

APPROVED

PLANNING BOARD
PLANNING BOARD MONTHLY MEETING
Wednesday June 22, 2022 – 6:00 PM
***Lincoln Town Hall, 148 Main Street, Lincoln NH**

*Hybrid meeting available both in person with social distancing & masks & via Zoom Meeting Platform to allow for town wide participation. A quorum of the Planning Board member must be physically present at the meeting. Although there is space in the room for 8-12 guests in addition to the Board members with social distancing, the public is encouraged to participate remotely using ZOOM.

Join Zoom Meeting

<https://us02web.zoom.us/j/89809740323?pwd=UVBhYzl4ZkUzVUs0MERpalZid0RUZz09>

Meeting ID: 898 0974 0323

Passcode: 427100

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

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

I. CALL TO ORDER: at 6:10 PM by Chairman James Spanos

Members Present: Chairman James Spanos, Vice Chairman Joe Chenard, Selectmen's Representative O.J. Robinson

Excused: Member Stephen Noseworthy, Member Paul Beaudin, Alternate Mark Ehrman

Staff Present: Fire Chief and Code Enforcement Office/Health Officer/Zoom Host and Moderator Ronald Beard, Planner Carole Bont, Planning Board Recorder Judy Sherrieff (via Zoom)

Guests:

- **Izzy Atlisco** (nonresident) (APPLICANT) d/b/a Izzy Atlisco, LLC d/b/a El Charros, PO Box 728, Lincoln, NH 03251-0728 a tenant operating El Charros Mexican Restaurant in the Lincoln Center North shopping center ("6-24 Lumber Yard Drive 4 &" Map 113, Lot 002) owned by Paul Bartlett, et.al. d/b/a Lincoln Center North, LLC, PO Box 681, Lincoln, NH 03251-0681.
- **James (Jim) Champagne** (resident) (Prospective APPLICANT), 28 West Street, PO Box 1045, Lincoln, NH 03251-1045, with Susan Champagne d/b/a Purple Tomato, LLC, a retail operation (not a restaurant) d/b/a Purple Tomato Local Produce at Linwood Plaza, 78 Main Street Unit #2 (Map 113 Lot 003000-01-00002) & Purple Tomato Snack Shack at Linwood Plaza, 78 Main Street Unit #6 (Map 113, Lot 003000-01-00006) co-owner with Susan Champagne, 28 West Street (Map 112, 044) (via ZOOM).

- **Susanne (Susan) A. Chenard**, (resident) 11 Liberty Road, Lincoln NH 03251 (Map 107, Lot 061) and Realtor for Loon Reservation Service, 264 Main Street, Suite 12, PO Box 785, Lincoln, NH 03251-0785, and owner of 19 Maple Street (Map 118, Lot 069). Alternate member of the Zoning Board of Adjustment.
- **Lauren Hudson** (nonresident) (Prospective APPLICANT), 506 Andover Ridge Road, Andover, VT 05143 with Christopher Krieger d/b/a Wildwood Collective. (via ZOOM).
- **Alberto Lira** (nonresident) chef/operator of El Charro (Mexican Restaurant), PO Box 728, Lincoln, NH 03251-0728, a tenant operating El Charros Mexican Restaurant in the Lincoln Center North shopping center ("6-24 Lumber Yard Drive 4 &" Map 113, Lot 002) owned by Paul Bartlett, et.al. d/b/a Lincoln Center North, LLC, PO Box 681, Lincoln, NH 03251-0681.

II. CONSIDERATION of meeting minutes from:

- **June 8, 2022**
 - Chairman James Spanos, Vice Chairman Joe Chenard, Selectmen's Representative OJ Robinson, Member Paul Beaudin, Alternate Mark Ehrman.

