

APPROVED

**Lincoln Planning Board
Public Hearing & Meeting
Wednesday, October 14, 2020 – 6:00 PM
Lincoln Town Hall - 148 Main Street, Lincoln NH 03251**

Due to the current COVID-19 situation, and the number of members on the Planning Board and staff, the Town Hall Conference Room can safely accommodate up to 8 public participants and seating is on a first-come basis. This meeting will also be available via the Zoom Meeting Platform to allow for town wide participation.

Present: Vice Chairman Joseph Chenard, Board of Selectmen's Representative O.J. Robinson, Selectmen's Representative Tamra Ham, Steve Noseworthy, Mark Ehrman (via ZOOM) and Alternate Paul Beaudin.

Members Excused: Chair Jim Spanos

Members Absent: None

Staff Present: Town Planner Carole Bont, Fire Chief & Code Enforcement Officer/Health Officer Ronald R. (Ron) Beard, Town Attorney Peter Malia, Town Engineer Ray Korber and Town Manager Alfred Burbank.

Guests:

- **Peter Cooke**, nonresident, President of Wellman Associates, Inc., 117 North Main Street, Wolfeboro, NH, 03894
- **Douglas Grant**, nonresident, Mossy Glen Way, Randolph, NH 03593, Chair of North Country Council Board of Directors, Town of Randolph, NH (via ZOOM)
- **Carl D. Martland**, nonresident, (ABUTTER) Chair North Country Scenic Byways Council, c/o North Country Council, Inc., 161 Main Street, Littleton, NH 03561, 16 Post Road, Sugar Hill NH 03586 (via ZOOM)
- **Nancy Martland**, nonresident, 16 Post Road, Sugar Hill NH 03586 (via ZOOM)
- **Kevin Mason**, nonresident, Sr. Project Manager at SAI Communications, Consultant for AT&T New Site Build and FirstNet – New England Area, 12 Industrial Way, Salem, NH 03079 (via ZOOM)
- **Ivan Pagacik**, nonresident, Telecommunications Expert for the Town and President of IDK Communications, 123 Whitcomb Ave., Littleton, MA 01460 (via ZOOM)
- **Kim Pickering**, nonresident, Executive Director Western White Mountains Chamber of Commerce, Mailing Address: PO Box 1017 Lincoln, NH 03251, Physical Address: 126 Main Street North Woodstock, NH 03262 (via ZOOM)
- **Charyl Reardon**, nonresident, Charyl Reardon, White Mountains Attractions Association, representing the entire White Mountains region, Selectmen for the Town of

Woodstock, NH, Woodstock Town Office, 165 Lost River Rd, PO Box 156, North Woodstock, NH 03262-0156 (via ZOOM)

- **Peter Spanos**, resident, Owner and operator of Indian Head Resort, 664 US Route 3, Lincoln NH 03251 (via ZOOM).
 - **Attorney Jonathan S. Springer**, nonresident, Springer Law Office, 118 Maplewood Ave # C-1, Portsmouth, NH 03801 (**ATTORNEY FOR and AGENT for SITE PLAN REVIEW APPLICANT**) Green Mountain Realty, Inc., Contact: Victor R Drouin, 702 Riverwood Dr., Pembroke, NH 01949 and Applicant Green Mountain Communications, Inc., Victor Drouin, President, 702 Riverwood Drive, Pembroke, NH 03275 (via ZOOM)
 - **Kaela Gray Tavares**, nonresident, Community & Economic Development Planner, North Country Council Inc., Mt. Eustis Commons, 262 Cottage Street, Suite 246, Littleton, NH 03561 (via ZOOM)
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I. CALL TO ORDER by the Chairman of Planning Board (PB); announcement of excused absences, if any, and seating of alternates(s), if necessary. Acting Chairman Chenard stated that Jim Spanos is excused and Alternate Paul Beaudin is seated in his place.

II. CONSIDERATION of meeting minutes from: **September 9, 2020** (Chairman Jim Spanos, Vice Chair Joseph Chenard, Selectmen's Representative OJ Robinson, Member Steve Noseworthy and Alternate Paul Beaudin)

MOTION: "To accept the minutes of September 9, 2020 as written."

Motion: OJ Robinson Second: Joe Chenard Motion carries unanimously

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

MOTION: "To open the hearing on SPR 2020-04 M102 L005 Greenside Ink – GMR Holdings of NH, LLC - Cell Tower."

