of the apartments were the same. This is the way his client looked at it. The lease runs out in one unit. It is vacant. He gets a tenant who wants a market unit. He can rent it to that person. Then the next unit that opens up he can rent it out as an affordable unit. This scheme gives the landlord flexibility so he does not have to constantly shuffle people around. Whatever the percentage of units has to be set aside for Workforce Housing has to stay there. Londonderry requires 50-50 (i.e., 50% market rate units - 50% workforce housing unit rates).

Chair Spanos asked how many units per building were typical. Fougere said his client did forty-eight (48) units per building. They were garden apartments – 3 levels. The property was on a slope so the backside had some units, but it was not a full plate. The buildings are usually between 36 and 48 units per building. That is the most efficient way to construct an apartment building. Three (3) stories with thirty-six (36) units approximately. It all comes down to density to make it work to make the math work. The rents have to pay the bills. The units are generally

1-2-bedroom units. They try to have a mix. At least half (1/2) have to be two (2) bedroom units. According to the ordinance they have to provide housing for families so they cannot all be singles. They cannot be age restricted.

Chrystal asked a question about RSA 674:58 (IV): a four-person household is mentioned. Could the four (4) people in this household have one (1) income or multiple incomes?

TITLE LXIV PLANNING AND ZONING
CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS
Workforce Housing Section 674:58

674:58 Definitions. –

In this subdivision:

- I. **"Affordable"** means housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed 30 percent of a household's gross annual income.
- II. **"Multi-family housing"** for the purpose of workforce housing developments, means a building or structure containing 5 or more dwelling units, each designed for occupancy by an individual household.
- III. **"Reasonable and realistic opportunities for the development of workforce housing"** means opportunities to develop economically viable workforce housing within the framework of a municipality's ordinances and regulations adopted pursuant to this chapter and consistent with RSA 672:1, III-e. The collective impact of all such ordinances and regulations on a proposal for the development of workforce housing shall be considered in determining whether opportunities for the development of workforce housing are reasonable and realistic. If the ordinances and regulations of a municipality make feasible the development of sufficient workforce housing to satisfy the municipality's obligation under RSA 674:59, and such development is not unduly inhibited by natural features, the municipality shall not be in violation of its obligation under RSA 674:59 by virtue of economic conditions beyond the control of the municipality that affect the economic viability of workforce housing development.
- IV. **"Workforce housing"** means housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. "Workforce housing" also means rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this subdivision.

Fougere said that the requirements are all created by US HUD Guidelines. The State Statute is based on a four-person household with that income. It does not matter if the income all comes from one single parent or all four people living together with four combined incomes. It does not matter how many income earners there are. The US HUD Guidelines include a chart of households from 1 to 10 people. The income requirement is just based on a median to try and keep it simple.

Chair Spanos asked who verifies the income? Fougere said the property owner does when they sign the lease. It is their responsibility to monitor that annually. In Londonderry every year the property owner submits a verification form to the municipality stating that all of the units that are considered “affordable” meet the statutory requirements. They can be audited at any time. The apartments cannot be subleased or turned into Airbnb’s. That defeats the whole purpose of workforce housing.

Vice Chair Chenard asked what to do if most people are here seasonally – for only six (6) months? Most of the workers in Lincoln work here for six (6) months.

Vice Chair Chenard said it is against the State Housing Laws to have a boy and girl child in the same bedroom after a certain age, so how can a four-person household live in a two-bedroom house? (The rest of the Board was not familiar with that housing requirement.)

Fougere said if the need here in the community is to allow six (6) month stays, that could be built into the ordinance.

Fougere said the market builds these units. There is no government money to build these workforce housing units. No tether from state or federal agencies. Some developers do use federal funds for a “deeper subsidy” than 60%. They may have housing that goes down to 50% or lower of the area median income.

Mark Ehrman asked what the experience is with financing for this type of project with developers if 100-year covenants restricting your income. They are going to want to structure the loan with the revenue stream and they will want fixed numbers.

Fougere has not heard of problems with financing. He knows that on the mortgage side for owner occupied workforce housing, there was a vision that had to be in the mortgage for the banks to accept it, but there was a way to break the affordability under certain circumstances. Specific language is required. He said he will get that to the Planning Board.

Fougere also said that since the focus in Lincoln is more on tourism, it may be difficult to get developers as the work is usually not as steady and much more expensive.

Paula Strickon said that about four (4) years ago, the Western White Mountains Chamber of Commerce did a complete study on the impacts of not providing workforce housing in Lincoln. It was done over a six-month period, and includes the problems of our limited building sites. They showed that we have issues in Lincoln that other towns do not have. We have a high number of seasonal jobs – even if you could combine several seasonal jobs, would it be enough for a reasonable wage?

Chrystal asked, if developers brought in workforce housing, would the covenant that would be on their deed run for one hundred (100) years or with the land?

Fougere replied that it runs with the land. Whoever does this type of project would have to be sized for the market. Also, whoever is going in for workforce housing would have to agree that it is going to be workforce housing into the foreseeable future and meet its criteria every year.

Vice Chair Chenard asked what would happen if a family living in this housing worked themselves out of their wage market? Fougere said they will have to supply their W-2 for taxes every year, but if they did exceed the wage market, we would not evict them. However, there are a lot of questions that need answering in this issue.

While it is up to the Planning Board to decide where this overlay will go, Fougere recommended keeping in mind sewer location and access.

Fire Chief Beard asked for advice on crime management in workforce housing, as it can easily become a “bad neighborhood.” Fougere said there is a whole stigma around “workforce housing”. He thinks that a workforce housing project could be a combination of market rate housing and affordable housing together so the Town would not have to draw a line up the middle of a development marking a portion of it an “affordable housing” development and the other portion “market rate housing”.

Paula Strickon wanted to clarify that “subsidized housing” and “affordable housing” are not the same; people do not understand the difference, which is a huge problem.

Summary of Follow-up Questions:

- Fougere will talk to Attorney Ben Frost about what other communities have adopted statutes for workforce housing and how did it go for them.
- He will find out about the statute on financing. He first learned about this in Exeter, but will find out the information for owner-occupied units.
- He will research what happens if the income rises above wage line for the residents.
- He and the Planning Board will look into the Chamber of Commerce Workforce Housing Survey/Study that Strickon mentioned.
- He will find some sample ordinances.

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.

None.

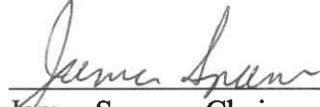
VI. ADJOURNMENT

Motion to adjourn: Strickon
Second: Chenard
All in favor (6-0):
Motion carries.

Respectfully submitted,

Ellyn Franklin
Recorder

November 28, 2018
Date Approved:


James Spanos, Chairman