

**APPROVED**

**LINCOLN PLANNING BOARD  
PUBLIC HEARING  
WEDNESDAY, FEBRUARY 12, 2020 – 6:00PM  
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH**

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**Present:** Chairman Jim Spanos, Selectmen's Representative OJ Robinson, Member Mark Ehrman, Alternate Deanne Chrystal

**Members Excused:** Vice Chairman Joe Chenard, Member Stephen Noseworthy, Alternate Paul Beaudin

**Members Absent:** None

**Staff Present:** Town Planner Carole Bont, Fire Chief/Forest Fire Warden/Code Enforcement Officer/Health Officer Ronald R. (Ron) Beard, Recording Secretary Kristyn Daigle-Brophy

**Staff Excused:** None

**Guests:**

- **Marcus K. Corey**, resident, co-owner with Heidi L. Corey, 23 Conn Drive, Lincoln, NH 03251, (Map 117, Lot 033) Minister/Manager of Loon Mountain Ministry, PO Box 1148, Lincoln, NH 03251-1148. Loon Mountain Ministry is the owner of four (4) business condominiums where the "Encore" Thrift Shop is located at "The Depot" with an address of 264 Main Street:
  - 264 Main Street, U#XX? (Map 117, Lot 120000-01-00010);
  - 264 Main Street, U#XX? (Map 117, Lot 120000-01-00011);
  - 264 Main Street, U#XX? (Map 117, Lot 120000-01-00012); and
  - 264 Main Street, U#XX? (Map 117, Lot 120000-01-00013).
- **Elaine A. Whitlock, (ABUTTER)**, resident and co-owner with Edward Whitlock, 24 Forest Drive, PO Box 196, Lincoln, NH 03251-0196.
- **Robert S. McLaughlin, (ABUTTER)**, resident and co-owner with Suzan A. McLaughlin at, 37 Pinehill Lane, Unit 3, PO Box 1348, Lincoln, NH 03251-1348 (Map 116 Lot 023000-02-00057), member of Harold Schofield's Board of Directors for Forest Ridge Property Owners Association (FRPOA), and President of the Forest Ridge Unit Association – one of six junior associations of Forest Ridge Resort.

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

*Alternate Deanne Chrystal is seated.*

**II. CONSIDERATION of meeting minutes from:**

- January 29, 2020 (Chairman Jim Spanos, Vice Chair Joseph Chenard, Selectmen's Representative OJ Robinson, Member Mark Ehrman, Member Stephen Noseworthy, Alternate Paul Beaudin)

Chairman Spanos suggested that line 523 should read "made him ~~not~~ question"; On line 549 the word "years" should be "areas".

**Motion to accept meeting minutes from January 29, 2020: Robinson**

**Second: Ehrman**

**All in favor: 3-0, Abstentions: 1**

**Motion carries.**

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

**A. 6:00 PM Application for Site Plan Review Approval** – Kamlesh Patel by and through his Applicant/Engineer submitted an application for Site Plan Review approval to the Planning Board:

**Applicant/Engineer:** Thomas S. Greer, P.E., of Walsh Engineering Associates, Inc., One Karen Drive Suite 2A, Westbrook ME 04092 agent for property owner Kamlesh Patel d/b/a Green Wood, LLC, 1150 Brighton Avenue, Portland, ME 04102.

**Property Owner:** Kamlesh Patel d/b/a Green Wood, LLC, 1150 Brighton Avenue, Portland, ME 04102

**Property:** Pollard Road #LO (Map 122, Lot 001) northeast of the intersection of Forest Ridge Drive and NH Route 112 (Kancamagus Highway). The property is located in the General Use (GU) District.

**Proposed Project:**

Application of the Thomas S. Greer, P.E., of Walsh Engineering Associates, Inc, for:

Requesting Site Plan Review approval to change the use of one vacant lot of 6.35 acres and to make site improvements to include a 96-unit hotel and 5-unit condominium residential units with parking for 121 cars for a total of 95,390 square feet of impervious surface. The project includes a gravel wetland for stormwater treatment & two infiltration systems to limit the total volume of runoff.

