

**APPROVED**

**Lincoln Planning Board  
Public Hearing & Meeting  
Wednesday, December 16, 2020 – 6:00 PM  
Lincoln Town Hall, 148 Main Street, Lincoln NH 03521**

**Due to the current COVID-19 situation, and to recent staff exposures to COVID-19, the Town Office is closed to the public. This meeting will be available only via the Zoom Meeting Platform to allow for town wide participation. The public is encouraged to participate remotely using ZOOM by going to:**

**Join ZOOM Meeting.**

<https://us02web.zoom.us/j/82282373724?pwd=ejZUVzhVWHhUbzlCT0VsYzZJTdk0Zz09>

**Meeting ID: 822 8237 3724**

**Passcode: 117183** or via telephone (1-929- 205-6099).

(See also town website [www.lincolnnh.org](http://www.lincolnnh.org) for the same link, meeting ID and passcode.)

**Note: Because this is a work session, no public participation is allowed. You may watch the meeting, but there is no public participation.**

## **WORK SESSION**

**Present:** Chair Jim Spanos, Vice Chairman Joseph Chenard, Board of Selectmen's Representative O.J. Robinson, Mark Ehrman, Steve Noseworthy, and Alternate Paul Beaudin. (All attendees were present via ZOOM. Steve Noseworthy via phone.)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Fire Chief & Code Enforcement Officer/Health Officer Ronald R. (Ron) Beard, Town Planner Carole Bont, and Town Manager Alfred Burbank (via ZOOM).

**Guests:** Jayne Ludwig(?) and two others not identified on 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.

**II. MINUTES OF THE PREVIOUS MEETINGS**

**Consideration of the November 11, 2020 meeting minutes** (Chair Jim Spanos, Vice Chairman Joseph Chenard, Board of Selectmen's Representative O.J. Robinson, Selectmen's Representative Tamra Ham, Member Steve Noseworthy, Member Mark Ehrman and Alternate Paul Beaudin). (All attendees were present via ZOOM.)

**Consideration of the December 9, 2020 meeting minutes** (Chair James Spanos, Vice Chair Joseph Chenard, Selectmen's Representative OJ Robinson, Selectmen's Representative, Member Steve Noseworthy, Member Mark Ehrman, and Alternate Paul Beaudin). (All attendees were present via ZOOM.)

**MOTION: "To pass over the minutes of November 11, 2020, and December 9, 2020."**

**Motion: Joe Chenard**

**Second: Mark Ehrman**

**No vote was taken.**

**(Some delay as OJ Robinson was having difficulty trying to sign onto Zoom.)**

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### **III. AGENDA:**

**A. 6:00 PM Land Use Plan Ordinance Proposed Changes to be Considered:**

1. Revise parking requirements to ensure sufficient employee parking, truck/trailer parking, or take into consideration shared parking between uses that occur at opposite times.
2. Authorize the Planning Board to waive the density requirements for multi-family properties in zones other than the Village Center.
3. Increase density for multi-family developments, along with defining "multi-family" as "long-term residential" (versus short term rental).
4. In the process for approving an application, when should 3rd party review begin?
  - a. Before the application is accepted?
  - b. After the application is accepted?
  - c. As a condition of approval?

**B. 6:00 PM Site Plan Review Regulations: Create Bond Requirements and Release Process. (Never discussed.)**

**C. 6:00 PM Stormwater Management Ordinance Requirements: Define "disturbance" and distinguish between "temporary disturbance" (during the construction process) and "permanent disturbance" (buildings, driveway, etc.) (Never discussed.)**

**D. 6:00 PM Brief Update on the Reed vs. Town of Gilbert Decision for the Sign Ordinance. (Never discussed.)**

**E. 6:00 PM Discussion re: Technical Review Staff (Discussed.)**

**F. 6:00 PM Discussion re: Planning Board Budget (Discussed.)**

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### **IV. CONTINUING AND OTHER BUSINESS (Staff and Planning Board Member/ Alternates).**

**A. 6:00 PM Land Use Plan Ordinance Proposed Changes to be Considered:**

1. Revise parking requirements to ensure sufficient employee parking, truck/trailer parking, or take into consideration shared parking between uses that occur at opposite times.

## **DISCUSSION RE: PROPOSED AMENDMENTS:**

### **1. Revise Parking Requirements:**

- a. How many parking spaces should be required for a single-family residence? Should the number of spaces required be increased depending on the number of bedrooms?
  - For example, right now, there is a requirement of only two (2) parking spaces per house, whether the house has two (2) bedrooms or seven (7). The problem is someone with a seven (7) bedroom house now has twelve (12) cars parked at the house every weekend and there is no room to safely park that number of cars on the lot, so they are parking along the roadways, etc.
  - The cars are not parked in designated parking spaces, but on the front lawn, along the public way, and in front of neighboring homes, etc.
  - How many parking spaces for residences should be required if the house has more than the usual number of bedrooms?

Discussion re: people parking on front lawns, or in roadways blocking neighbors' access to the homes and blocking public and private roadways, filling up the street and the garages and with no room for parking on the street.

- b. Whether to define a parking space, and if so, how?
  - The consensus of the Board was that a parking space cannot be a grassed area or a front lawn.
  - A parking space shall be maintained during the winter so you can get "the full dimensional parking out of it".
  - Ordinance says: A parking space shall have additional adequate area for maneuvering. Comments: If the property owners do not clear the snow there is not adequate area for maneuvering.
- c. Whether the number of parking spaces required should be a factor of:
  - How many potential dwellers can occupy the residence (based on the number of bedrooms);
  - Whether the house is occupied by owners or tenants;
  - Whether the building houses short term tenants or long-term tenants; and
  - How to define short term tenants versus long term tenants.
- d. Should the number of parking spaces depend on potential occupancy?
  - If a property owner wants to invite people to stay at their place, they need parking spaces for them all. There should be an adequate number of spaces for owners, tenants and invitees.
  - There should be adequate off-street parking;
  - A parking space should be a certain size;
  - A parking spaces should not be someone's front lawn;

- The parking space should be used exclusively as a parking space; and
  - The parking space should be maintained in all seasons, particularly winter.
- e. **Current Definition of Parking Space:** In the ordinance (p 21, #2) a parking space is defined as being one hundred seventy square feet (170 SF) in area and having additional adequate area for maneuvering.
- f. **Enforcement:** Town Manager Butch Burbank: If you are expecting the police department to enforce the parking requirement, you have to give them the adequate statutory authority to enforce it. At no time should parking spill onto a “public way” as defined in the RSAs any time of the year. If the parking is taking place on private property the police department is not going to enforce it. Most of the problems are occurring in the private homeowner associations where the roads are private and not public ways. Cite the RSA in the ordinance that the Police Department is going to come and tow vehicles. The Land Use Plan Ordinance only pertains to new houses. Anything that is already constructed in grandfathered.
- People cannot block a public way now even as it is currently written.
  - Vice Chair Chenard: What do we do on streets like Church Street, Maple Street, and Franklin Street? People park on those streets all day long. Are they going to be excluded? If not, where are those homeowners going to park? Those are grandfathered. It only applies to new uses or expansion of uses.
- g. **Definition of Parking Space:** A single parking space is defined as a designated exclusive and maintained space being at least 170 square feet in area and having additional area for maneuvering. Discussion about whether a garage space can be considered a parking space so long as there is adequate space for a vehicle between the garage and roadway.
- h. **Enforcement:** Alternate Beaudin asked Town Manager Burbank if that definition would be acceptable to the Police Department to allow them to do enforcement.
- Town Manager Burbank offered to run the proposed language by Police Chief Chad Morris to see if it would.
  - Further discussion about enforcement. Enforcement section of the Land Use Plan Ordinance is on page 92. NH RSA 676:17 is the enforcement statute.
- i. **Is Restaurant Location Relevant:** Member Ehrman asked whether hotels and restaurants located along Main Street/NH Route 112/Kancamagus Highway between the ramps on/off I-93 and the Loon Mountain Ski Area should require more parking spaces than those same business uses elsewhere in town.
- Member Ehrman: In the Lincoln downtown area there is less available room to provide alternates to accommodate overflows and other related challenges like snow storage than elsewhere.
  - Selectmen’s Representative Robinson: The need for additional parking is not related to the idea that the restaurant is freestanding or whether the restaurant is attached to a hotel; the required number of parking spaces should be the same.

- Member Ehrman: More importantly, one consideration should be the location of the restaurant, requiring more parking spaces in the more densely populated downtown business area on Main Street/NH Route 112 and the Loon Mountain Ski area. Reason: We have less room for flexibility for people who park incorrectly obstructing spaces or parking with larger vehicles, who present additional challenges.
- Vice Chair Chenard agreed with Member Erhman. Chenard said he works for a number of hotels with associated restaurants in the downtown area doing maintenance and plowing. He said those hotels were put in when two (2) parking spaces per unit were required instead of 1.25 per unit as is required now as were more employee parking spaces. Those hotel parking lots with two (2) spaces per unit plus additional employee parking spaces are full and do not have enough room for snow storage now. He does not want to stop the hotels from coming in, but he wants adequate parking space and snow storage space so he can do his job. On the weekends the parking lots of the Comfort Inn and the Holiday Inn are so full that when people come in with their snowmobile trailers and on busses there is no room for these vehicles so the vehicles are parking in the streets and double parking in the roadways and safety zones.

**j. Snow Maintenance & Storage:** Alternate Beaudin would like to make sure the parking spaces are maintained during the winter months. In the winter months, we receive a lot of snow which cuts down on the available parking and causes this problem of inadequate parking spaces. If those parking spaces were properly maintained during the winter months, we would not have this problem. The Planning Board agreed to put the requirement for year-round maintenance in the definition section of a parking space.

**k. How Many Parking Spaces are Needed in Mixed Use Developments:** In looking for examples for the purposes of discussion, Chair Spanos suggested the Board consider how well the parking requirements are working for existing mixed-use developments. For example, right now the residential condos/apartments over the retail/consumer service units at "The Depot" would only need one parking spaces per dwelling unit. Decision: Leave as is.

**l. Service Stations.**

- The Planning Board reviewed the number of parking spaces required for auto service stations – three spaces per repair bay, (1) one space for a customer's car, waiting for repairs plus (2) one space for the car in the bay; plus (3) one space per bay for employees. These spaces must be provided on site. Chair Spanos said the thinking when they drafted that section was the station would need a parking space for one car in the bay, one car waiting to be picked up after repairs and one car waiting to go in. No changes were proposed; it seems to be working.

**m. Selectmen's Representative OJ Robinson proposed adding a paragraph "m":**

For any business that is operating without sufficient parking to satisfy current requirements, any request for expansion or change of use will not be denied based on parking requirements so long as the total number of required parking spaces does not increase over the number required for the existing use.

### **Discussion re: Proposed Amendment paragraph “m”:**

To explain the thinking behind his proposed amendment, Selectmen’s Representative Robinson said: Encore Thrift Store at The Depot is a small part of a larger mixed-use development (retail apartment/condos upstairs and business condos with retail and consumer service businesses operating downstairs). Based on their square footage the Encore Store was required to have something like twenty-eight (28) parking spaces for their sole operation based on their square footage of retail space open to the public which they did not have at The Depot. However, when Encore Store asked to change a portion of their retail use into a food service use, Encore Store still needed twenty-eight (28) parking spaces which Encore Store still did not have. The Planning Board chose not to deny them the ability to convert retail space into food service space based on inadequate parking spaces. We looked at whether the new use would require more parking spaces than the old use would have required, not whether the parking spaces were actually available. The Planning Board needs the flexibility to be allow people to change the use of their spaces otherwise we would be disallowing business owners to be able to change the use of their business space because they don’t have enough parking to begin with. Otherwise, for example, when a business owner retires, they would not be able to allow another use in the space.