Motion: OJ Robinson Second: Steve Noseworthy All in favor

At this time OJ Robinson recused himself from participating in the hearing as a member of the Planning Board for this meeting and future meetings (for as long as this matter is being heard by the Planning Board) as he has a conflict of interest. Selectmen's Representative Tamra Ham is seated in his place.

A. SPR 2020-04 M102 L005 Greenside Ink – GMR Holdings of NH, LLC - Cell Tower

Application for Site Plan Review Approval for proposed 120-foot-high telecommunications cell tower under Land Use Plan Ordinance Article VI-A Telecommunications Equipment and Facilities has been filed by:

Agent Attorney Jonathan Springer
Springer Law Office, PLLC
118 Maplewood Avenue - Suite C-3
Portsmouth, N.H. 03801
on behalf of

Applicant GMR Holdings of NH, LLC
702 Riverwood Drive
Pembroke, NH 03275

Property Owner Donald Landry d/b/a Greenside Ink, LLC
PO Box 953
Lincoln, NH 03251-0953

Property:
749 US Route 3, Lincoln, NH (Map 102, Lot 005). General Use (GU) Zoning District

Proposed Project:

In addition to Site Plan Review approval, applicant is seeking a Conditional Use Permit pursuant to Article IV-A, Section F (4) to increase the allowed height of 100 feet to 120 feet.

The Applicant is also seeking the following waivers:

1. From Article VI-4, Section H (4)(a)(i), which states that "Towers shall be located within the tower lot as to provide a fall zone free of any structures equal to 125% of the height of the tower."
2. From Site Plan Review Regulation Article XIV (23)(d), which requires engineering calculations used to determine drainage requirements.
3. From Article VI-A, Section J (as a condition of acceptance only; the Planning Board shall require the applicant to post adequate surety for the costs of maintenance, remit repair or removal thereof. The amount informed of the surety shall be determined by the Planning Board.)

As a proposed Development of Regional Impact, notice is to **NH Towns & unincorporated places** within 20 miles of Lincoln: Albany, Ashland, Bartlett, Bath, Beans Grant, Beans Purchase, Benton, Berlin, Bethlehem, Campton, Carroll, Center Harbor, Chandlers Purchase, Chatham, Conway, Crawfords Purchase, Cutts Grant, Dalton, Dorchester, Easton, Eaton, Ellsworth, Franconia, Gorham, Greens Grant, Groton, Hadleys Purchase, Hales Location, Hart's Location, Haverhill, Holderness, Jackson, Jefferson, Kilkenny, Lancaster, Landaff, Lisbon, Littleton, Livermore, Low & Burbanks, Lyman, Madison, Martins Location, Monroe, Moultonborough, Orford, Ossipee, Piermont, Pinkham's Grant, Plymouth, Randolph, Rumney, Sandwich, Sargents Purchase, Shelburne, Sugar Hill, Tamworth, Thompson & Meserve, Thornton, Warren, Waterville Valley, Wentworth, Whitefield & Woodstock.
VT Towns within 20 miles of Lincoln include: Barnet, Bradford, Concord, Fairlee, Lunenburg, Newbury, Ryegate, and Waterford.

Presentation:

The Board went through the site plan review application to determine whether it was complete. The Board questioned the square footage of the area being disturbed. Attorney Springer informed the Board that the area disturbed is approximately 2,898 sq.ft. or 6.36% of the lot which represents the area of disturbance upon project completion.

MOTION: "To approve the waiver of Site Plan Review Regulation Article XIV (23)(d), which requires engineering calculations used to determine drainage requirements."

Motion: Tamra Ham

Second: Paul Beaudin

Paul Beaudin questioned what the Town Engineer's opinion of the waiver is. Engineer Korber stated that he has not reviewed the plan. Mr. Beaudin stated that he will not approve the waiver until the Town Engineer has reviewed the plans.

Tamra Ham withdrew her motion and Paul Beaudin withdrew his second of the aforesaid motion.

MOTION: "To deny the waiver of Site Plan Review Regulation Article XIV (23)(d), which requires engineering calculations used to determine drainage requirements until the Town Engineer has a chance to review the plan."

Motion: Paul Beaudin

Second: Tamra Ham

Attorney Malia stated that rather than deny or approve the waiver, the motion should be to defer any decision until the November Planning Board meeting to allow the Town Engineer time to review the plans.

Paul Beaudin and Tamra Ham withdrew the motion/second a second time.