**Status:**

On October 23, 2019, the Planning Board determined the application to be complete and started the public hearing process. The public hearing was continued to December 11, 2019. On December 5, 2019, the applicant requested an extension and agreed to waive the 65-day clock for the Planning Board to make a determination of their request for Site Plan Review approval. The Planning Board granted Applicant's request for an extension

on December 11, 2019 to be heard on Wednesday, February 12, 2020 at 6:00 PM

**Discussion:**

Chair Spanos said the Applicant has asked for an extension or continuance. The Applicant and his representatives were not present. Chairman Spanos stated that he is under the impression that the Applicant had earlier agreed to waive the 65-day clock. Planner Bont concurred explaining that the next hearing was to be scheduled on February 26, 2020, but the Town Engineer Raymond Korber would be unable to attend, therefore the public hearing will be held at the March 11, 2020 Planning Board meeting.

**Motion to continue the hearing to March 11, 2020: Robinson**

**Second: Ehrman**

**All in favor: 4-0, Abstentions: 0**

**Motion carries.**

**IV. NEW BUSINESS**

**A. CONCEPTUAL:**

1. **Presenter:** Marcus K. Corey, Minister for Loon Mountain Ministry & Owner/Manager of Encore Thrift Shop
2. **Property Owner:** Loon Mountain Ministry, PO Box 1148, Lincoln, NH 03251
3. **Property Location:** Loon Mountain Ministry is the owner of four (4) business condominiums where the “Encore” Thrift Shop is located at “The Depot” with an address of 264 Main Street:
  - a. 264 Main Street, U#XX? (Map 117, Lot 120000-01-00010);
  - b. 264 Main Street, U#XX? (Map 117, Lot 120000-01-00011);
  - c. 264 Main Street, U#XX? (Map 117, Lot 120000-01-00012); and
  - d. 264 Main Street, U#XX? (Map 117, Lot 120000-01-00013).
4. **Zoning District:** General Use (GU) District
5. **Proposal:** Convert approximately 2,200 square feet in Unit #12 and Unit #13 to a combination of meeting space for the Loon Mountain Ministry during the evening hours and a coffee house during the day in connection with the thrift shop.

**Presentation:**

Marcus Corey thanked the Planning Board for “squeezing him onto the agenda”. Corey stated that he runs Loon Mountain Ministry (“the Ministry”) and the Encore Thrift Shop (“Encore”) [to support the Ministry]. In September of 2020, Loon Mountain Ministry will have been “in the area” for thirty (30) years. Corey said the Planning Board may have heard rumors about the possibility

that the Ministry plans to convert a portion of their retail space at the Encore Thrift Shop to include a small “espresso bar” type-place. Corey informed the Planning Board that he did a lot of research (specifically talking to electricians, plumbers and contractors) prior to bringing the idea of adding a coffee bar to the “The Depot” Condominium Board of Directors during a Directors’ meeting held just this past Saturday, February 8, 2020.

Corey said that on behalf of the Ministry, he is looking to convert a portion of the Encore retail space to multi-use space; the Ministry would like to include an espresso bar, Airpot coffee and a toaster oven, to serve coffee and pastries made off site (possibly from “Peaked Moon”) to customers as well as church members after hours.

**Airpot coffee** makers are designed to maintain a constant temperature through the use of insulation. Airpots can keep **coffee** or other beverages piping hot for hours without scorching or tainting their flavor.

[www.webstaurantstore.com](http://www.webstaurantstore.com)

Corey explained that the Ministry is currently renting space from the Town at the Father Roger Bilodeau Community Center (“Community Center”) and as time progresses and membership grows, they need to rent the space more often for things like Youth Group, Men’s Group, Women’s Group, Board meetings etc., but these groups have been meeting in his personal living room on Conn Drive as an alternative and the Ministry needs more space.