Alternate Beaudin disagreed. He directed the conversation to “The Mill”, and “The Depot”; both places have inadequate parking spaces for what is already operating there. You cannot put a use in a space that cannot accommodate the number of parking spaces needed.

Selectmen’s Representative Robinson said: Although what Beaudin says “makes sense”, what he is saying that we can never allow a change of use in any of the businesses at The Depot. The businesses at “The Depot” cannot change their use because any single business at “The Depot” does not have an adequate number of parking spaces for their use now.

Chair Spanos said what he and Selectmen’s Representative Robinson are saying is that the number of required parking spaces cannot increase from what they are using now. For example, whatever the use a business has now is using X number of spaces, that number with the new use cannot increase beyond the required number of parking spaces for the current use. Alternate Beaudin argued that the current use is “grandfathered”, however, when you change the use, that is when the new business user has to meet the parking requirements. Robinson said he is not talking about “expanding” the business; he is talking about changing the use.

Alternate Beaudin said the Town has tried to accommodate all businesses, even to the extent of allowing businesses to share parking spaces based on their hours of operation, this practice has come back to “haunt us”. If you are going to change a business use you should know that you have the appropriate parking for that business use within whatever building or area you are going to operate because if you do not, the town is going to have a problem. Member Steve Noseworthy and Vice Chair Chenard agreed with Alternate Beaudin. Member Steve Noseworthy thought that the Gypsy Café was a good example of “parking run amok”. They have no onsite parking and they doubled the size of the place. People park on his lawn and his driveway and every which way on the Street. The fire trucks could not get through there if they tried.

Vice Chair Joe Chenard talked about the economic crunch back in the 1990s when about eight (8) businesses at “The Depot” went bankrupt and closed up entirely; there was plenty of parking then. Would you rather see “The Depot” full with not enough parking or empty with very few

businesses operating and plenty of parking? Times change. Ordinances change. The Planning Board has to be flexible enough to change with the times.

Alternate Beaudin said allowing the changes of use to interfere with the parking needs of the other businesses that are in the same business development is not appropriate.

Chair Spanos said: If the proposed change of use requires additional parking – more than the number of parking spaces required by the old use – the Planning Board would not allow those uses. If the proposed use does not require any additional parking from the old use, the Planning Board may agree to waive that requirement even if the old use did not meet the current parking requirements for that use.

Member Ehrman agreed with the proposed amendment and considers the policy to be an “enlightened policy”. Times change. Businesses change. You don’t want to kill businesses to protect your parking inventory. Many of the businesses in Town have inadequate or sub-optimal parking. The Planning Board should look to keep those businesses as alive and thriving as possible with enlightened regulation not shut the businesses down by jamming the business into a more difficult situation. Robinson did not say “regardless of the parking requirement” but rather he said as long as the parking requirement of the new use is not greater than the parking requirement of the old use then that issue alone shall not be a sufficient reason to deny a change in intended use. This is a contemporary and reasonable approach to dealing with the parking issue. Lincoln is not the only municipality that has this issue.

Alternate Beaudin objected: You cannot resolve the current parking issues that way.

Member Ehrman: You cannot necessarily address current parking issues with regulation. The only way you can fix the parking problem is by wiping the businesses as they exist right off the map which is what they did in China and they ruined everything about the old City of Beijing China. We want to preserve Lincoln’s heritage, we want to improve things, but we don’t want to destroy it and wipe it out. In order to preserve it we have to allow adaptation to newer uses.

Vice Chair Chenard agreed with Ehrman and Robinson. Vice Chair Chenard: An urban renewal project in the City of Laconia, NH, many years ago wiped out all of the existing businesses in the old business center of the city and the associated old parking spaces. Then they created a plan for the rebuilding the city, using the latest and greatest thinking at the time about what would be ideal. Fast forward years later – most of those businesses folded and moved out. The renovated urban renewal part of former downtown was dead for about twenty (20) years. Now the City of Laconia is trying to bring the old city center back to what it was before urban renewal. We do not want to do that to Lincoln. Lots of businesses and people would be hurt. The old City of Laconia had parts that were good and parts that were not so good, but all parts contributed to the Town’s unique identity that was lost with the urban renewal project.

**Chair Spanos asked all those in favor of Robinson’s proposed amendment to add “m” to the Land Use Plan Ordinance to raise their right hand and say “Aye.” All in favor. (5-0)**

After a short discussion, **no** changes are proposed for the following parts of the parking ordinance portion of the Land Use Plan Ordinance:

**A. ARTICLE V GENERAL REGULATIONS, Section A. PARKING AND OFF-STREET LOADING Paragraph 3 re: Special Exception,**

**B. Section C. NOXIOUS USES.**

1. **EXTERIOR LIGHTING.**

C. Section G. **HOME BUSINESSES.**

D. Section H. **TOURIST ATTRACTIONS.**

Chair Spanos asked who was in favor of putting the [proposed] amendments to the parking [provisions of the Land Use Plan Ordinance] before the public at a public hearing on Wednesday, January 6, 2021 to put the proposed amendments on the 2021 Town Meeting Warrant. All in favor. (5-0).

**Density Requirement Changes Proposed for Multi-Family Long Term Rentals:**

- A. Chair Spanos: Authorize the Planning Board to waive the density requirements for multi-family properties in zones other than the Village Center (VC) District. Currently, in the General Use (GU), Village Center (VC) and Rural Residential (RR) Districts the Minimum Lot Size is 15,000 SF per unit. Presently, the Planning Board can waive the Minimum Lot Size only in the Village Center (VC) District.

1. Looking at the Dimensional Chart on page 32 of Land Use Plan Ordinance, Article VI District and District Regulation, Section B District Regulations, paragraph 4 Lot and Lot Coverage Requirements and Standards, under footnote 5, "Dimensional requirements for the Village Center may be waived by the Planning Board so long as they meet all other Zoning requirements."

The proposal is to allow the Planning Board to have that same discretion in other zones.

Selectmen's Representative Robinson said he would prefer to suggest another proposal more inclusive than just adding the General Use District and the Rural Residential District to subparagraph e.

Selectmen's Representative Robinson suggested the Planning Board establish a new classification of residence called "Restricted Multi-Family Residential", defined as follows:

**Restricted Multi-Family Residential** is defined as a multi-family residence with single entity ownership. [Comment: It cannot be condos owned by a bunch of different owners. It has to be single entity ownership.] The use will be restricted to "long term tenancy" defined as over one hundred eighty (180) days [by State Definition]. This class of use will be considered a commercial [business] use. It will be subject to the commercial [nonresidential] lot coverage density requirements in each zone.

Selectmen's Representative Robinson said if you are looking to build condos or individual houses, like a single-family home or duplex you have to go by the minimum lot size requirements of the zoning district. If you want to build a multi-family building and the use is restricted to long term tenancy (i.e., these units cannot be Airbnb tenancies) then it gets treated the same as any other commercial [business] development where, depending on the zoning district, you can build it to a percentage of lot coverage. Lot coverage varies in the different zoning districts from 70% in the General Use and 80% in the Village Center District. The location of the "Restricted Multi-Family Residential" use is restricted to the same zones that other commercial [business] developments are allowed in. The development would still have to create the same number of parking spaces per unit in accordance with the parking regulations in the Land Use Plan Ordinance. This Restricted Multi-Family Residential use would no longer be



considered a residential use but will be considered more in line with a hotel development instead of a single family or duplex development.

Selectmen's Representative Robinson said right now the way the Land Use Plan Ordinance reads, the guy who owns property on Main Street/NH Route 112 can get approval to build either a 90-unit hotel or put up four (4) residential units. That is a crazy choice for a Town to give someone when the Town is trying to get developers to build more long-term residential units and fewer hotel units. This proposal will do that by defining Restricted Multi-Family Residential as long-term tenancy and it can be built per density and not per unit.

### **Green Spaces:**

Vice Chair Chenard to Selectmen's Representative Robinson: If you are intending to put up residential units there you are going to have to consider creating green space for kids to play on and move around in and you should have free space to move around in for each unit as well outside. Alternate Beaudin agreed. He pointed to the proposal currently before them from Mark Stiles for the two properties across the street from the Town Offices where he had commented that they needed to consider creating some green space for the possible residential tenants in the mixed-use building. Green space in the downtown area of Lincoln is hard to find currently. While he applauds Robinson's effort and thinks workforce housing would be a great thing to have, Robinson should consider creating an adequate amount of green space if he is going to develop such a project whether it is for different types of housing or not.

Selectmen's Representative Robinson asked: Why can't a Restricted Multi-Family Residential project have the same amount of green space as a hotel?

Vice Chair Chenard and Alternate Beaudin both said the reason you need green space for a multi-unit building for long term residents (versus a hotel) is because people are not living in a hotel all year round; a long-term residency is longer than any hotel stay. Alternate Beaudin said: If you are looking at the development of a multifamily residence for long-term year-round residency then green space is a very important part of that project.

Alternate Beaudin said the Town is rapidly losing its green space along Main Street. He pointed to two examples.

- One example, is the Subway Shop on 159 Main Street (Map 118, Lot 075). The Planning Board at the time of Site Plan Review and approval had a huge amount of discussion about the amount of green space that was required in front of the shopping center. There were trees there at one time. Now the trees are all gone.
- Another example is the Mountain Club on Loon Mountain on 90 Loon Mountain Road (Map 126, Lot 018 and Lot 019). This year "they" whacked down all of the trees that were along the road that were required as a part of their Site Plan Review approval.

Alternate Beaudin said the Town is losing its green spaces and consequently, the Town is losing spaces in Town for people to congregate with each other and places for their children to play. If you are going to develop a project like an apartment building for long term residency for workforce housing you need green space for the tenants to use.

Vice Chair Chenard said he was not against workforce housing, but when AHEAD was talking to the Town about workforce housing, AHEAD said that most of the people who would be living in their proposed workforce housing located in the Town of Lincoln would actually be working

outside of Lincoln, in Littleton or Plymouth. There is no requirement that people living in Lincoln workforce housing have to be working in the Town of Lincoln.

Vice Chair Chenard said if Robinson has long-term tenants living in his apartments in Lincoln, those tenants are going to be buying and storing on site various types of recreational vehicles like snowmobiles, snowmobile trailers, motorcycles and other types of recreational vehicles and equipment because they will be living in Lincoln and the Town of Lincoln is a recreational area. He advised Robinson to figure out where his tenants are going to store that kind of recreational stuff.

### **Discussion About How to Increase Green Space in The Land Use Plan Ordinance.**

Alternate Beaudin said although Selectmen's Representative Robinson was trying to address a need within the community, in addressing that need Robinson also has to look at other necessities that go along with such a development and green space should be part of that calculation and one of the biggest necessities when looking at a project like that.

Selectmen's Representative Robinson said he did not disagree, however, the way to address this concern for green space is to reduce the percentage of allowable lot coverage for every type of use. He suggested that instead of lot coverage being 70% in the General Use District and 80% in the Village Center District, make lot coverage 55% or 60% in the General Use District and 65% or 70% in the Village Center District. Make it so a hotel on a two (2) acre piece of land can build 90 rooms, they have to have green space just like his proposed "Restricted Multi-Family Residential".

Alternate Beaudin said there is a big difference between people who are spending a night in a hotel and leaving the next morning and people who are going to live long term in a multi-family workforce housing building. They, their children, and their dogs need spaces to use. We would be remiss without having some sort of requirement for green space.

Member Erhman said green space is a great thing but Robinson's comment that the way to address lack of green space is to reduce the percentage of allowable lot coverage for every type of use was "right on the money". There are two (2) ways to look at these requirements: first, is from the perspective of the people who are going to use the building and the second is from the perspective of the Town and what the Town needs. The Town needs the green space whether the project is a hotel or an apartment building, high end condos, low end condos, or whatever type of use it is.