MOTION: "To defer a decision on the waiver of Site Plan Review Regulation Article XIV (23)(d), which requires engineering calculations used to determine drainage requirements until the November Planning Board meeting to allow the Town Engineer the opportunity to review the plans."

Motion: Paul Beaudin

Second: Tamra Ham

Motion carries with Mark

Ehrman abstaining.

Attorney Malia asked Attorney Springer if he could provide the engineering requirements used to determine the drainage between now and the next meeting if the Town Engineer requested the plans. Attorney Springer stated that he could provide this information upon request.

Paul Beaudin questioned whether Fire Chief Beard has reviewed the plans that show the diesel generator and whether he has everything he needs to make a decision on this application. Chief Beard replied that he has reviewed the information and does have all of the information he needs. Paul also questioned whether there was any lighting on the utility pole or tower. Attorney Springer replied that there is no lighting.

MOTION: "To ask the Town Engineer to research whether any state permits or approvals are necessary for this project."

Motion: Joe Chenard Second: Paul Beaudin All in favor

Attorney Springer stated that he is not aware of any state permits needed for this project. Paul Beaudin questioned whether or not the project requires a performance bond. Attorney Springer stated that the Town's guidelines do require a bond upon completion of the project. He is unsure how a removal bond could be required at this time as its usually done upon project completion not submission. Paul Beaudin questioned what Attorney Malia's opinion is. Attorney Malia stated that in the project narrative, the applicant states that a project bond would be posted. He stated that Attorney Springer's point is that there is no reason to take out a bond at this point in the process as the project application hasn't been approved yet. Further, if the Board approves the application, one of the conditions of approval could be a bond. Attorney Malia stated that he believes it is ok to waive the requirement at this time for the purposes of the application being accepted as complete.

MOTION: "To make a motion that the requirement of a bond is not applicable at this time but will be readdressed if/when the application is approved."

Motion: Paul Beaudin Second: Tamra Ham All in favor

Paul Beaudin stated that as the rock retaining walls are higher than four feet, they require plans to be drawn up by an engineer as part of the site plan review process. The Board agreed to defer this requirement until the next meeting. Peter Cook stated that he thought the retaining wall engineering was part of the requirements after the application has been approved. Attorney Springer agreed that the engineering would be done on the retaining walls once their application has been approved but for purposes of accepting the application as complete, he did not think this was a requirement. Ray Korber stated that the Town requires a pre-construction control affidavit sent from the engineer of record to the Town before a land use permit is issued and is a condition of site plan review approval. Further discussion ensued. Peter Malia stated that this is similar to the bonding issue and should likely be a condition of the approval process. Paul Beaudin and Joe Chenard stated that they would rather require the design plans be drawn up prior to the next meeting so they can make the most informed decision. Attorney Springer stated that he is fine with this requirement as long as the application is considered complete by the Board this evening. However, he added that the site plan review application documents should be clearer about the requirements as the applicant would have started the design work on the rock walls earlier in the process. This should be made clearer for future applicants. Attorney Springer stated that they will try to get the plans done prior to the next meeting but it may not be possible.

Paul Beaudin questioned whether there was any information on the plans for the tower fall zone. Attorney Springer stated that the fall zone waiver should not be considered at this point in the application acceptance process but is typically required in the merit process. Attorney Malia stated that the fall zone issue is discussed in the narrative. He agreed with Attorney Springer on the appropriate time to discuss the fall zone. Peter Cooke stated that he would provide a circle on the plans showing a 120-foot fall zone surrounding the tower per the Board's request.

Paul Beaudin questioned whether the Town Engineer as well as the town staff have all of the information needed in the application in order to consider the application complete. All agreed that they have necessary information other than what has already been discussed.

Public Comment Period:

MOTION: "To open the hearing for public comment."

Motion: Paul Beaudin

Second: Steve Noseworthy

All in favor

At this time, Joe Chenard opened up the hearing for public comment.

Peter Spanos stated that this project will do irreparable damage to his business and his family and that other alternative sites should be considered. He stated that AT&T and the Whale's Tale have sites that could be used and that this eyesore cannot be constructed at the entrance to Franconia Notch. He questioned why a balloon test has not been done yet. Tamra Ham stated that a balloon test will be scheduled and the public notified of when it will take place.

Attorney Malia stated that Chairman Chenard may have opened up the public comment a little prematurely as it is up to the Board to decide whether the application is complete or not prior to public comment. If the Board votes to accept the application as complete, public hearings will be held so the public may give input on the proposed project.

MOTION: "To close the public comment period."