Corey said many Encore patrons have asked where they can go to sit and have a cup of coffee with access to high-speed internet, without the establishment being a “grab-and-go” spot. Corey said he informed the Depot Directors that currently while waiting for a table at Black Mountain Burger Co., Encore customers are already “using our internet and sitting on our furniture that is for sale, so we might as well sell them a cup of coffee too!”

Corey went on to explain that he is looking to the Planning Board for guidance as this is all new to him. Corey said he spoke to Planner Bont who had given him formulas/guidelines for parking, including the need for one (1) parking space for every three hundred (300) square feet of public retail space and one (1) parking space for every four (4) restaurant seats. Corey said the four (4) business condominium units combined have approximately seven thousand (7,000) square feet. They are looking to convert twenty-two hundred (2,200) square feet to be an integrated into the “espresso bar” and seating area. Corey said although there would be no clothing retail space in that coffee bar area, the set-up of tables and chairs would allow customers to look at other retail items like old records, CD’s, books, VHS tapes and other “cool vintage items people like” pointing out that many new coffee shops are also moving in that direction.

Corey said that he considered the zoning ordinance parking requirements: twenty-two hundred (2,200) square feet used currently as public retail space requires seven and three tenths (7.3) parking spaces or eight (8) parking spaces. Corey said that converting that same 2,200 square feet to restaurant space with seating for approximately twenty-nine (29) people, although they are likely to have no more than twenty-five (25) seats depending on where people sit on the couches, would require seven and a half (7.5) parking spaces or eight (8) parking spaces.

Corey continued that he has spoken to “the State” (NH Department of Health and Human Services, Food Protection Section) regarding the placement of hand and mop sinks, along with ADA accommodations, including an ADA compliant bathroom. They would have to address those requirements as well.



**Discussion:****Open to the Public & Signage**

Chairman Spanos inquired as to whether the coffee bar would be open to the public and if there would be a sign to advertise it. Corey replied that the coffee bar would be open to the public and that there would be a sign with the name of the coffee bar, but as of now he is unsure what the Ministry would call it.

**Anticipated Volume of Customers**

Corey said that Encore had approximately thirty thousand (30,000) transactions last year, but he was not sure how many customers came in and did not purchase anything. Even if a third (1/3) of the customers purchased a cup of coffee, “that would be seven-thousand-five-hundred (7,500) cups of coffee right there”. Corey reiterated that the coffee bar would be open to the public. He is hoping that people who are waiting for their kids to finish skiing, people who are killing time waiting for their allotted time at the Ice Castles or for their orders at Half Baked, or patrons who are waiting an hour and a half for a table at Black Mountain Burger would be able to come in and have a cup of coffee and use the high-speed internet at Encore.

Corey explained that what they have found is that a number of people waiting for their table at Black Mountain Burger Co. come into the store and wander around, not buying anything “which is totally fine” he added, “so hopefully we could sell them a cup of coffee while they are waiting for their burger”.

**Would Baked Goods be Baked Off-Site and Purchased?**

Chairman Spanos asked if the baked goods would be purchased off-site. Corey informed him that they have spoken to Rebecca Golding from Peaked Moon about the possibility of purchasing baked goods from her, and she said that it would be great.

**Additional Purpose of Coffee Bar**

Corey said they “don’t really know what they are doing”, so revenue is the lowest priority to them as the multi-use space would not increase their electricity or heat bill. They already have the staff and payroll to accommodate this proposed change. Corey said their mission is to connect people via tables and a “good cup of joe”, while also providing a safe space for people to go without the temptation of alcohol. Corey said if the coffee bar does generate additional revenue, that revenue would help offset the cost of their growing church, which is growing much faster than he could have anticipated.