Motion to accept as amended by Selectmen's Representative O.J. Robinson

Second by Vice Chairman Chenard

All in favor

III. NEW BUSINESS

A. SPR 2022-06 M113 L002 -Izzy Atlixco, LLC d/b/a El Charros Restaurant at Lincoln Center North – Expand into the "Chat Room" space

SITE PLAN REVIEW

Applicants:

- (1) Izzy Atlixco, LLC d/b/a
El Charros Restaurant
PO Box 728
Lincoln, NH 03251-0728 (tenant); and
- (2) Paul Bartlett d/b/a
Lincoln Center North, LLC
PO Box 681
Lincoln, NH 03251-0681 (property owner).

Property Owners:

- (1) Paul Bartlett d/b/a
Lincoln Center North, LLC
PO Box 681
Lincoln, NH 03251-0681 (property owner).

Property:

A portion of property known as “6-24 Lumber Yard Drive 4 &” (Map 113, Lot 002), the unit known as 10 Lumber Yard Drive #6 formerly known as “The Chat Room” located in the Village Center (VC) District. This restaurant is located in a portion of the Lincoln Center North Shopping Center.

Proposal:

Application for Site Plan Review approval for El Charros Restaurant (currently occupying two adjacent units) to expand into a third adjacent unit known as the former “Chat Room” space to add tables and seats for dining for a total of an additional twenty-four (24) seats. The space would include another bar with eight (8) high top bar seats, eight (8) duces (tables with 2 seats each) and billiard tables. Expanded space would be dedicated to patrons over 21 years of age as the rest of the restaurant is “family friendly”.

Presentation:

Mr. Atlixco explains how he intends to use the area. It will be similar to a sports bar with TVs and billiard tables for people over the age of 21. There will be access to the El Charros kitchen and they will serve food from the full menu as well as alcohol.

Discussion:

Selectmen’s Representative O.J. Robinson asks if there will be any outdoor seating for this section of the restaurant. Mr. Atlixco responds that he does not plan to have outdoor seating for this area. The Planning Board reviews the available parking spaces as well as the hours of operation for the different businesses as shown on the spreadsheet submitted by the Applicant. The Board also discusses the fact that the four (4) theaters are operating at significantly less than full capacity and determines that there will be sufficient parking available during the hours of operation.

The Planning Board reviews the application and all items are in order.

Mr. Atlixco asks about adding signage and wants to know if he needs to get approval to add a sign similar to what is currently at El Charros. Planner Bont responds that he will need to submit an Application for a Sign Permit and get approval and a Sign Permit for a new sign.

**Motion to accept application as complete by Selectmen’s Representative O.J. Robinson
Second Vice Chairman Chenard
All in favor**

**Motion to open public comment by Selectmen’s Representative O.J. Robinson
Second Vice Chairman Chenard
All in favor**

Chairman Spanos asks if there is anyone who would like to comment. There aren’t any comments made.

Motion to close public comment by Selectmen's Representative O.J. Robinson
Second Vice Chairman Chenard
All in favor

Motion to approve Site Plan as presented by Vice Chairman Chenard
Second Selectmen's Representative O.J. Robinson
All in favor

B. CON 2022-06 M108 L016 – Donahue Sr., Michael & Bobbi Ann – Lauren Hudson & Christopher Krieger, convert 4.33-acre vacant lot into an Airbnb tiny home development off Bog Brook Road

CONCEPTUAL => SITE PLAN REVIEW

Owners: Michael Donahue, Sr. & Bobbi Ann Donahue
68 Potato Hill Road
Woodstock, NH 03293

Realtor: Samuel H. Coes, III
66 NH Route 25
Meredith, NH 03253

Prospective Purchasers: Lauren Hudson & Christopher Krieger
d/b/a Wildwood Collective
506 Andover Ridge Road
Andover, VT 05143

Property: Bog Brook Road #LO (Map 108, Lot 016) in the Rural Residential (RR) District (4.33 Acres)

Proposal: Build a collection of tiny homes to rent out as Airbnb units. Would like to explore the possibilities with Planning Board.

Presentation:

Ms. Lauren Hudson discusses her ideas about building tiny homes for short term rental. Depending on the size of the lot the plan would be to build four to six (4-6) year-round, tiny homes. They would be manufactured homes/tiny homes on wheels.