Motion: Paul Beaudin

Second: Steve Noseworthy

All in favor

MOTION: "To consider the application to be complete according to the Site Plan Review requirements with the following two conditions: that the applicant will provide more information on (24D) the engineering calculations and (31) the retaining walls."

Motion: Paul Beaudin

Second: Tamra Ham

All in favor

MOTION: "To consider this application as being a proposed development that has regional impact."

Motion: Paul Beaudin

Second: Tamra Ham

All in favor.

The balloon testing schedule was discussed. The Board would like to see the test be done on the weekend as Franconia Notch is busiest during the weekends. Carole Bont suggested getting public input on the timing. She added that this tower will be in the Appalachian View Corridor. The Board asked for public input. Charyl Reardon recommended the test be done on a Saturday mid-day. Paul Beaudin questioned whether a digital image could be done of where the tower will be. Attorney Springer clarified that two balloons are flown for a period of a couple of hours in the morning when there is less chance of wind so that the balloons will go straight up. A crew then photographs the area while the balloons are up and superimposes a 20ft monopole into the photo at the balloon location in order to give the Board an accurate visual of what the tower will look like.

Planner Bont questioned whether the views from the Appalachian Trail (AT) will be considered. Attorney Springer stated that aials will not be taken from the mountaintop but assured the Board that a 120ft pole would not be something that wouldn't blend in with the scenery as it does not break the ridgeline. He stated that he is an avid hiker and is adamant that this tower will not stand out looking down from a mountaintop. He guaranteed that it would not be seen because of the treed backdrop and that the visibility is minimal. The Board discussed what viewpoints they would like the photos taken from including scenic road corridors, landmarks, abutters and local resorts.

The Board discussed what viewpoints they would like the photos taken from including scenic road corridors, landmarks, abutters and local resorts. Representatives of North Country Council (NCC) would like to see a video taken of the tower location as you come onto the on/off ramps headed into/out of Franconia Notch. They believe it will be right in middle of this spectacular view. NCC would also like to see a photo from the top of the Indian Head Tower (if permitted).

All agreed on the morning of October 31st from 8:00am-1:00pm with a backup date of November 7th.

MOTION: "To open the hearing for public comment."

Motion: Paul Beaudin Second: Steve Noseworthy All in favor

Peter Spanos stated that he will grant written permission to the contractor and the Town to photograph the balloon test from the top of the Indian Head tower.

There was no other input from the public.

MOTION: "To close the hearing for public comment."

Motion: Paul Beaudin Second: Steve Noseworthy All in favor

Carole Bont questioned whether the Board would like to require an escrow for the telecommunications expert to review the reports from a telecommunications perspective.

MOTION: "To set up an escrow for the telecommunications expert, Ivan Pagacik, to review the reports from the telecommunications perspective."

Motion: Paul Beaudin Second: Tamra Ham All in favor

MOTION: "To set up an escrow for the Town Engineer, Ray Korber, to review the applicant's plans."

Motion: Paul Beaudin Second: Tamra Ham All in favor

MOTION: "To set up an escrow to reimburse the Town for the Town Attorney, Peter Malia, for all legal expenses related to the aforementioned project."

Motion: Tamra Ham Second: Paul Beaudin All in favor

MOTION: "To continue the hearing until November 11, 2020 at 6:00pm."

Motion: Tamra Ham

Second: Paul Beaudin

All in favor

A brief discussion on which abutters (and the associated costs) to notify of the balloon test was held. Attorney Malia recommended that the direct abutters and the towns that directly abut Lincoln be notified. Tamra Ham recommended that just Woodstock, Franconia and the direct abutters be notified.

MOTION: "To notify the towns of Woodstock and Franconia and the direct abutters via certified mail of the upcoming balloon test."

Motion: Tamra Ham

Second: Paul Beaudin

All in favor

Upcoming Meetings

Town Manager Burbank advised the Board that with the current status of the global pandemic, all of the Town boards need to stay flexible as to how meetings are conducted as well as how that may change in the coming months. It is possible that the Town Hall could be shut down again and meetings could be held entirely by Zoom.

IV. ADJOURNMENT

With no other business to attend to, the following motion was made.

MOTION: "To adjourn the meeting at 7:49pm"

Motion: Tamra Ham

Second: Paul Beaudin

Motion carries.

Respectfully submitted,

Brook Rose

Recording Secretary

Date Approved: October 28, 2020



Joseph (Joe) Chenard, Acting Chairman