**Proposed Layout**

Member Ehrman asked Corey if the Ministry had created any sketches of the proposed layout for the multi-use area. Corey explained that they had created sketches of the proposed layout, but the plan their contractor presented to them was not laid-out in the way they wanted it to be; even though the kitchen and ADA bathrooms were in the correct area, the seating was not where he would like to see it and the contractor had integrated more retail space into the coffee bar space than they would like. He stated that was not the contractor’s fault. He would like to personally sit with the contractor to better describe the seating area and he wanted the seating area to include “nooks and crannies” in order to allow someone to grab a book, sit down and read it, or work on their

laptop while waiting for friends. Corey explained that yes, they do have a drawing, but it is not in its final form, therefore he did not bring it with him today as he felt it would be more of a hassle to explain the discrepancies of the drawing and what they are actually imagining. He continued that once the contractor has finalized the drawing, they will have them in order to present to the PB and the State along with all the required documents.

### **Parking Requirements**

Planner Bont requested the Planning Board look at the provided documents in reference to parking. The documents she gave them indicated the various business condominium spaces within “The Depot”. The sketch she gave them may not be the most accurate depiction as it was based on a sketch attached to a very old assessment card. Planner Bont said it was difficult trying to figure out which unit was which. She noted that the four (4) units numbered with lot numbers ten through thirteen (10-13) are Encore’s. The Emergency E911 numbers for the units at “The Depot” do not square up.

- 264 Main Street, U#XX? (Map 117, Lot 120000-01-00010);
- 264 Main Street, U#XX? (Map 117, Lot 120000-01-00011);
- 264 Main Street, U#XX? (Map 117, Lot 120000-01-00012); and
- 264 Main Street, U#XX? (Map 117, Lot 120000-01-00013).

Planner Bont then referred to an excel spreadsheet she created (“The Depot Parking Spaces for Downstairs Business Condominiums & Upstairs Residential & Business Condos + Gordis Restaurant”) indicating how many parking spaces were calculated for each business based solely on the purported public retail space square footage, assuming the square footage on the old sketch is correct.

Corey pointed out that his calculations were off, noting that they would have around approximately seven-thousand and five hundred (7,500) square feet within all four units, based on the sketch from the old assessment card.

Planner Bont continued that the numbers for square footage on the spreadsheet she created were based on the numbers on the old sketch: Unit #10 and Unit #11 were combined with a total square footage (4,973 square feet). Although the two (2) units were not even in size, there were no measurements showing where the two (2) lots were divided, so she just divided the total by two (2). The old sketch shows Unit #12 with one thousand three hundred seventy-five (1,375) square feet and Unit #13 with one thousand three hundred seventy-five (1,375) square feet.

Corey stated that Unit #12 and Unit #13 would be where the coffee shop would go, but the assessment sketch is incorrect as the doors on Unit #13 are closer to Pub 32 than is shown on the sketch. He said the current main entrance to Encore is in Unit #12. They intend to move the register to allow access to the coffee shop through the double-doors already in place in Unit #13. He included as a side note that the contractor based the plans on twenty-two hundred (2,200) square feet, not including the closet space, and that there are twenty-five (25) current parking spaces based on the square footage of seven-thousand and seven-hundred (7,700) square according to the spreadsheet.

### Maximum Current Capacity

Chairman Spanos asked how many customers [maximum] does Encore have within the four (4) units at one time. Corey explained that it is a difficult number to pinpoint as there are days when they send employees home at 2:00 PM because there are no patrons. On the other hand, their busiest hours are probably Saturdays between the hours of 12:00 PM and 4:30 PM.

Representative Robinson clarified the question to specify the highest number of customers Encore might have in a single moment, to which Corey responded that at this point, he is unsure, and will pay more attention going forward. If Corey had to guess, it would probably be around twenty (20) patrons at one time, during their busy hours. He said next week was Massachusetts school vacation week, and they have a “Fill a Bag for \$5” promotion. He could make sure to keep track of those numbers during that time. He said that the last holiday weekend, “Martin Luther King Jr. Day”, to have been one of the busiest Saturdays they have ever had. Corey said he could probably figure it out based on the number of transactions.

### Parking Spaces Required

Chairman Spanos reiterated the question about the maximum number of customers in Encore at one time was to determine what the number of parking spaces were needed for the current level of business.