Discussion:

Vice Chairman Chenard asks if the plan is to have a cabin colony or several standalone houses. Ms. Hudson responds that the houses will be standalone and all on one lot.

Ms. Hudson would like to learn more about how the Town of Lincoln views tiny house rentals. Vice Chairman Chenard asks Ms. Hudson if she is aware of the Town's Airbnb's ordinance. She responds that she is aware of the ordinance and understands the requirements.

Chairman Spanos addresses the issue of manufactured homes and campgrounds which are allowed in this zoning district (i.e., Rural Residential (RR) District).

Ms. Hudson provides photos via Zoom of what a tiny home would look like and describes them. The tiny homes will be on wheels and have skirts around the base, similar to a mobile home. The homes will contain indoor plumbing, heat, and air conditioning. These tiny homes would sit on concrete pads. These tiny homes are road legal and are typically 8 ½' x 26'.

Type of Business Use:

Selectmen's Representative O.J. Robinson discusses the issue of what type of "business use" category the tiny homes would fall into. He feels the type of housing Ms. Hudson is proposing falls under the category of "Hotel/Motel/Motor Inn" under the list of "Business Uses" on the Land Use Schedule in the Town's Land Use Plan Ordinance.

Planner Bont thinks these tiny homes may meet the definition of manufactured housing and references Appendix A in the packet, RSA 674.31.

TITLE LXIV
PLANNING AND ZONING
CHAPTER 674
LOCAL LAND USE PLANNING AND REGULATORY POWERS
Manufactured Housing
Section 674:31

674:31 Definition. – As used in this subdivision, "manufactured housing" means any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Manufactured housing as defined in this section shall not include presite built housing as defined in RSA 674:31-a.

Source. 1983, 447:1. 1985, 104:1, eff. July 9, 1985.

However, Chair Spanos points out that under the combined two definitions of "Manufactured Housing" and "Manufactured Housing Park" in RSA 205-A:1 Definitions, the legislative intent is that these manufactured housing parks have dwelling units that are "designed for long term and continuous residential occupancy" and not short-term rentals:

TITLE XVII
HOUSING AND REDEVELOPMENT
CHAPTER 205-A
REGULATION OF MANUFACTURED HOUSING PARKS
Section 205-A:1

205-A:1 Definitions. –

As used solely in this chapter unless the context specifically requires otherwise:

I. "Manufactured housing" includes, but is not limited to, manufactured housing as defined by RSA 674:31, and also includes any prefabricated dwelling unit which:

- (a) Is designed for long term and continuous residential occupancy;
- (b) Is designed to be moved on wheels, as a whole or in sections; and

(c) On arrival on the site, is complete and ready for occupancy, except for incidental unpacking, assembly, connection with utilities, and placing on support or permanent structure.

Nothing herein shall be construed to include campers or recreational vehicles within the definition of "manufactured housing".

II. "Manufactured housing park" means any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate 2 or more manufactured houses. Nothing herein shall be construed to apply to premises used solely for storage or display of manufactured housing.

III. "Person" means any natural person, corporation, partnership, or sole proprietorship.

IV. "Tenant" means any person who owns or occupies manufactured housing and pays rent or other consideration to place said manufactured housing in a manufactured housing park.

V. "Manufactured housing park owner" means the person holding title to the manufactured housing park to be sold.

VI. "Family member" includes the owner's spouse, son, daughter, mother, father, brother, sister, grandson, granddaughter, stepchildren, step-grandchildren, or first cousins.

VII. "Final unconditional offer" means a fully executed agreement for the sale of a manufactured housing park.

Source. 1973, 291:1. 1983, 230:10, 18. 1985, 333:1. 1987, 383:1, eff. May 26, 1987.