Member Erhman said it is not clear to him that everyone who lives in workforce housing is going to raise kids who need to play outside through the lifetime of the project or that every type of housing needs to include facilities to accommodate that subsegment of the rental market. He thinks that the global view of changing the density permitted is a more logical approach and better in the long run for the Town, instead of looking at what does this particular project need for the users of the project.

Alternate Beaudin said there are many long-standing residents of Lincoln who have seen the changes that resulted in a significant loss of Town green spaces. He would like the Planning Board to consider ways to bring some of that green space back. We have lost "a ton" of green space; we should strive to avoid making Lincoln a "concrete Town". It seems like we want to keep "pounding people, hotels, houses in here and to get rid of our green space so we end up

with a town that no longer looks and feels like a local rural community, but like the City of Boston. That is where we are headed.

Member Ehrman said those arguments are just as applicable to the motel development as they are to the Restricted Multi-Family Residential development. The requirement for green space in the Town is just as strong for both types of development. We should apply it in both cases; apply it in all of those cases. Alternate Beaudin finally understood and agreed. Currently, as written the provisions of the Land Use Plan Ordinance only protect the green space in the case of single-family residences. Every time you have a different type of use, with high percentages of maximum lot coverage allowed, the developer is killing off all of the green space. We should expand the green space in a uniform way for all of the business applications.

Chair Spanos said he was not in favor of reducing the Maximum Percentage of Lot Coverage. Currently, in the General Use (GU) the maximum Percentage of Lot Coverage is 70%.

Selectmen's Representative Robinson agreed with Beaudin that townspeople are upset about the very dense development that the Planning Board has allowed in the Village Center (VC) District in downtown Lincoln. However, that type of dense development has not been happening either in the General Use (GU) District or with multifamily housing because no one has developed any multi-family housing in Lincoln that he is aware of. There is no new long-term multi-family housing anywhere in town. Some owners have converted old buildings into multi-family housing, but there has been no new multi-family housing created in town.

Selectmen's Representative Robinson said the maximum lot coverage requirement of 80% in the Village Center (VC) District is the reason we are getting projects like the Hampton Inn with ninety (90) rooms and a restaurant on two (2) acres:

- Main Street (Lot 3) #LO (Map 112, Lot 002) 1.056 Acres owned by Mani, LLC, 87 Wallace Hill Road, Franconia, NH 03580; plus
- Main Street (Lot 2 & Bill) #LO (Map 112, Lot 003) 1.266 Acres owned by Mani, LLC, 87 Wallace Hill Road, Franconia, NH 03580; or

or the maximum lot coverage requirement of 70% in the General Use (GU) District is the reason we got the project like the Fairfield Inn with one hundred (100) rooms and five (5) living space condominium-like units on 6.35 acres up the street.

- Pollard Road #LO (Map 122, Lot 001), 6.35 Acres owned by Green Wood, LLC, 1150 Brighton Avenue, Portland, ME 04102.

Selectmen's Representative Robinson said 80% Maximum Lot Coverage is very dense. Then we complain and say "there is no room to pile snow, no room to park snowmobiles with their trailers, no room for this, no room for that". At 80% lot coverage there will only be room for the dumpster and to park a trailer, but there will not be any real green space. We saw that when we approved that Hampton Inn in the downtown area. He fully agreed that the Town needs additional green space, but the change should be made in the Maximum Lot Coverage Percentage for all types of nonresidential uses. He suggested reducing the 80% Maximum Lot Coverage in the Village Center (VC) District.

Alternate Beaudin agreed, but if the Planning Board reduces the Maximum Lot Coverage, the Planning Board should not just reduce the Maximum Percentage of Lot Coverage, they should

also provide a requirement for green space in the ordinance. So, people will bring back some of the lost green space to the downtown area.

### **Minimum Lot Size**

Town Manager Burbank suggested taking a look at the minimum lot sizes in the Land Use Plan Ordinance because in his opinion, a minimum lot size of fifteen thousand square feet (15,000 SF) is ridiculously small. You do not find lots that small hardly anywhere else and that tiny lot size is creating density. If someone buys a 15,000 SF parcel like the lots approved by the Planning Board all over Town, then builds a large house, a garage, parking area, walkways and a driveway, there is not much if any green space left.

Alternate Beaudin said the many of the tiny lots in the downtown area are pre-existing lots that already have houses built on them. For example, some people purchased the pre-existing small mill houses on those tiny lots and wanted to remodel those homes. The new owners could not add onto those homes without coming before “the board” and having “the board” take a look at that”. That is why the Planning Board came up with that rule that the owners cannot change the footprint of the building.

Town Manager Burbank said “that is true, but therein lies the tough love”. The density is impacted by a combination of the maximum lot coverage and the minimum lot size. So, when you allow 80% maximum lot coverage there is not a lot of room left for green space. It will take years to see the impact of increasing those two things, but over a period of years you will start to see a change in the landscape.

### **“Residential Uses” Are Not Subject to The Maximum Lot Coverage Requirements**

Planner Bont pointed out that what has been defined as “Residential Uses” are not subject to the maximum lot coverage requirements; residential uses have to comply with the minimum lot size and setback requirements. Nonresidential or “commercial” [business, public and industrial] uses are restricted by both lot coverage and the same setbacks.

### **Should Maximum Lot Coverage Apply to Residential Uses Also?**

Town Manager Burbank suggested the Planning Board consider changing that. Perhaps lot coverage also should be a factor in regulating the developing of residential lots as well as “commercial lots”. We are seeing it all over town. People are buying lots and then clearing the entire lot before they even start. For example, in South Peak Resort because of the terrain they are clearing every single tree. It is not because they want to clear all of the trees off the lot, it is because that is the only way they can fit those large size homes on that small size lot. He thinks that Robinson’s idea is “on the right path, but how it comes out the other end is not my decision”. He suggested that the Planning Board take a “two-prong approach” looking how Maximum Lot Coverage and Minimum Lot Size work together to impact density and green space.

### **Would Changes Impact Existing Developments or Lots?**

Alternate Beaudin asked whether such a change could impact any lots in any projects or developments that have been approved already, but not developed yet. For example, what about South Peak Resort? Chair Jim Spanos said that those lots have already been approved and subdivided so such a change would only impact future subdivisions.

### **Would Changes to the LUPO Make a Difference in the Look of the Town– Is It Too Late?**

Alternate Beaudin said well then, we do not have a whole lot of land in Lincoln left to subdivide so making that change will not have much of an impact. Selectmen's Representative Robinson reminded Beaudin about "the stink" that was made over the Peter Marlowe d/b/a Degmar Development Corporation project on LaBrecque Street and subdivided the two (2) lots relatively small lots into three (3) even smaller lots.

Town Manager Burbank said the Planning Board could recommend proposed changes today and the Town could vote to increase the minimum lot size at the March Town Meeting and it would become in effect immediately. Then property owners could not come in like Mr. Marlowe did and legally divide two (2) small lots into three (3) smaller lots with each lot being about ten thousand square feet (10,000 SF). That would be a big move because the Planning Board would be able to preserve more open space in various neighborhoods. Chair Spanos said he did not think the Planning Board had enough time to make that change this year. Alternate Beaudin said, "why not?"

### **Should We Change the Minimum Lot Sizes?**

Selectmen's Representative Robinson suggested that in addition to changing the Maximum Lot Coverage from 80% to 70% to match the percentage of the General Use (GU) District, ("We do not have a problem in General Use (GU) [District]."), the Planning Board could then take the ten thousand square foot (10,000 SFAA) minimum lot size requirement and raise that up to either twelve thousand square feet (12,000 SF) or fifteen thousand square feet (15,000 SF). If you have a lot that is existing right now that is less in size than whatever number the Planning Board choses, that lot becomes grandfathered. Making that change would not result in making any existing lot unbuildable. However, in any future subdivisions, the developer would have to meet that greater minimum lot size requirement.

Alternate Beaudin, said, "there's nothing left" [to subdivide]. Selectmen's Representative Robinson said to Beaudin, you keep saying, "There's nothing left. There's nothing left." Robinson suggested everyone look the lots near Myles Moran's house on O'Brien Avenue. The Planning Board just looked at a plan a couple of weeks ago for another downtown piece of land that is going to get chopped up. Robinson said he did not think there was anything wrong with the subdivision the owners were proposing. He was just saying, that there are still parcels of land in Lincoln that are still big enough to make into separate lots based on the minimum lot sizes in the LUPO. Robinson said he does not think he wants 8,000 SF or 10,000 SF lots in a neighborhood when 12,000 SF or 15,000 SF lots are more appropriate.

### **Should We Change the Maximum Lot Coverage Percentages?**

Alternate Beaudin said, so are we saying that with a 70% maximum lot coverage that 30% of the lot is then available for green space? Chair Spanos said, "No. The LUPO refers to "non-impervious surfaces", not "green spaces". Robinson explained, "You cannot build on it. It cannot be part of the driveway or the house or the garage or patio; it has to be pervious undeveloped surface. Chair Spanos: It can be the lawn or landscaping or whatever.

Alternate Beaudin said "Do we think 70% is the right number?" If we really want to make a change is 70% really enough?

Selectmen's Representative Robinson said the reason he suggested 70% because that percentage matches the General Use (GU) District percentage and in the General Use (GU) District that

percentage “has been working”, but he was not dead set on it. Ever quick with his rapier wit and mimicking an auctioneer’s tone, Member Ehrman said: Do I hear 65%? (Laughter.) Robinson said he was talking about the Village Center (VC) District which is more densely developed. Chair Spanos: Downtown is more densely developed than the rest of the Town. Alternate Beaudin said if we are trying to bring back green space in the future sometime down the road perhaps the Planning Board should consider proposing a percentage for lot coverage that is a little lower than 70%.

### **Should We Change the Minimum Lot Size?**

Town Manager Burbank pointed out that the two zoning districts with homes that are adjacent to the Village Center (VC) District, like the Village Residential (VR) District and the General Residential (GR) Districts, have a majority of developed lots that are postage sized lots. However, there are a few lots here and there that “have some size to them” that could be further subdivided and developed. As those lots sell, there are buyers and developers who are going to come in and buy a lot because they can squeeze two buildable parcels out of one lot; they will buy the lot and “chunk off” a new lot and have two developable lots.

Alternate Beaudin interrupted, or they will come and buy more than one lot and reconfigure the lots to maximize the number of lots they can develop.

Town Manager Burbank said those areas are already crowded, but developers who buy up lots in those areas could make it even more crowded, legally. For example, Denise Herdeen has a “decent sized lot”. She wants to chunk off a very small lot and build a house. Does the Town really want that?

Town Manager Burbank said he was not sure how the small lot sizes of 8,000 SF and 10,000 SF ever got approved. Chair Spanos said that those sizes were chosen by the Planning Board and voted on by the Town Meeting when the Master Plan and Land Use Plan Ordinance were created and later adopted because those sizes were the typical lot sizes in those areas of town. Alternate Beaudin interrupted and said those lot sizes were what the typical lot sizes created by the papermill when the papermill developed temporary housing for their workers at the mill. Town Manager Burbank said he did not think increasing the minimum lot size in those areas was unreasonable as it would spread people out a little bit in future developments.

### **How Much Should We Change the Minimum Lot Sizes or the Maximum Lot Coverage Percentages?**

Alternate Beaudin suggested changing the minimum lot size in the General Residential (GR) District and the Village Residential (VR) District to 15,000 SF. He suggested changing the maximum lot coverage in the General Use (GU) District from 70% to 65% and Village Center (VC) District from 80% to 70%.

Chair Spanos said he did not want to change the General Use (GU) District density because the current maximum lot coverage percentage of 70% is not causing any issues. Selectmen’s Representative Robinson and Vice Chair Chenard agreed with Chair Spanos.