Planner Bont stated that using the aerial Google photos on line, Fire Chief Ron Beard counted one-hundred and ninety-four (194) spaces in the whole Depot lot, including the parking area near Gordi’s Fish & Steak House restaurant. She stated that using a rough estimate of each business’s needs there needed to be two-hundred and forty (240) total spaces available, noting that arguably there is some overlap due restaurants that may only be open only during the evening hours.

Chairman Spanos stated that as laid out in the spreadsheet, Encore has twenty-six (26) parking spaces allocated for the four (4) units. In his opinion, Encore does not seem to be maxing out those spaces at the moment. Conklin & Reynolds is currently allotted twelve spaces. Planner Bont included that along with Conklin & Reynolds, is a non-profit organization called “The Bridge Project”, that shares space with Conklin & Reynolds and whose parking spots are included in that allotment. Chairman Spanos stated that Conklin & Reynolds, and the non-profit only seem to be using four (4) or five (5) parking spaces at one time.

Corey informed the Planning Board that since he has been involved with Encore, the businesses that do **not** use much of the parking allotment at “The Depot” are:

- Conklin & Reynolds, PLLC,
- The Bridge Project,
- Loon Reservation Service,
- White Mountain Oil & Propane, and
- RE/MAX in the Mountains.

The businesses that utilize the majority of the parking spaces at “The Depot” are:

- Black Mountain Burger Co restaurant,
- Gordi’s Fish & Steak House restaurant,
- Pub 32 Pizza & Beer,

- DayDreams Hair & Nail Studio, and
- Encore Thrift Shop. Corey noted that the Encore Thrift Shop used to be the anchor store in “The Depot”.

Corey also added that Chutter’s Candy Store, although slow this winter, seems to do very well during the summer hours.

Corey stated the residents who live above the businesses are less couples and families, and more single occupants, therefore allowing availability of those allotted spaces based on the two-parking-space code for each unit. Chairman Spanos agreed that forty (40) spots is a reasonable number for twenty (20) units.

### **Hours of Operation**

Corey informed the Planning Board that the hours of the coffee shop would be the same as the Encore Thrift Shop, from 10:00 AM to 5:30 PM, closed on Sundays, as their intent is to keep it primarily a thrift shop. If in two years down the road if there is a huge demand, they might consider changing the hours, but that is not their goal. They do not intend on becoming a “7:00 AM coffee shop” or a spot for late night entertainment, but to service the customers that already come in, and also to be used for their ministry gatherings and board and budget meetings.

When Member Ehrman asked what time ministry gatherings or meetings be conducted, Corey explained that it would most likely be from 6:00 PM to 8:00 PM (after Encore closes to the public) on Tuesdays, Wednesdays and/or Thursdays, with the exception of holidays/holiday weeks, with a maximum number of participants being approximately twenty (20) members.

### **Recommendations**

Chairman Spanos recommended to Corey that Loon Mountain Ministry apply for Site Plan Review approval with a request for waivers for a number of requirements in the Site Plan Review checklist, in order to notify the abutters and NH DOT. Spanos explained to Corey that he would apply for the waivers [in general] to various requirements on the Site Plan Review Checklist and the Planning Board would discuss which ones would be applicable during the Site Plan Review process.

### **NH DOT Concerns**

Planner Bont informed Corey that she received a letter from NH Department of Transportation (DOT) in response to the “Notice to Abutters” she sent to abutters for Hermann Pfeuti’s request for a “Waiver of Site Plan Review” approval for his expansion of Black Mountain Burger Co. Restaurant into the third business condominium unit. The NH DOT letter requested that “The Depot” improve the parking lot entrance off from Main Street/NH Route 112/Kancamagus Highway. NH DOT will also receive a “Notice to Abutters” for Corey’s proposed project of converting a portion of the space in Encore Thrift Shop into a coffee bar because NH DOT is considered an “abutter” to that project as well.

Attorney Michael Conklin is President of the “The Depot Condominium Association”. She recommended that Corey remind Attorney Conklin to communicate with NH DOT to address NH DOT’s concerns about the entrances to The Depot off from Main Street/NH Route 112/Kancamagus Highway into The Depot.