The Planning Board discusses the definitions of long-term residential occupancy contemplated for manufactured housing in a "Business Use" called "Manufactured Housing Park" versus transient lodging like the "Hotel/Motel/Motor Inn" uses also listed under "Business Uses". Chairman Spanos clarifies that if this tiny home park is considered "transient lodging" it would require a Special Exception from the ZBA. Selectmen's Representative O.J. Robinson adds that the "Business Use" called "Hotel/Motel/Motor Inn" is permitted in the Rural Residential (RR) District with a Special Exception.

Chairman Spanos notes that Ms. Hudson could divide the land and put a tiny home on each lot; or she could go before the Zoning Board for the Special Exception.

Water and Sewer Hookups:

Ms. Hudson asks about municipal water/sewer hookups. The Planning Board responds that they are required to hookup to the municipal water and sewer.

Land:

Chairman Spanos clarifies that Ms. Hudson can divide the land or apply for a Special Exception. The minimum lot size per single family dwelling unit is 15,000 SF (0.344 Ac) which is a little more than 1/3 of an acre per lot. *[Note: One third of an acre is 14,520 SF (or 0.333+Acres)].*

Vice Chairman Chenard offers another idea that would be to make the homes duplexes which would require only twenty thousand (20,000) square feet for two dwelling units. He adds that another option would be making the tiny homes permanent housing.

Shoreland Water Quality Protection Act (“Shoreland Protection Act”):

Planner Bont discusses the fact that although the subject lot is surrounded by Harvard Brook, she notes that the **Shoreland Water Quality Protection Act** does not apply to this particular brook because Harvard Brook is not listed on the State’s list as a “fourth order or greater river or stream or designated river”.

Note: Shoreland Water Quality Protection Act: Summary of Minimum Standards:

The Protected Shoreland includes all lands within 250 feet of the reference line of the following types of waterbodies are subject to the SWQPA:

- All Lakes and ponds greater than 10 acres in size.
- All 4th order and greater streams and rivers and most designated rivers, including sections less than 4th order.
- All waters subject to the ebb and flow of the tide.

Planner Bont informs Ms. Hudson that a review of the property boundary lines and recalculations are needed to determine the total amount of useable land; the property boundary lines go to the thread of Harvard Brook in most places. The calculation of available land for development should include the subtraction of the unusable land that is consumed by Harvard Brook.

LAND USE PLAN ORDINANCE

ARTICLE VI. DISTRICT AND DISTRICT REGULATIONS

Section B. DISTRICT REGULATIONS.

4. LOT AND LOT COVERAGE REQUIREMENTS AND STANDARDS

- a. The area of any year-round stream or water body shall not be included in determining compliance with minimum lot size under this section.

Selectmen’s Representative O.J. Robinson mentions that if they subdivide there will be one entry onto the Town road (Bog Brook Road) but the roadway in the development will need to be shared private road with deeded easements and a road maintenance agreement.

Vice Chairman Chenard shares another idea and suggests if Ms. Hudson isn’t interested in building a duplex, she could consider building one or two permanent homes for work force housing.

Chairman Spanos notes that if Ms. Hudson were to convert the tiny homes into permanent housing in the future, the tiny homes would no longer fall under the Hotel/Motel/Motor Inn business use and she would need to go before the Planning Board to change the use to a residential use.

Summary:

Ms. Hudson provides a quick summary and lists the suggestions given by the Planning Board. She notes two possible paths which are (1) subdividing or (2) applying for a Special Exception as transient lodging with the ZBA.

Ms. Hudson asks the Planning Board if there is a formal process for subdividing. Chairman Spanos explains that there is a public hearing and abutters can raise any concerns they may have. Once the Planning Board has made their decision there is a thirty (30) appeal window. Once the thirty (30) days have passed the subdivision is official. The subdivision process happens first then an application for a Land Use Permit for each tiny home would be submitted.