Member Ehrman said, “I thought we just decided it [high density] was causing issues.” Alternate Beaudin agreed. Member Ehrman said some residents of the Town of Lincoln do not want the Town just to take into account commercial considerations with the goal to turn the entire Town of Lincoln into a concrete shopping mall. I don’t think that is good for the happiness, the health or the welfare of the people who live in the Town. Negative comments that

were made about the current scheme were about subdivisions that were overly aggressive in terms of pursuing the maximum number of buildings on the minimum allowable number of square footages per lot. He personally would make the minimum lot size bigger than 15,000 square feet. Member Ehrman reminded everyone that they are not talking about taking already approved and existing lots and making them unbuildable.

Chair Spanos said, "We are talking about two different animals here": (1) minimum lot size; and (2) maximum lot coverage.

Member Ehrman said he understood that, but the new proposal would affect new buildings added to existing lots and it will affect the sizes in the creation of new lots.

Selectmen's Representative Robinson suggested the following:

1. Minimum Lot Size
  - a. Village Residential (VR) District
    - i. Duplexes going from 12,000 SF to 15,000 SF.
    - ii. All Other Uses going from 8,000 SF to 12,000 SF
  - b. General Residential (GR) District
    - i. Duplexes going from 15,000 SF to 20,000 SF.
    - ii. All Other Uses going from 10,000 SF to 15,000 SF

Alternate Beaudin agreed with Member Erhman and suggested increasing the minimum lot sizes for all of the districts up to 15,000 SF. He said the difference in size is not that great and the change will only impact future lots. Hopefully, over time that change will result in bringing back some green space in the future and make the Town "more user friendly".

Selectmen's Representative Robinson asked the Planning Board how they wanted to treat the duplex situation. Did the Board want to use minimum lot size of 15,000 SF per lot and then the people can decide to build whether to build either a single-family home or a duplex? Or should they increase the minimum lot size for a duplex to account for having two dwelling units instead of one?

Alternate Beaudin suggested the following:

1. Minimum Lot Size
  - a. Village Residential (VR) District
    - i. Duplexes going from 12,000 SF to 20,000 SF.
    - ii. All Other Uses going from 8,000 SF to 15,000 SF
  - b. General Residential (GR) District
    - i. Duplexes going from 15,000 SF to 20,000 SF.
    - ii. All Other Uses going from 10,000 SF to 15,000 SF
2. Maximum Lot Coverage
  - a. Village Center (VC) District
    - i. Change from 80% to 75%
  - b. General Use (GU) District
    - i. Change from 70% to 65%

Chair Spanos argued against decreasing the maximum lot coverages for lots in the General Use (GU) District because many of the commercial properties on US Route 3 are sited along the Pemigewasset River on the east side of US Route 3 so the property owners cannot build on a

significant portion of those lots anyway. Chair Spanos wants to leave the General Use (GU) District requirements as they are.

Alternate Beaudin argued in favor of reducing the maximum lot coverage to increase the amount of green space throughout the Town.

Chair Spanos argued against. Many of the lots along US Route 3 next to the Pemigewasset River are hampered by their proximity to water meaning a lot of those parcels have portions of the lot that cannot be built on. First, you “clip” them of that portion of the lot they cannot build on due to their proximity to water [i.e., Shoreland Protection Act and Federal Flood Plain regulations so the Town can participate in the FEMA Flood Insurance Program]. Then you “clip them 30%” of their lot with the maximum lot coverage requirement and now you are proposing to “clip them another 5%” by increasing the maximum lot coverage by 5%. Chair Spanos did not agree to this proposal.

#### **Village Center (VC) District:**

Selectmen’s Representative Robinson said he thought the loss of green space is more relevant in the downtown area. He would rather see the Village Center (VC) District maximum lot coverage percentage not go down to 75%, but rather stay at 80%. He thought that 80% was appropriate for the Village Center (VC) District.

#### **General Use (GU) District)**

Selectmen’s Representative Robinson said he did not see a reason to change the requirements in the General Use (GU) Zone. The Shoreland Protection Act “is going to do a lot of that anyway”. He thinks that 70% maximum lot coverage percentage is working in most of the General Use (GU) District. Alternate Beaudin said maybe we can see how the proposed changes work and adjust that percentage in subsequent years, agreeing to this proposed compromise.

Member Ehrman said the maximum lot coverage percentage should be lower, however, he did not think anyone else would go for it. Beaudin said he would, but did not think anyone else would. Vice Chair Chenard agreed with Chair Spanos to leave the percentage at 70% for General Use (GU) District.

Planner Bont asked for a recap of where the proposed changes stood:

- a. Village Residential (VR) District
  - i. Duplexes going from 12,000 SF to 15,000 SF.
  - ii. All Other Uses going from 8,000 SF to 12,000 SF
  - iii. Front Setbacks = 20 feet (No change)
  - iv. Rear Setbacks = 15 feet (No change)
  - v. Side Setbacks = 15 feet (No change)
  - vi. Maximum Lot Coverage going from 70% to 60%
- b. General Residential (GR) District
  - i. Duplexes going from 15,000 SF to 20,000 SF.
  - ii. All Other Uses going from 10,000 SF to 15,000 SF
  - iii. Maximum Lot Coverage staying at 50%

Chair Spanos commented that the LUPO does not really allow “commercial uses” (i.e., business/industrial/public uses) in the General Residential (GR) District.



*Vice Chair Joe Chenard asked since it is 8:30 PM whether they would have time to address the Stormwater Management Ordinance. Chair Spanos said they could keep going.*

*Chair Spanos called for a five minutes break at approximately 8:20 PM. The meeting resumed at approximately 8:25 PM.*

- a. Rural Residential (RR) District
  - i. No Changes.
- b. Mountain Residential (MR) District

Alternate Beaudin said he did not think they should change the requirements for the Mountain Residential (MR) District because the creation of the Mountain Residential (MR) District was proposed and submitted to the Town by the Property Owners in that district and then adopted by the voters at Town Meeting.

Member Ehrman said in the Mountain Residential (MR) District some of the changes within the Multi-Family Housing Development in the South Peak Resort Area are really going to be destructive. They were done probably within the letter of the law, but not within any spirit of any law and very contentious and very difficult. He did not know if the Planning Board should address it as a zoning minimum.

Chair Spanos said he thought the entire South Peak Resort area is in the General Use (GU) District. Alternate Beaudin agreed. He said the Mountain Residential (MR) District was proposed by the property owners [Clarke Wrye and several others] within Beechwood I and Beechwood II. They put together that twenty-five-foot (25') setback requirement because they were afraid that a lot of people were going to start subdividing their lots up in Beechwood because they were such large lots and put other types of housing up there. I

Planner Bont said the Mountain Residential (MR) District does not include the South Peak Resort. The Mountain Residential (MR) District starts at the Mountain Club on Loon and then goes east towards the lots that comprise "The Landing at Loon". She confirmed that the South Peak Resort is in the General Use (GU) District. She "printed" a digital map and emailed it to the members.

Chair Spanos said that the General Use (GU) District is regarded as the "business district" or "commercial district". Although both US Route 3 and South Peak Resort are both in the General Use (GU) District, the properties along US Route 3 are considered more business oriented, whereas the South Peak Resort is considered a more residential area.

Alternate Beaudin said he thought that Member Ehrman's concern was the number of very small lot sizes in the South Peak Resort development. Planner Bont said for the lots in South Peak Resort that had already received subdivision approval, the Town would be stuck with the small sizes of those lots. She pointed out that a portion of the South Peak Resort that was considered part of the former Hallisey Lot is in the Rural Residential (RR) District, referring to the portion of the Hallisey lot that is closest to the Town of Woodstock Town Line (Map 119, Lot 003 & Lot 004 located behind the Town sewer lagoons).

Alternate Beaudin asked Member Ehrman what his concerns were. Member Ehrman said he was not sure he had a possible remedy for his concerns so perhaps he spoke too soon before figuring out where he wanted to go with it. He does not think this is the correct forum for him to address his concerns.

Chair Spanos said that although both US Route 3 and South Peak Resort are both in the General Use (GU) District, the properties along US Route 3 are considered more business oriented, whereas the South Peak Resort is considered a more residential area. He thinks the Planning Board should consider zoning the land along US Route 3 differently than the land over in South Peak Resort because the characters of the two areas are so different.

For example, perhaps we should consider the business areas along US Route 3 as “General Use II (GUII). The name of the zoning district is not relevant, it is just how you define that zone in terms of its allowable uses, etc.

### **Impact of Minimum Lot Sizes on Area of South Peak Resort:**

Alternate Beaudin said he wanted to clear up some things that are happening in the field that are having an impact on how effectively the various zones are working. For example, South Peak resort is in the General Use (GU) District where the minimum lot size is 15,000 SF:

- The houses being built on South Peak Resort lots are much larger than were originally planned and presented to the Planning Board to obtain Site Plan Review approvals which included the sizes of those homes in the Master Plan for the development. However, the Planning Board’s Site Plan Review Approval did not specifically restrict the sizes of the homes to be permitted to the size presented in the application.

**Site Plan Review Approval:** 2,000 SF footprint homes

**Reality:** 6,000+ SF footprint homes built. Nothing in the Site Plan Review approval restricts the square footage of the buildings.

- The houses and other impervious surfaces in the South Peak Resort are not of the size that was contemplated when the Alternation of Terrain (AoT) was obtained from the NH Department of Environmental Services (NH DES).

**AoT Permitted:** 2,000 SF footprint homes

**Reality:** 6,000+ SF footprint homes are being built

**AoT Permitted:** Additional 2,500 SF of partially impervious GRAVEL surfaces for driveways, parking areas and walkways.

**Reality:** More than Additional 2,500 SF of fully impervious PAVED surfaces for driveways, parking areas and walkways. Nothing in the Site Plan Review approval restricts the square footage of impervious surfaces.

*[Note: PAVED surfaces for driveways were always required, both by the South Peak Resort Association documents and the Land Use Plan Ordinance, so it is not clear why “gravel” was permitted as part of the AoT or the Site Plan Review approval or whether approving gravel was an oversight. However, using “gravel” instead of paved allowed the applicant to fit more lots in the project for the AoT purposes and as a lesser cost to the developer.]*

- Because the houses are much bigger than was envisioned, in terms of size, the number of bedrooms and occupancy the demand on municipal utilities (potable water for drinking



and sufficient volume for fire protection as well as sewer volume and distribution system).

**Site Plan Review Approval:** 2,000 SF footprint homes with 4 bedrooms.

**Reality:** 6,000+ SF homes built with 7-10+ bedrooms with 5 full bathrooms, including bunkrooms that house 6+ people, more than one ½ bathroom and unanticipated extra features, like extra tubs, showers, sinks, Jacuzzis, and more than one residential laundry room and bars with extra sinks and other facilities. Nothing in the Site Plan Review approval restricts the number of fixtures using water or sewer services in each home or limits the number of bedrooms in each home.

- The houses are not being built in the way that the Town envisioned the houses to be built in terms of their size in proportion to their lots.

**Site Plan Review Approval:** Anticipated some tree cover to partially obscure a view of the home

**Reality:** Total lot deforestation and no tree cover to obscure views of the home. The lots are now bare of their original vegetation and the lot sizes are smaller in relation to the houses. Nothing in the Site Plan Review approval restricts the amount of clearing associated with development of the lot.

- This means what has been built to date may have already exceeded the parameters of what the AoT permitted although NH DES has no interest in or staff or resources to either review or enforce the terms of their AoT Permit.
- If the houses had been built in the way the Town had envisioned and approved
  - The houses all would be much smaller and would not require clearcutting of every lot and the houses would not dwarf the size of the lots.
  - The houses would not require elaborate Stormwater Management Systems to keep such large volumes of water on the lots.

This problem is creating an issue that Member Ehrman alluded to, but he did not know what the fix is.