Corey then asked if that is something that he should contact Attorney Conklin about, to which Planner Bont responded that because the entrance to The Depot is off a State road, the NH DOT is treated as an abutter, and Attorney Conklin is the Condominium Board President, it should be an item on the agenda for their March 10<sup>th</sup> Board Meeting.

### **Parking**

When Chairman Spanos asked the Planning Board if they had any other questions or comments. Representative Robinson stated that the proposal to remove twenty-two hundred (2,200) square of retail space would eliminate the need for seven (7) parking spaces. Whereas the proposed coffee bar would have twenty-nine (29) seats would require the addition of seven (7) spaces. Robinson said he is not concerned about the parking as the net change is going to be zero (0).

Chairman Spanos also included that multiple patrons are likely to use one parking space to visit multiple establishments within The Depot. Corey stated that is his hope, that customers will stop in the coffee shop after getting candy at Chutters Candy Store.

### **Recommendations**

Planner Bont explained that Corey will need to fill out the paperwork for a Site Plan Review application and she will schedule the Site Plan Review from there. Corey thanked the Planning Board for their time.

- 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.

*There was no public participation.*

### **Other Business**

- **Robert Paris & Joseph Fiore Conceptual at the 1/29/2020 Planning Board meeting**

Planner Bont referred the Planning Board to a handout of NH RSA 674:39 Five Year Exemption. (See Appendix A.) In reference to Robert Paris's conceptual at the last Planning Board meeting on January 29, 2020, Bont reminded the Board that at the last meeting members were under the impression that the statute authorized a blanket five (5) year exemption from changes to the Zoning Ordinance and Site Plan Review Regulations for an approved Site Plan Review approval. There is not a blanket five-year exemption as was discussed at the last Planning Board meeting. In order for Robert Paris to receive a five (5) year exemption, Paris is required to do "...active and substantial development or building on the site within 24 months after the date of approval...". Chairman Spanos clarified "For a period of five (5) years after the date of approval provided that...".

Bont will email a copy of RSA 674:39 to Joe Fiore and Bob Paris. (See Appendix A.)

- **Joseph Fiore**, non-resident (PRESENTER & AGENT for Proposed Applicant Robert Paris), PO Box 26, North Haverhill, NH 03774.

- **Robert Paris**, nonresident, (PROPOSED APPLICANT) of 18 Cypress Street, Salem, NH 03079 and owner of a vacant lot #LO Main Street (Map 117, Lot 008) at the intersection of Dodge Place.

- **Next Meeting February 26, 2020 RiverWalk Resort Status**

Planner Bont announced the next Planning Board Meeting is scheduled for February 26, 2020 and will address the status of the RiverWalk Resort. She has been in contact with the Town Attorney Peter Malia regarding the status of RiverWalk. Although all three (3) phases of RiverWalk were approved years ago, there is a limited amount of information about what exactly was approved. Some of her concerns are that Ducharme is planning to move the building slightly from what was originally proposed – is the building out of the 100 Year Floodplain – and they are planning on adding a second restaurant – the original approval was for one large restaurant versus two (2) smaller restaurants. Planner Bont said although Phase II is physically larger than Phase I, and there will be fewer units – sixty-six (66) units instead of eighty-four (84) units, but questions whether those units are straight units or double lockout units, like those in Phase I. Should parking reflect the number of actual units versus ownership?

When Member Ehrman asked what the square footage would be, Planner Bont stated she will email the Planning Board the square footage.

Chief Beard stated if memory serves him, Phase II will have sixty-six (66) hotel units, with restaurant seating of seventy-nine (79), a three hundred (300) square foot convention center and between thirteen and fourteen thousand (13,000-14,000) square feet of retail space. Member Ehrman asked what the number of units in Phase I was. Chief Beard stated the number of units in Phase I currently sits at eighty-four hotel (84) units, (or 140 units if you count each lock-out unit separately) but there is less square footage in Phase I than in Phase II.