C. CON 2022-12 M113 L003-01-02 & M113 L003-01-06 Alino dba Bear Mountain Properties, LLC – James & Susan Champagne dba Purple Tomato – outdoor seating for eating & wine tasting

CONCEPTUAL => SITE PLAN REVIEW

- Owners:** Christopher Alino d/b/a Bear Mountain Properties, LLC
143 Club House Road
Brick, NJ 08723
- Tenant:** James Champagne & Susan Champagne d/b/a Purple Tomato Local Produce at Linwood Plaza, 78 Main Street Unit #2 (Map 113 Lot 003000-01-00002) & Purple Tomato Snack Shack at Linwood Plaza, 78 Main Street Unit #6 (Map 113, Lot 003000-01-00006).
- Property:** Two (2) business condominium units in the Linwood Plaza, 78 Main Street, 78 Main Street Unit #2 (Map 113 Lot 003000-01-00002) (Purple Tomato Local Produce) and Unit #6 (Map 113 Lot 003000-01-00006) (Purple Tomato Snack Shack/Wine Tasting).
- Proposal:** Over the years Purple Tomato has provided guests with more and more outdoor seating to accommodate eating of takeout food & now wants to serve alcohol outside as well (i.e., “tasting room”). [Note: Champagne says Planning Board gave approval for outdoor seating, however, no Site Plan Review approval found in files for outdoor seating, either pre-COVID or during the peak of COVID.

Presentation:

Mr. Champagne presents that this discussion is for Unit 6. In the past, they have had free wine tasting inside. There is no outside seating at Unit 6 at this time. They have a restaurant license from the State of New Hampshire and can now pour wine for tasting and charge a fee. For customers that aren't comfortable sitting inside due to Covid-19 concerns, they would like to have outside seating (under cover) to accommodate those customers.

Mr. Champagne would like to have four (4) tables with two (2) people per table totaling eight (8) people. He has Permit of Assembly for sixty (60) people currently and will move inside seats outside, not increasing the number of seats but allowing the same number of customers.

Vice Chairman Chenard discusses the state law regarding outside liquor sales which requires an enclosed area with some type of barrier. He also wonders if the tables in the area will impede the walkway.

Mr. Alino responds that the area in front of the unit is a covered space and not a walkway which shouldn't be a problem.

Chairman Spanos recalls that previously businesses requesting outside seating had a new Site Plan Review approval from the Planning Board. Chair Spanos adds that Mr. Champagne could apply for a waiver of the Site Plan Review.

Mr. Champagne explains that he's not changing the numbers of customer seating and will only be moving them outside.

The Planning Board suggests that Mr. Champagne go for Site Plan Review approval and as part of that process would notify abutters. They let Mr. Champagne know that it's a simple process and will provide documentation of the approval. Planner Bont will send him the forms for Site Plan Review.

III. OLD BUSINESS

Review Sign Ordinance to recommend changes to comply with Clyde Reed et. al. v. Town of Gilbert Arizona, 576 U.S. 155 (2015), 135 S Ct 2218 (2015).

Planner Bont has provided the Planning Board members with a "work" packet. She has flagged items that were not content neutral. Planner Bont received an email from North Country Council and they quoted a price of twenty-five hundred (2,500) dollars to review the sign ordinance. The North Country Council gave a five hundred (500) dollar discount to the Town. Planner Bont explains that the North Country Council does provide other services to the Town at no charge. Chairman Spanos suggests that the Planning Board review the North Country Council proposal and the "work" packet Planner Bont provided for discussion at the next meeting.

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

The Planning Board discusses the 911 addresses memorandum and Lincoln Cinemas 4. Planner Bont will put it in the file.

V. PUBLIC PARTICIPATION AND OTHER BUSINESS:

The Planning Board discusses future meetings and if there is no business may decide to not meet for the first July meeting. Planner Bont expects Alex Ray to be ready for the second meeting in July.

VI. ADJOURNMENT

Motion to adjourn by Vice Chairman Chenard

Second by Selectmen's Representative O.J. Robinson

All in favor

Respectfully submitted,

Judy Sherriff
Recording Secretary

Date Approved: July 13, 2022


Chairman Spanos