Town Manager Burbank said we have homes in the South Peak Resort development that have 9-12 bedrooms, each with a full bathroom for each bedroom, and at least one of those homes is being rented out as a short-term rental. That is a “business” as determined by the New Hampshire State Supreme Court. You have a very high-end boarding house. It is creating angst among the neighbors. It is wreaking havoc with your current planning and zoning regulations. He does not know what the answer is, but he is pointing it out to the Planning Board. People have made businesses out of residential zones in your zoning ordinance. This example goes right to the problem you are trying to address, but you are not going to be able to address it tonight.

Alternate Beaudin said the Master Plan for South Peak Resort does not dictate the size houses that are being built in the South Peak Resort now or in the future. Should the Planning Board take a stance on that? Should the Town take a stance on that? Should the Town decide whether or not the bigger houses are warranted or are causing too many problems, like not enough parking or no place for snow storage or removal or the fact that they have required these exorbitant engineered retaining walls that requires them to clear more of the lot in order to get

the equipment up into the lot to put in the retaining walls. Has this all happened as a result of something slipping through the cracks? How did that happen? How does it work?

Selectmen's Representative Robinson said the source of the problem goes back to the conditions of approval for the Master Plan as part of the Subdivision and Site Plan Review approval. Although the Master Plan was presented with these theoretical 2,000 SF homes, the Planning Board did not include any conditions in the approvals that said the size limit is 2,000 SF homes. He does not know if at this point the Planning Board or the Town can go back and retroactively apply a condition to something that was approved about 15 years ago.

Chair Spanos said the approval was more than fifteen years ago. "They" [developer's engineers] just picked an arbitrary number [for the size of the homes] so that they could get their approvals.

Selectmen's Representative Robinson said he thinks there are things they could do, but he does not think they can go back and legally put new conditions on an old approval.

Alternate Beaudin said these developments were all approved with a "Master Plan". The Master Plan is what the approval is based on. If the developers are not building in accordance with their Master Plan then the Town has to be able to do something.

Planner Bont said she did not find the size of the homes in the Master Plan. She saw the size of the homes and the size of additional impervious surfaces per lot in the developer's Application for the Alteration of Terrain and Permit (AoT) that they received from the State of New Hampshire's Department of Environmental Services (NH DES). Fire Chief Ron Beard said that back in 2005, the Applicant's engineers Horizons Engineering, Inc., used the verbiage "Basis of Design". All of the services, the roads, the existing drainage, everything in that AoT application is based on 2,000 SF homes.

Selectmen's Representative Robinson said the way to deal this problem is not to try to retroactively enforce something that was never really a condition of approval or never was part of the official application to the Planning Board. The proposed number of square footages for the home and impervious surfaces may have been in the basis for design submitted to the NH DES to get the AoT, but not to the Planning Board.

Selectmen's Representative Robinson said the way to address this problem is to look at steepness in slope. Say, for example, if the topography is greater than X% of slope, open space does not count as 100% of open space, it only counts for say 50% (made up number). Reduce how much the value of the open space depending on the steepness of the slope. If it is a flat piece of land open space counts at 100%, but if the lot is not flat and is inclined beyond a certain slope than it counts as less. The Planning Board could adopt those types of rules for the whole town, obviously not just for South Peak Resort, but for the whole town or whole zones and use that to help negate the overdevelopment of these tiny lots.

Chair Spanos said what if we increase the number of square feet required for lot depending on its grade or steepness in certain zones?

Alternate Beaudin said he agreed with Selectmen's Representative Robinson that such regulations based on steepness would make for a much nicer looking lot. However, it seems in this day and age that there are people with astronomical amounts of disposable incomes who are able to hire highly paid engineers who are able to design and erect huge engineered walls and do whatever it takes to fit their houses on whatever tiny size lot they purchase. How do you say "no" to them if they have the money to do engineered walls or should we say "no"?

Town Manager Burbank said they could calculate lot coverage based on the steepness of the lot. In other words, a lot of 15,000 SF lot on flat ground across from Town Hall versus what calculates as a 15,000 SF lot up on the side of [pick a road up in South Peak]. The Planning Board would have to check with Town Counsel to see if it would pass muster legally. Could those conditions be changed at any time given that the approvals were decades ago?

Alternate Beaudin said people are building these expensive homes on the mountain and they are increasing the tax base with their investment in these houses. If we change the rules and make them stricter, what kind of an impact would that have on the tax base? Would they not do as much? Vice Chair Chenard said "Probably not."

Selectmen's Representative Robinson said we have to look at what our goals are in making changes. Is it to prevent people from building big expensive houses? Or is it to prevent people from building 10 and 11 room boarding houses that are never going to be lived in by a single family, but are going to be used as "quasi-hotels"?

Fire Chief/Health Inspector/Code Enforcement Officer Ron Beard said part of what else the Planning Board needs to evaluate as part of their Site Plan Approval is the size of the homes, the number of bedrooms and the number of bathrooms. Currently, the numbers of bedrooms and bathrooms is exceeding what has been approved for each house. At full build out the South Peak Resort Development will exceed by a lot what was presented to the Planning Board back at the time of the Site Plan Review approval. The average home was going to have four (4) bedrooms (which translates into 250 gallons per day per bedroom) and you have homes up there with twelve (12) bedrooms. If this trend continues, the demand on our infrastructure will far exceed the terms of the agreement the Board of Selectmen signed with the developers of South Peak Resort. Particularly if the owners are using the properties as short term rentals and they are turning them over frequently, the water and sewer usage is going to be exponentially greater than you anticipated when you approved this development.

Alternate Beaudin said we are also seeing more stormwater runoff/connection issues because of the overdevelopment of the lots that are there. If every one of those lots were built to the specifications that were originally discussed with the Planning Board during the Site Plan Review process, they probably would not come near the threshold for needing a Stormwater Management Plan. Because the lots are so small, it is easy to disturb the 15,000 SF minimum. We have adopted the Stormwater Management Ordinance as a result of the extra drainage water that is coming down off the side of the mountains, adding to the turbidity in the river which affects the town's potable water that comes from the East Branch Pemigewasset River. The stormwater runoff is a big issue here and a big cost.

Selectmen's Representative Robinson asked, hasn't that issue been addressed or do you think we should do more?

Alternate Beaudin said he did not know. He thinks the Stormwater Management Ordinance is overly restrictive in some ways. There needs to be some discussion about "post" and "pre".

Chair Spanos said the Planning Board is supposed to talk about the Stormwater Management Ordinance further along in the meeting and said to move on with the agenda.

*Member Ehrman left to feed his family.*

Vice Chair Chenard pointed out that the Town still has 300+ acres across the bridge from South Peak Resort that can still be developed. Chair Spanos said he wanted to point out that the

property Chenard referred to is also intended for development that will be more like a residential area in contra distinction to the area along US Route 3 which is also in the General Use (GU) District which is more business like in character.

Planner Bont pointed out the total number of dwelling units that had been approved for development in the South Peak Resort. The Planning Board approved 1,018 dwelling units. As of September of 2018, there were still 946 dwelling units yet to be built. (As of September of 2018, only 72 dwelling units had been built.). If the Town adopted any changes in the minimum lot sizes for lots in the General Use (GU) District how that would dovetail with the number of dwelling units the Planning Board had already approved for South Peak Resort? Would those smaller lot sizes be grandfathered?

Planner Bont said a long time ago she checked to see if she could figure out how they came up with that number of dwelling units (1,018) to approve and it appeared the developer (and Planning Board) had just taken the number of available acres in the lot and divided that by 15,000 SF to come up with the number of allowable dwelling units.

$[15,000 \text{ SF min lot size in GU} \times 1,018 \text{ dwelling units approved} = 15,270,000 \text{ SF}] / 43,560 \text{ SF (number of square feet in one acre)} = 350.55 \text{ Acres}$

Chair Spanos said, "I was afraid of that." He suggested consulting with legal counsel about the answer to that question.

Alternate Beaudin said there is a big parcel for sale over in South Peak Resort. If we changed the minimum lot sizes for the lots in the General Use (GU) District would the new owners be subject to the new minimum lot sizes? Chair Spanos. We don't know. It is a legal question.

Town Manager Burbank asked the Planning Board to word the question exactly how they want the question asked. James Spanos said, "If we change the minimum lot sizes, will it affect the total number of units approved under the South Peak Resort Master Plan?"

Selectmen's Representative Robinson said before the Planning Board wordsmiths a question to be asked of legal counsel, he wants the Planning Board to look at what was approved as part of the South Peak Resort application because he believes that there were different classes of units that were approved. He does not think there was just 1,018 dwelling units approved. He thinks there were certain areas in the Master Plan that were approved for single family homes, then there were certain areas approved for hotels, areas for condos and areas for garden style condo units, etc. There was a whole mix of types of residences that were approved. Vice Chair Chenard said that approval also included a "sport complex".

Chair Spanos said if you built a hundred (100) unit hotel, that number (100) would be subtracted from the total dwelling units approved or from 1,018.

Selectmen's Representative Robinson said what if, instead of a one-hundred (100) unit hotel, the developer later decided he wanted to build one hundred (100) single family homes with eleven (11) bedrooms in each? I don't think so. There was a division into different types of residences. If they don't want to build a one hundred (100) unit hotel they would have to replace a hotel with something that is going to have the same effect – which is **not** going to be one-hundred (100) single family houses.

Alternate Beaudin said that is exactly what happened to the South Peak Resort development. For an example, look at the five (5) Riverside Terrace Condos with five (5) dwelling units in each as

you enter South Peak Resort on the left. There were only supposed to be so many. The developer came into the Planning Board and said we want to build more. The Planning Board said, okay but that is going to change the formula and you are only going to be allowed so much now. (Everyone talked at once.)

Fire Chief/Health Inspector/Code Enforcement Officer Ron Beard said Beaudin was referring to Riverside Terrace. Chair Spanos said the developers added a couple of buildings. Alternate Beaudin said there were supposed to be single family homes there and allowing them to put five-unit condos there instead was a trade-off. "There was some give and take there."

Fire Chief/Health Inspector/Code Enforcement Officer Ron Beard said he understood that the developer was required to acquire the Hallisey property to support the new density. When the developer acquired the Hallisey property they applied that newly acquired land to the density equation "and that softened it up". Alternate Beaudin said the developers had to buy that Hallisey property.

Alternate Beaudin said perhaps the Planning Board has to look at the gradient of these lots and adapt the Town ordinances in accordance with that. Adding that factor (lot gradient) could then dictate how big a lot a developer would need to build responsibly on the side of a mountain. To Alternate Beaudin said the gradient of the lot is a big factor in determining what has to happen. The lot gradient factor is affecting everything from the parking, to stormwater management, to how much tree cover and vegetation developers have to cut off the lot in order even to have access to the lot. Maybe there is someone who could give us some guidelines about how to develop a formula to use. Maybe some other municipalities have such a formula, depending on the slope, to determine just how big a lot you need. Maybe the Planning Board could look at some of those formulas. We would not be able to address this problem this year.

*Chair Spanos said let us move on.*

**Agenda #4. In the process for approving an application, when should 3rd party review begin?**

Chair Spanos read the agenda, in the process for approving an application, when should 3rd party review begin? Before the application is accepted as complete? After the application is accepted as complete? As a condition of approval? Chair Spanos said it depends on how complicated the application is.

**Chair Spanos went back to the proposed changes to the Land Use Plan Ordinance.**

**Agenda:** Authorize the Planning Board to waive the density requirements for multi-family properties in zones other than the Village Center.

Chair Spanos read footnote 5 from the Dimensional Chart. Footnote 5 says Dimensional Requirements for the Village Center may be waived by the Planning Board so long as they meet all other zoning requirements. Chair Spanos said, do we still need this footnote?

Selectmen's Representative Robinson said he thought that footnote was included because there are some extraordinarily small lots in the Village Center (VC) District and the Planning Board needs to have some flexibility to deal with those lots. It does not say the Planning Board has to waive requirements; it says the Planning Board may waive dimensional requirements. He suggested keeping the footnote. Alternate Beaudin agreed.