Member Ehrman requested that Planner Bont send the information on both Phase I and Phase II to the Planning Board.

Planner Bont explained that the entire project was presented in 2008, approved in 2009, with construction starting in 2014, as they were granted two (2) extensions in 2013 and 2014 because RiverWalk was originally only approved for three (3) years. She stated that Dennis Ducharme did not come back before the Planning Board for Site Plan Review but rather returned only to inform the Planning Board of the status of the construction. All three (3) phases were presented in 2008, with the construction of Phase I vesting the remaining two (2) phases. She is unsure of the extent of the discussion that will be held but she will discuss the need for Site Plan Review during the meeting. She will reach out to Town Attorney Peter Malia regarding the date of the next meeting.

Member Ehrman said he thought there were conditions regarding parking, to which Planner Bont stated there were no conditions regarding parking; the approval had no conditions other than requiring Ducharme to have to get the appropriate DES and State permits.

**VI. ADJOURNMENT**

**A. Motion to Adjourn meeting at 6:45pm: Spanos**

**Second: Robinson**

**All in favor: 4-0, Abstentions: 0**


**Motion carries.**

Respectfully submitted,

*Kristyn Daigle-Brophy*  
Recorder

*March 11, 2020*

Date Approved: February 26, 2020



James Spanos, Chairman

**Appendix A****TITLE LXIV  
PLANNING AND ZONING****CHAPTER 674  
LOCAL LAND USE PLANNING AND REGULATORY POWERS****Regulation of Subdivision of Land****Section 674:39****674:39 Five-Year Exemption. –**

I. Every subdivision plat approved by the planning board and properly recorded in the registry of deeds and every site plan approved by the planning board and properly recorded in the registry of deeds, if recording of site plans is required by the planning board or by local regulation, shall be exempt from all subsequent changes in subdivision regulations, site plan review regulations, impact fee ordinances, and zoning ordinances adopted by any city, town, or county in which there are located unincorporated towns or unorganized places, except those regulations and ordinances which expressly protect public health standards, such as water quality and sewage treatment requirements, for a period of 5 years after the date of approval; provided that:

(a) Active and substantial development or building has begun on the site by the owner or the owner's successor in interest in accordance with the approved subdivision plat within 24 months after the date of approval, or in accordance with the terms of the approval, and, if a bond or other security to cover the costs of roads, drains, or sewers is required in connection with such approval, such bond or other security is posted with the city, town, or county in which there are located unincorporated towns or unorganized places, at the time of commencement of such development;

(b) Development remains in full compliance with the public health regulations and ordinances specified in this section; and

(c) At the time of approval and recording, the subdivision plat or site plan conforms to the subdivision regulations, site plan review regulations, and zoning ordinances then in effect at the location of such subdivision plat or site plan.

II. Once substantial completion of the improvements as shown on the subdivision plat or site plan has occurred in compliance with the approved subdivision plat or site plan or the terms of said approval or unless otherwise stipulated by the planning board, the rights of the owner or the owner's successor in interest shall vest and no subsequent changes in subdivision regulations, site plan regulations, or zoning ordinances, except impact fees adopted pursuant to RSA 674:21 and 675:2-4, shall operate to affect such improvements.

III. The planning board may, as part of its subdivision and site plan regulations or as a condition of subdivision plat or site plan approval, specify the threshold levels of work that shall constitute the following terms, with due regard to the scope and details of a particular project:

(a) "Substantial completion of the improvements as shown on the subdivision plat or site plan," for purposes of fulfilling paragraph II; and

(b) "Active and substantial development or building," for the purposes of fulfilling paragraph I.

IV. Failure of a planning board to specify by regulation or as a condition of subdivision plat or site plan approval what shall constitute "active and substantial development or building" shall entitle the subdivision plat or site plan approved by the planning board to the 5-year exemption described in paragraph I. The planning board may, for good cause, extend the 24-month period set forth in subparagraph I(a).