### **Height Requirements:**

Alternate Beaudin suggested that the thirty-five foot (35') maximum height requirement apply to all of the zones. Planner Bont reminded the Planning Board that there are two (2) different height requirements in the Land Use Plan Ordinance.

The **twenty-five-foot (25') height** requirement measured from ground level to the primary eaves on the uphill side of the structure and no more than **three (3) floors** used as a living space above or below ground level as measured through any vertical plane of the building applies to the following districts:

1. Village Residential (VR) District
2. Small Business District (SBD)
3. General Residential (GR) District.

The **thirty-five-foot (35') height** requirement measured from ground level to the primary eaves on the uphill side of the structure and no more than **four (4) floors** used as a living space above or below ground level as measured through any vertical plane of the building applies to the following districts:

1. Village Center District
2. General Use (GU) District
3. Mountain Residential (MR) District.
4. Rural Residential (RR) District

Vice Chair Chenard thinks the height requirements in the ordinance have changed. He thinks the height requirement of twenty-five feet (25') applies to residences whereas the thirty-five feet (35') height requirement applies to "commercial". Planner Bont said that is not how the ordinance was written. Vice Chair Chenard said, "Then it has been changed quite a bit, hasn't it?!"

Planner Bont said the height requirements were on the Planning Board' list as a subject for review from the past summer because the Planning Board was getting a great deal of pushback about this requirement from the applicants for hotels over the past year, however, height was not on the agenda for review at this time.

### **Agenda #4. In the Process for Approving an Application, When Should 3rd Party Review Begin?**

Chair Spanos asked why this subject was on the agenda. Planner Bont said someone complained about applications being subject to third party review.

According to Planner Bont, the current process is working well for the office staff. When the staff has an Application for a Land Use Authorization Permit (LUP) that requires them to address either the Retaining Walls greater than four feet (4') in height or the Stormwater Management Ordinance there is a third-party review process to make sure the Applicant and staff follows whatever the requirements are. That takes place after the Planner receives a Land Use Permit Application.

In addition, the staff does a staff review when an Application for a Land Use Authorization Permit (LUP) comes in or an Application for Site Plan Review (SPR) comes in. The Planner gets input from other staff (Town Manager, Fire Chief, Public Works Director, Planning Assistant) and sometimes the Town Engineer. The purpose being to check for issues up front to



streamline the application process.

Planner Bont said she was not clear what the concern was. She thought Alternate Beaudin was the person who complained.

Alternate Beaudin said he was the person who complained. He is not just asking about third party review he is also asking about the technical staff review. In his opinion, that staff review or third-party review is close to if not the same thing as a Planning Board's "Conceptual Review" of an application which is solely within the Planning Board's purview. When an applicant came in, it came to the Planning Board staff. The Planning Board staff then used to bring it to the Planning Board for a "Conceptual Review". Obviously, if it did not need a "Conceptual Review" (for example, if it was something simple like a deck being put on a house) the Planning Board staff could act and say "this is all you have to do." But, anything more complicated than that has always come to the Planning Board for the "Conceptual Review". Beaudin said he thinks that we have lost a step here that has gone by the wayside. The Planning Board is an elected board. The Planning Board (not the staff) should take that step with the taxpayers and business people and with anyone else who wants to ask questions. Alternate Beaudin said he understands that the support staff is there to help, but the persons who can ask the hardest questions are the elected Planning Board members. The ones who should be directing further review and third-party review and expending the funds as is approved are the Planning Board members. Underneath the RSA 673:16 the Planning Board is the board that has the authority to do that. Beaudin said he believes the RSA says: (he read only the underlined sections of a portion of the statute).

**TITLE LXIV  
PLANNING AND ZONING  
CHAPTER 673  
LOCAL LAND USE BOARDS  
General Provisions  
Section 673:16**

**673:16 Staff; Finances. –**

- I. Each local land use board may appoint such employees as it deems necessary for its work who shall be subject to the same employment rules as other corresponding civil employees of the municipality. **Each board may also contract with planners, engineers, architects, and other consultants for such services as it may require. The expenditures of the board, exclusive of gifts, reimbursements, or amounts held pursuant to paragraph II, shall be within the amounts appropriated for the purpose by the local legislative body,** which may provide such funds, equipment, and accommodations as it deems necessary or advisable for the board's work. Each board may accept and use gifts, grants, or contributions for the exercise of its functions, in accordance with procedures established for the expenditure of funds within the municipality.
- II. Any fee which a local land use board, acting pursuant to this title, collects from an applicant to cover an expense lawfully imposed upon that applicant, including but not limited to the expense of notice, the expense of consultant services or investigative studies under RSA 676:4, I(g) or RSA 676:5, IV, or the implementation of conditions lawfully imposed as part of a conditional approval, may be paid out toward that expense without approval of the local legislative body. Such fees:

- a) Shall, whenever held by the municipality, be placed in the custody of the municipal treasurer, subject to the same investment limitations as for other municipal funds.
- b) Shall be paid out only for the purpose for which the expense was imposed upon the applicant.
- c) Shall be held in a separate, nonlapsing account, and not commingled with other municipal funds; provided, however, that such fees may be used to reimburse any account from which an amount has been paid out in anticipation of the receipt of said fees.
- d) Shall be paid out by the municipal treasurer only upon order of the local land use board or its designated agent for such purpose. This paragraph shall not apply to application, permit, or inspection fees which have been set by the local legislative body as part of an ordinance, or by the selectmen under RSA 41:9-a. Notwithstanding RSA 672:7, a building inspector shall not be considered a "local land use board" for purposes of this section.

**Source.** 1983, 447:1. 1991, 377:5. 1992, 172:1, 2. 2010, 303:2, eff. Sept. 11, 2010.

According to Beaudin, this statute means “it” truly is a “Board” function. Beaudin said he thinks that 3<sup>rd</sup> party review should come after a “Conceptual Review”. And that is the way it always used to be. Beaudin said he does not know how it got changed, but somehow it did.

Planner Bont said, she and the rest of the staff actually come before the Planning Board for Conceptual Reviews frequently. Usually, they come before the Planning Board for a Conceptual Review when, for example, the staff is not clear or is not sure whether someone needs to come before the Planning Board for Site Plan Review or whether the Planning Board would consider a waiver. She does bring all of those matters to the Planning Board for a Conceptual Review.

Planner Bont said she thought that Beaudin misunderstood what is happening. What is happening is that someone comes in for a Land Use Authorization Permit. The Land Use Authorization Permit Application is fairly complicated. For example, if the application comes in for a lot up on the side of the mountain in South Peak Resort sometimes it is not clear whether the area to be disturbed is going to trigger a Stormwater Management Plan or not. Sometimes they have a retaining wall that is part of the building’s foundation. Does that mean that it qualifies as a retaining wall or do I treat it just as a foundation? Or there might be a driveway issue where the driveway they are proposing might alter what the Director of Public Works (DPW) has up there for water and sewer services. Those are all things that take up too much time to consider and then dole out to the different departments. For example, she would have to review the application and then send it over to the DPW and then the DPW might have to review it with the Town Engineer or the Fire Chief and then send it back to her for the next step. Now we are looking at the application as a team. Because the other staff members have expertise that she does not have then they can take one look and say, this is not a simply a foundation, this is a retaining wall. It needs to meet the requirements in our Land Use Plan Ordinance for a retaining wall (i.e., Pre-and Post-Construction Affidavits, engineering plans). It is not that the Planning Board is losing out on Conceptual Reviews. She is always happy to bring Conceptual Reviews before the Planning Board if she any questions at all. She does bring those before the Planning Board.

Alternate Beaudin said he does not think that the staff comes before the Planning Board for Conceptual Review often. He thinks it is the Planning Board's responsibility to discuss either with the engineer or the staff (Public Works Director, Fire Chief, etc.) as to what their recommendations or concerns are with an applicant prior to going into any third-party review.

Planner Bont said a staff review is not really a third-party review.

Selectmen's Representative Robinson explained that the concern is not what is the Planner's role, the Fire Chief's role, the DPW's role, the Town Engineer's role – it is "Town staff". What should Town Staff do before an application comes before the Planning Board? Do we want Town Staff to come before the Planning Board and say "Here is the application and we think it is complete"? The Planning Board always asks Planner Bont at the Planning Board meeting, "Do you think this application is complete?" Her answer could be, "I have no idea. I have not done anything on it. I brought it to the Planning Board first." Selectmen's Representative Robinson said he did not think that was an efficient way to deal with applicants. He thinks that the Town Staff's role is to look at an application, make sure that the questions are answered and come to the Planning Board with either a statement that "This application is here for a Conceptual Review because (for whatever reason)". There is a reason the applicant is coming before the Planning Board for a Conceptual Review. Or we want them to come before the Planning Board and say, "This application is complete and here is why." Planner Bont can say, "We all looked at it, Ray, Ron, Nate, and Carole." Come to us with a complete application so we can start the process. Or if there is someone is not sure, but maybe wants to do this or that, they can come before the Planning Board for a Conceptual Review.

Selectmen's Representative Robinson said he does not know how many Conceptual Reviews the Planning Board has entertained this year, whether it is more or less than usual, but town staff has presented the Planning Board with Conceptual Reviews, if they chose to go that route. Or figuring out whether someone who comes in with an application and figuring out whether they reach the triggers for Stormwater Management or not."

Alternate Beaudin said "That review should be done by Carole!" Carole is the Town Planner. Carole should have the knowledge to know whether or not the Stormwater Management Ordinance is triggered.

Robinson and Butch Burbank. "Whoa. Whoa. Whoa. Whoa."

Selectmen's Representative Robinson said, "We [Board of Selectmen] run the town staff. That is the Town Manager's job. If that is something the Planning Board wants done that is done by the Town staff and the Planner is part of the town staff." The Planner does a lot of it, but the Fire Chief is involved. The Director of Public Works is involved. The Planning Assistant is involved. The Town Engineer is involved and the Town Manager is involved.

Alternate Beaudin said, what I am trying to say is that the Planning Board is an elected board has the responsibility for hiring the staff and asking and telling the staff what to do. As an elected board the Planning Board has the authority to hire and direct the staff.

Alternate Beaudin said he will use this as an example. The Town hired an engineer/planner because the Town was sick and tired of paying for an engineer.

*Note: Robert Perrault was the engineer/planner referred to. Perrault has not been working for the Town of Lincoln since 2001. The Town has not hired an engineer/planner since.*

Alternate Beaudin said the Planning Board made that decision. He urged the Planning Board to look at this matter practically. You would say, how much money are we spending for engineering? Take a look at how much money we are spending for planning and maybe we should go back to that hiring a planner who is also an engineer. Maybe we should hire an attorney/planner because we are always in court with planning issues. But those decisions are made by the Planning Board because we are an elected body. "We formulate our own budget!"

Alternate Beaudin said it is the Town Manager's Budget that goes before the Budget Committee, but the that budget should go with the recommendation of the Planning Board. It is the Planning Board that has the ability to expend those funds to do whatever they feel is necessary to accomplish whatever the goals are of the Planning Board. Alternate Paul Beaudin said "I am not here to operate a power struggle." "I want to make sure that the Planning Board has a voice in what happens because we are an elected body, just like the Budget Committee and just like the Board of Selectmen."

Chair Spanos asked if anyone had anything else. Vice Chair Chenard said no. Member Steve Noseworthy said "No. I am just learning."

Chair Spanos asked Alternate Beaudin what he suggests that the Planning Board do.

Alternate Beaudin suggests that the Planning Board come up with a way that the Planning Board accept the applications and that the Planning Board deal with the applications rather than the staff which is comprised of the Planner, the recording secretary and whoever else is working for the Planning Board handle those.

Alternate Beaudin said if Ray Korber, the engineer for the Town is reviewing these applications and he says they need to have further review then the Applicant goes to another engineer and reviews the application and our Town Engineer knows that he is going to have to review their comments anyways. It is kind of like a conflict of interest. But, if the Planning Board says it needs to go to another engineer then they are the elected body, it is not someone else trying to support themselves. There are some conflicts here and he thinks the Planning Board should deal with them. How we deal with them is totally up to the Planning Board. I think the Conceptual Review has gone by the wayside in a lot of ways.

Vice Chair Chenard said he agreed with both sides. "I am in a quandry about which way to go."

Planner Bont said a "Conceptual Review" is an optional step for the Applicant. If the Applicant does not want to have a Conceptual Review the Applicant does not have to have a Conceptual Review. Ever. The Applicants have to come before the Planning Board for a number of matters including Site Plan Review or Subdivision approval. They do not ever have to come before the Planning Board for a Conceptual Review. She often encourages them to come before the Planning Board for a Conceptual Review. For example, Mark Stiles came before the Planning Board for a Conceptual Review. The Hampton Inn came before the Planning Board for a Conceptual Review. The Fairfield Inn came before the Planning Board for a Conceptual Review. Those were all people that she encouraged to come before the Planning Board for a Conceptual Review because they had ideas, the ideas were not necessarily firm ideas, about what they wanted to build and they wanted feedback about those ideas prior to spending the money to develop plans associated with their application for Site Plan Review and before submitting Land Use Permit Applications. She thinks that perhaps some members of the Planning Board do not understand how that process works.

Alternate Beaudin said he was taking a look at the Planning Board Rules of Procedure and the Site Plan Review Regulations. He said, "I notice that the committee that you are on ["Technical Review Committee" now called "Technical Review Staff"] got changed from a "committee" to a "staff".

Planner Bont said it was never a "committee" it was always just "staff".

Alternate Beaudin interrupted and said, "According to the Rules of Procedure..." I want to go further and state that under the Site Plan Review Regulations it states:

**ARTICLE VI**  
**PRELIMINARY CONSULTATION AND REVIEW**

- A. The applicant **may** appear at a regular meeting of the Planning Board to discuss a proposal in conceptual form and in general terms. Such preliminary conceptual review shall be informal and directed toward:
1. Reviewing the basic concepts of the proposal.
  2. Reviewing the proposal with regard to the Town Master Plan, Land Use Plan and Sign Ordinance and Subdivision Regulations.
  3. Guiding the applicant relative to necessary state and local requirements.
  4. Review the Site Plan Review Checklist.

Alternate Beaudin said, in the past, normally people would come in to a meeting with the Planning Board with their Site Plan Review Checklist and the Planning Board would review all of their stuff and make sure they had everything they needed. The Planning Board did that. Not the staff. The Site Plan Review Regulations requires the Planning Board [not the staff] to take these actions and we are not. "That is my point!"

Planner Bont said that Alternate Beaudin was correct in that when a completed Site Plan Review Application is submitted, that the Planning Board is supposed to go through the checklist and determine whether or not the application is complete. In other communities, the way the process works is that the Planning Board holds a hearing to determine the completeness of the application and then if the application is deemed to be complete then the Planning Board schedules **a different date** at which to hold the public hearing on the Site Plan Review Application. Planner Bont said "You people like to do it all at the same time": determine whether the application is complete and then go straight ahead with the Site Plan Review Public Hearing immediately after a determination of completeness on the same night.

Selectmen's Representative Robinson said to Alternate Beaudin that the Site Plan Review Regulations say the applicant "MAY" come before the Planning Board for a Conceptual Review, then the Planning Board does those things. Beaudin interrupted again, "Because that is what it says!"

Selectmen's Representative Robinson said the Applicant only has to come before the Planning Board only if the Applicant chooses to do so. He does not understand where Alternate Beaudin is coming from because Applicants are coming before the Planning Board for Conceptual Reviews. Planner Bont named a number of them, but she forgot some. Robert Paris came before the Planning Board with a Conceptual Review for his cabin colony. Mark Stiles came before the

Planning Board with a Conceptual Review for his mixed-use project. Muffy Coppenhaver came before the Planning Board with a Conceptual Review for her deck on Gordi's Restaurant, but she changed her mind. Who is not coming before the Planning Board for a Conceptual?

Alternate Beaudin said, so why is the preliminary review not happening before a Conceptual Review?

Planner Bont said we are talking about Applications for Land Use Permit (LUP) that are coming before the staff for a Land Use Permit (LUP)

Selectmen's Representative Robinson said these applications are coming before the staff to come before the Planning Board for review. The staff has to get the applications ready to come before the Planning Board for review.

Alternate Beaudin said, "Who is staff?!"

Selectmen's Representative Robinson said the following are involved and considered "staff":

- Planner Carole Bont
- Planning Assistant (part-time) Lisa Peluso
- Fire Chief/Health Inspector/Code Enforcement Officer Ron Beard
- Director of Public Works Nate Hadaway
- Town Engineer Ray Korber.

Alternate Beaudin said Town Engineer Ray Korber is not "town staff".

Selectmen's Representative Robinson said they include Ray Korber as the Town Engineer when his services are needed.

Alternate Beaudin said who is paying for Town Engineer Ray Korber when that happens?

Selectmen's Representative Robinson said what kind of a question is that?

Chair Spanos said, how does Ray Korber get compensated?

Selectmen's Representative Robinson said Ray Korber submits a bill and the Town pays him.

Alternate Beaudin raised his voice, "Prior to our taking any action we spend money on an engineer?!"

Selectmen's Representative Robinson said "And on Carole, and on Lisa, and on..."

Alternate Beaudin interrupted and yelled, "ON WHOSE AUTHORITY TO WE SPEND THAT MONEY?! FOR AN ENGINEER!!!!"

Town Manager Burbank said, "Paul, it is in the budget. This year there is a \$10,000 line item in the Planning Budget for engineering. It is in the budget every year. EVERY YEAR! We stretch that money as best as we can. As soon as we can get Ray Korber switched over to a third-party review, we do and we are not paying anymore. BUT he or an engineer is absolutely key. Ray Korber's input has kept us out of some of that wild west stuff that happened here in years past. He has helped to keep us out of those wild west problems. If I can say, I am done. I am actually going off. This is clearly an anti-Ray Korber comment, Paul. I am going off."

Alternate Beaudin, yelled, "NO, IT'S NOT! GOOD NIGHT BUTCH! YOU PROBABLY DON'T BELONG HERE ANYWAY!"

(Town Manager Burbank signs off.)

Chair Spanos said, "LET'S NOT GET PERSONAL, GUYS!"

Selectmen's Representative Robinson said "This has got to .... STOP! STOP!"

Alternate Beaudin yelled, "IF HE IS GOING TO BE LIKE THAT, I CAN TOO!"

Chair Spanos said, "What does the Board want to do here?"

Alternate Beaudin said, "I think we need some definition about how we are handling applications as they come in. I would like to see something..."

Chair Spanos said, "Are you talking about Site Plan Review? Are you saying that people are being denied an opportunity to come before the board?"

Alternate Beaudin said loudly, "What I am saying is that I am not sure everybody who comes in with an application is being treated the same. I think that that is being decided by town staff! And it should not be. It should be decided by the Planning Board. And I have proof of it! SO, if you want it, I can give it to you!"

Vice Chair Chenard said, are you talking about commercial or private home owners too?

Chair Spanos: Are you talking about third party review? Vice Chair Chenard said correct.

Alternate Beaudin said it goes to private homeowners too.

Vice Chair Chenard said, the Town should give him a permit and go check it after. Or then he has the option of applying for it here. The applicant has the option of applying for Site Plan Review himself.

Planner Bont said the requirements for third party review are right in the Land Use Authorization Permit Application. For example, if someone has to have a retaining wall and they put on their plan submitted with their application that the retaining walls are going to be less than four feet (4') in height, that means the applicant does not have to submit a Pre-Construction or Post-Construction Document or put money in escrow for and submit to third-party review oversight. We issue a Land Use Permit. The next thing we know they have a six-foot-high retaining wall. That means the job has to stop. They have to give the Town money to put in an escrow account. The walls have to be engineered. That is all part of the process for building a retaining wall that is greater than four feet (4') in height on a piece of property where they are going to build a single-family home. Usually, this happens on a steep lot that is "Billy Goat's Gruff". A couple of times contractors have tried to pull a fast one because they put right on the plan that the retaining walls were going to be less than four feet height. When you look more carefully at the plan, you can tell from the topography that the retaining walls had to be greater than four feet in height. The Town Engineer and the Director of Public Works could tell based on the topography that the retaining wall was going to have to be taller than four feet (4') in height.

Altnerate Beaudin said, I am talking about people who are doing small projects like putting on decks or garages. They never used to have to get a surveyed plan. That is not the way it is now. We are making people get surveyed plans. Some people.

Planner Bont said that a surveyed site plan showing the location of the project as part of the Application for a Land Use Authorization Permit was always the requirement. But we frequently waived that requirement because it depends on how close to the setback line it was.



Alternate Beaudin interrupted “WHO WAIVED IT? THE STAFF?!”

Planner Bont said if the project is in the middle of a lot and something like twenty-five feet or thirty feet from the setback line there would be no reason to require a survey.

Alternate Beaudin said if the applicant states that the project is fifteen feet (15’) from the setback line [sic] [property boundary line] and it is fifteen feet (15’) you are going to make them pay to have a surveyor do that?

Planner Bont said “I know exactly who you are talking about, Paul. And everybody else does too.” Yes. Your brother’s garage was right on the border of the setback line. So, you think that your brother should have come before the Planning Board for a waiver of the survey requirement so he did not have to have a survey to get his garage within one foot of the setback line? Is that what you are saying?

Alternate Beaudin said no matter whether it is my brother who wants to put up a garage [right next to the setback line] or it is Muffy Coppenhaver who wants to put a deck on Gordi’s Restaurant, that she does not have to provide a surveyed plan. We should be treating everybody fairly and equitably and that is the responsibility of the Planning Board, not the responsibility of the staff.

### **Planning Board Budget**

Selectmen’s Representative Robinson said we need to do the Budget before the Budget Committee meets. It is 9:30 PM.

**Motion to pass over all other items on the Agenda to review the Planning Department budget and finish up.**

**Motion: Robinson. No second.**

Chair Spanos asked Alternate Beaudin whether he had anything else he wanted to say. Yes. He wants to address this matter again because this problem is not going to go away. He also wants to address the budget.

### **Planning Board Budget**

Alternate Paul Beaudin said he wants to know what was actually spent this year. He does not want to see just the budget; he wants to see past expenditures. Normally that would be a good thing to have. Planner Bont said, the documents they had was what the Planner normally submits to the Planning Board. The Finance Director prepared the document before them.

Selectmen’s Representative Robinson pulled up the expenditures on his computer and offered to read the totals to the Planning Board.

1. Payroll: \$77,540

Beaudin: Does that include overtime and everything?

Robinson: Yes, through December 16, 2020.

2. Training Expenses: \$90

Robinson: Just to explain, COVID! People did not go to any trainings. They did not offer anything. None of us went to the planning conference.

3. Dues: \$6,919



4. Contracted Services: \$14,883

Robinson: I don't have a breakdown. I don't know if there are other bills yet to come in.

5. Supplies: \$30,448
6. Office Equipment: \$1,040

Robinson: Grand total with wages is \$103,921.

#### **Planning Board Budget - I-Pads for Planning Board Members:**

Selectmen's Representative Robinson explained that the biggest difference in the budget for 2021 compared to the budget for 2020 is the proposed I-Pads for the Planning Board members. Purchasing I-Pads would allow everyone to participate in meetings like this on ZOOM in person with an I-Pad so that we are not looking at telephone numbers or blank screens from people who have to call in because they do not have a laptop or a computer. Members of the boards would have a town-issued I-Pad that they would be allowed the Planning Board to meet virtually. Hopefully, COVID is going to go away and we can go back to meeting in person, but we don't know that. Second, it would allow us to share documents electronically. People could store those documents on the I-Pads and look at them during the course of the meetings instead of rifling through reams of paper that are printed out.

Although it is important to look large plans on paper, I-Pads would allow the all of the Planning Board members to have all of the information at their fingertips and online available to everyone because we all have the same I-Pad and would all have the same information. It would help to cut down on printing, increase efficiency and would allow the board to meet remotely without going to the office to pick documents up or having documents delivered.

Alternate Beaudin says he wants the paper copies as well because he takes notes on his paper copies. He is not sure the I-Pads are the way to right now. He hopes they are going to return to in-person meetings within a reasonable amount of time. He still wants the staff to continue to send them the documents via email that are on 8 ½"X11". We are still going to need the hard copies of the engineering plans.

#### **Complaints About Who Pays for What**

Alternate Beaudin said we also need to pay more attention to who is paying for this. How much are the applicants paying for this kind of stuff. The applicants need to pay for that stuff so it is not coming out of the Town's budget.

Chair Spanos said we just hiked our fees for Site Plan Reviews, etc. Shouldn't the increase there cover those costs?

Planner Bont explained that most of the costs associated with the applications are provided by the Applicant. For example, with the cell tower the Applicant provided a notebook and all of the materials in the notebook for each Planning Board member as well as providing copies of the plans, etc. However, the Applicant does not pay for everything. For example, the Town Engineer's Report prepared by Ray Korber was copied and paid for by this office. Every time an abutter sends a comment or photos to share with the Planning Board, the Town pays for those copies.

Alternate Beaudin interrupted again.

Chair Spanos said, "Let Carole finish."

Alternate Beaudin interrupted again. Don't we have the applicants put money in escrow? Can't you use that money?!

Planner Bont said the money that is provided by the Applicant to put in escrow is to pay the experts for their professional services. For example, money in escrow for engineering services paid for Town Engineer Ray Korber's bill for his professional services. The money was not used to pay for copies of his report made for each member of the Planning Board. It paid for Telecommunications Radio Frequency Expert Ivan Pagacik's bill for his professional services. It paid for Town Attorney Peter Malia's bill. The reports that she received from Ray Korber and Ivan Pagacik that she printed out for all of the members of the Budget Committee came out of the town budget.

Alternate Beaudin interrupted again. "But I disagree with that!" Anything that has to do with the application whether it is correspondence from Peter Malia or plan modification from Ray Korber should be paid for by the applicant. Especially on commercial or industrial applications! It certainly should be that way.

### **Planning Board Budget:**

#### **A. I-Pads**

Selectmen's Representative Robinson asked Chair Spanos to return to discussion of the Budget and the I-Pads. He asked the other Planning Board members: Should we take it out? Do we just want to buy 3 or 4 I-Pads? He does not need one. He likes using his own computer. If only 3 people want computers then we buy 3. If all 5 members want a computer and all 3 alternates want computers, we buy 8.

Alternate Beaudin interrupted again. I want one and I want to be able to get hard copies when I need them.

Chair Spanos said he prefers printed copies himself.

Selectmen's Representative Robinson and Alternate Beaudin were talking at the same time. Chair Spanos said "One at a time!" Selectmen's Representative Robinson deferred to Beaudin.

Alternate Beaudin said at the Budget Committee meeting last night, the members of the Budget Committee indicated that they all wanted paper copies and they did not really think they wanted the I-Pads. Hard copies are the more "prevalent way to go," but he would also comment that they did discuss that maybe some of us were not very (myself included) comfortable using an I-Pad to the fullest extent that we could. We thought we could use some training. Certain people like me would take training. Some members of the Budget Committee said they would take some training. Maybe some Planning Board members would too.

Selectmen's Representative Robinson said it was totally up to the Planning Board. If the Board members do not want to use the computers, he does not want the Town to buy computers for them. Take some of the money and use it for training. He does not use apple products and does not know how to. He can do anything on his own computer.

Chair Spanos uses Wintel. Steve Noseworthy said "It is the 21<sup>st</sup> Century." Beaudin said if it wasn't for his wife there are a lot of things he would not be able to do on his computer either.

Who wants one?

- Robinson no.
- Beaudin no.
- Vice Chair Chenard no.
- Member Noseworthy – yes. He needs one. His got smashed.
- Ask Member Mark Ehrman. He is probably okay, but we should ask him.
- Chair Spanos said he would think about it and let Planner Bont know.

Selectmen's Representative Robinson suggested adding the sum of \$4,000 to the Planning Budget for an I-Pad and some training for those who want one. Chair Spanos and Alternate Beaudin agreed.

Chair Spanos: Anyone else have any questions about the budget?

### **B. Engineering**

Alternate Beaudin said he had questions about the engineering and technical review. We are going from \$15,000 to \$20,000 which is a 33% increase. We are also increasing our payroll for the Planning Assistant by 15%. We underspent our budget by 20%. We are going to need answers.

Planner Bont said the Town did not have a Planning Assistant until part way through the year so the amount expended in 2020 does not accurately reflect the annual cost of the assistant.

Planner Bont said the line for Engineering has to do with more than just work for the Planning Department. For example, issues arise during the course of the year about infrastructure matters like the sewer line or water line and instead of putting a little amount of money for engineering in various different places within the budget, the engineering costs are reflected here, all in one place in the budget.

Alternate Beaudin said he thinks the expenses and budgets for various departments should all be separated out. He wants to see exactly what we use Ray Korber for under Planning and what we use Ray Korber for other items in town. Maybe a portion of this should be under "administrative". Are there any other departments that use engineering?

Selectmen's Representative Robinson said there was.

Planner Bont said that there was also a survey that was done related to a street that came out of the engineering line.

Alternate Beaudin said that Town Manager Burbank had indicated in the past that other matters that were not related to the Planning Department also came out of that line. We should separate all of those expenses out and keep track of what Town Engineer Korber is charging for services for the Planning Department separate from the sewer main on Main Street or water tanks.

Administration should have its own engineering budget and not use money from the Planning Board's budget so we have a better idea of what we are spending for Town Engineer Ray Korber in Planning.

Vice Chair Chenard said he agreed with Alternate Beaudin. It does not change the overall cost of what the Town is spending for Planning. He would like to know exactly what department is being allocated what money.

Alternate Beaudin said that is the reason we went with an engineer/planner because we looked at what we were paying for an engineer and decided it would be cheaper to hire an engineer/planner. Planner Bont said she had heard that the Town had overburdened him. All of the departments in addition to the planning department were making use of his engineering skills and services. Noseworthy: He was not even licensed as an engineer. Chair Spanos: He had a license. He let it lapse. Beaudin: It was back in the 1980s.

Chair Spanos said can we get back on track?

Alternate Beaudin said the Town should keep track of these expenses separately. Keep the same amount in there and if you want to you can take that extra \$5,000 and throw it in where ever else it needs to be. That is what he would recommend.

Chair Spanos said yes, I think that is fine.

Selectmen's Representative Robinson what are we doing?

Chair Spanos said that extra \$5,000 that you put in the budget for engineering, can you put it elsewhere?

Alternate Beaudin interrupted "Leave the budget for engineering the same that we budgeted for last year and then take that \$5,000 and put it elsewhere so we can document how much time we are spending on planning issues."

#### **A. I-Pads**

Selectmen's Representative Robinson asked how much the I-Pads cost. Planner Bont did not know. Alternate Beaudin interrupted and said he thought it was close to \$2,000 per I-Pad.

Fire Chief Ron Bead, referring to an email from Town of Woodstock Administrator Judy Welch, said the computers are Apple I-Pad Pros. They cost \$1,000 each. They are the type of computer that the Town of Woodstock uses. Woodstock went paperless. There were some additional related expenses because they had to set up an I-Cloud account which is free, but they had to use a software program called "Board-Pack". That software has a fee based on the number of users. The unit user fee for the Board-Pack is based on three users. We do not know how many I-Pads Woodstock has, but their annual fee is \$2,250 for the use of the software.

Alternate Beaudin interrupted and said "But didn't they say it came up to about \$2,000 per I-Pad? Isn't that what was budgeted?"

Fire Chief Ron Bead said that the Board of Selectmen and the Budget Committee in the Town of Woodstock are using the I-Pads.

Vice Chair Chenard asked what the cost of running ZOOM was. Fire Chief Beard said he pays around \$900 for an annual subscription. The Board-Pack software program that they use is so they can utilize their documents and it has some other features. He does not know what those features are because he has never used an I-Pad.

Chair Spanos said he thinks Board-Pack has a feature that enables them to catalog and manage documents.

#### **B. Engineering**

Selectmen's Representative Robinson said the other engineering budget the one that is in the Capital Reserve Fund that we use when we need Ray Korber to figure out a water or sewer

problem. Engineering is in both Planning and in the Capital Reserve Fund. If you want us to put non-planning related engineering expenses in the executive budget we would have to create another line in the executive budget for non-planning related engineering expenses.

Planner Bont pointed out that the Department of Revenue Administration Municipal Services Forms create the budget categories and Engineering and Planning are combined on the MS-1 Form that the Town fills out for the State of New Hampshire. The State of New Hampshire combined those two categories. Selectmen's Representative Robinson agreed.

Alternate Beaudin said he still thinks they should take the \$5,000 out of the line and "throw it in the CIP". If you have to use Town Engineer Ray Korber's engineering services then you can just take the money out of the CIP. You have the ability to use that money for whatever you need. You are the agents for the Capital Reserve Funds. That way we can keep the line item the same and we will be able to track what we spend for Ray Korber for the Planning Board.

Selectmen's Representative Robinson said he did not mind taking it out of the Planning Department budget and putting it elsewhere, but he is going to recommend to the Board of Selectmen that they put that sum into the executive budget because the one that is in the CIP. The purpose behind that is CIP related. In other words, when we want Town Engineer Ray Korber to start looking at the water tank or the sewer treatment plant and we just have a question for him if it is capital related, we can take it out of the CIP. However, if it is specific to something going on in Town then we would have to do that out of the operating budget.

Alternate Beaudin said that is fine. If you have been using part of this \$15,000 to do that maybe we want to reduce the Planning Department line item for engineering further and put that money into the executive budget if that is the case.

Selectmen's Representative Robinson explained that due to the increased load of the applicants and work coming before the planning department. We have had major project after major project. Major project does not have to be the number of units, but rather than the amount of time invested in the processing the application.

### **C. Increase Offsetting Revenues**

Alternate Beaudin said then we should be seeing some offsetting revenue because those people should be paying for his services.

Selectmen's Representative Robinson said the Board of Selectmen increased the rates for that. Go down to offsetting revenues and we had a very conservative increase. That line should really go up to \$4,000 or \$5,000 as anticipated revenue. That would still be conservative. One big application is going to be that amount. Alternate Beaudin said that is why he made that comment about increasing the revenue.

Fire Chief Ron Beard said that Dennis Ducharme for the RiverWalk project was \$7,400 for his application for RiverWalk Phase II already received for this year, but they do not know what will come in in 2021.

Selectmen's Representative Robinson asked Alternate Beaudin if he should put the anticipated revenues up to \$5,000. Alternate Beaudin agreed. Chair Spanos agreed.

Member Noseworthy said if Town Engineer Ray Korber steers the Town clear of one potential lawsuit he has earned his pay. That surely could happen. Robinson agreed.

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**IV. NEW BUSINESS** (Staff and Planning Board Member/Alternates).

*None.*

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**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.*

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**V. ADJOURNMENT**

**MOTION: "To adjourn the meeting at 8:40pm."**

**Motion: Joe Chenard**


**Second: OJ Robinoson**

**All in favor**

Respectfully submitted,

*Carole Bont*, Planner

Date Approved: February 10, 2021

  
James Spanos, Chairman