

APPROVED

LINCOLN PLANNING BOARD

PUBLIC HEARING& MEETING

Wednesday, June 24, 2020 – 6:00 PM

LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH 03251

These meetings will NOT be livestreamed any longer. Due to the current COVID-19 situation, and the number of members on the Planning Board and staff, the Town Hall Conference Room can safely accommodate up to 8 public participants and seating will be on a first-come basis. This meeting will also be available via the Zoom Meeting Platform to allow for town wide participation. See information to join Zoom meeting at the bottom of the agenda. *

Present: Chairman Jim Spanos, Vice President Joseph Chenard, Board of Selectmen's Representative O.J. Robinson, Member Mark Ehrman (via Zoom), Member Steve Noseworthy, and Alternate Paul Beaudin

Members Excused: None **Members Absent:** None

Staff Present: Town Manager Butch Burbank (via Zoom), Town Planner Carole Bont, and Fire Chief/Forest Fire Warden/Code Enforcement Officer/Health Officer Ronald R. (Ron) Beard.

Consultants: Attorney Peter Malia (via Zoom), Town Engineer Raymond Korber (via Zoom)

Guests:

- **Wayne F. Baltzer**, resident, (ABUTTER) and owner with Jeffrey W. Baltzer and Debra A. Thomas, of 54 Forest Drive (Map 117, Lot 096) with a mailing address of PO Box 1117, Lincoln, NH 03251.
- **Norman Bartlett**, nonresident, (ABUTTER) with an address of PO Box 327, Rochester, MA 02770-0327 and co-owner with Kathleen Bartlett of 136 Pollard Road, (Map 114, Lot 074).
- **David Beaudin**, resident, Lincoln Water Plant Operator and with an address and co-owner with Mary Conn of 10 Louis Lane (Tax Map 116, Lot 004), Lincoln, NH 03251-0245. (via Zoom).
- **Katheryn J. (Jeanne) Beaudin**, resident, of 2 Louis Lane and co-owner with Paul Beaudin II of 2 Louis Lane (Map 117, Lot 069). (via Zoom).
- **Marc Burnell, P.E.**, nonresident, (APPLICANT'S PROJECT ENGINEER), Horizons Engineering, Inc., 34 School Street, Littleton, NH 03561. (via Zoom).
- **Susanne (Susan) A. Chenard**, resident of 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.
- **Marcus Corey**, resident, (APPLICANT) with an address of 23 Conn Drive, Lincoln, NH 03251 owns 23 Conn Drive (Map 117, Lot 033) with Heidi L. Corey and is Executive Director and Pastor of Loon Mountain Ministry, LLC, PO Box 1148, Lincoln, NH 03251-

1148 that owns and operates a thrift store called “Encore” at 264 Main Street in four adjacent business condominiums it owns located in “The Depot” shopping center:

- Map 117 Lot 120000-01-00010
- Map 117 Lot 120000-01-00011
- Map 117 Lot 120000-01-00012
- Map 117 Lot 120000-01-00013
- **Richard Elliott, nonresident, (APPLICANT) Developer of Forest Ridge Resort, d/b/a Mount Coolidge Construction, LLC with Jared Elliott, and Manager of Mount Coolidge Construction, LLC of 3 Amalia Drive, Nashua, NH 03063 and owner of:**
 - Woodland Loop Land Only – Map 114, Lot 080 (Common Areas)
 - 20 Pine Bluff Terrace Unit #B – Map 114, Lot 080-000-06-00009
 - 20 Pine Bluff Terrace Unit #A – Map 114, Lot 080-000-06-00010
 - 21 Pine Bluff Terrace Unit #B – Map 114, Lot 080-000-07-00021
 - 21 Pine Bluff Terrace Unit #A – Map 114, Lot 080-000-07-00022

and d/b/a (ABUTTER) NEWCO, LLC of 3 Amalia Drive, Nashua, NH 03063 and owner of:

- Woodland Loop – Master Lot – Map 115, Lot 003-000-CL-00000
- 2 Forest Ridge #Parcel – Map 114, Lot 076-000-CL-00000
- Woodland Loop – Map 114, Lot 077-000-CL-00000
- Woodland Loop – Map 114, Lot 078-000-00-00000
- Parcel 2 Forest Ridge (13.52 Acres) – Map 114, Lot 079-000-CL-00000
- Woodland Loop – Map 114, Lot 081-000-CL-00000
- 2 Forest Ridge #Parcel – Map 114, Lot 082-000-CL-00000
- 123B Woodland Loop – Map 114, Lot 082-000-02-00041
- 123A Woodland Loop – Map 114, Lot 082-000-02-00042
- 121B Woodland Loop – Map 114, Lot 082-000-03-00043
- 121A Woodland Loop – Map 114, Lot 082-000-03-00044
- 119B Woodland Loop – Map 114, Lot 082-000-04-00045
- 119A Woodland Loop – Map 114, Lot 082-000-04-00046
- 117B Woodland Loop – Map 114, Lot 082-000-05-00047
- 117A Woodland Loop – Map 114, Lot 082-000-05-00048
- 111B Woodland Loop – Map 114, Lot 082-000-08-00053
- 111A Woodland Loop – Map 114, Lot 082-000-08-00054
- **Roger C. Harrington, resident of Lincoln, 131 Pollard Road, PO Box 386, Lincoln, NH 03251-0386 (Map 114, Lot 003) and owner with Sarah A. Harrington of 131 & 133 Pollard Road (Map 114, Lot 003).**

- **Eunice Bartlett Jenkins**, resident, Lincoln, NH 03251 and employee of Loon Mountain Ministry, LLC, at Encore in The Depot at 264 Main Street, Lincoln, NH 03251 with a mailing address of PO Box 1148, Lincoln, NH 03251-1148.
- **Dave Larsen, (ABUTTER)**, nonresident, 70 Nashua Street, Woburn, MA 01801-5206 owner as David B. Larsen, Trustee, of the 166 Forest Ridge Drive Realty Trust of 166 Forest Ridge Drive, Unit #7 (Map 115, Lot 009000-0A-00007), President of Forest Circle Condominium Association, 174 Forest Ridge Drive, Suite 102, Lincoln, NH 03251 and Property Manager of Forest Ridge Resort, 174 Forest Ridge Drive, Suite 101, Lincoln, NH 03251. (via Zoom)
- **Attorney 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), retired attorney and President of the Forest Ridge Unit Owners Association – one of six junior associations of Forest Ridge Resort. (via Zoom)
- **Myles Moran**, resident, 11 O'Brien Avenue (Map 117, Lot 024) owned by Mary J. Levitsky, 11 O'Brien Avenue, whose address is PO Box 184, Lincoln, NH 03251-0184, and Principal/Broker for Moosilauke Realty, PO Box 333104 Main Street, North Woodstock, NH 03262 and Principal of Kastmast Construction, LLC, PO Box 333, 104 Main Street, North Woodstock, NH 03262-0333 that owns 34 Maple Street (Map 114, Lot 009).
- **Mike O'Connor**, resident, 26 Mansion Hill Drive, Lincoln, NH 03251-9801 who owns 26 Mansion Hill Drive, (Map 113, Lot 049) with Debra E. O'Connor. (via Zoom)
- **Harold Schofield, (ABUTTER)**, nonresident, President of Forest Ridge Property Owners Association (FRPOA) – the Master Association of Forest Ridge Resort, , 9 Atlantic Avenue, Narragansett, RI 0288213 co-owner with Janet A. Schofield of 13 Spruce Drive (Map 116, Lot 026) and 16 Penstock Road #9 (Map 122, Lot 004000-0D-00301) as co-trustee of Harold D. Schofield & Janet A. Schofield Revocable Trusts. (via Zoom)
- **Attorney Michael C. Shepard, (ATTORNEY FOR APPLICANT and INVESTOR IN ABUTTER LLC)** The Shepard Law Firm, P.C., 160 Federal Street, Boston, MA 02110 d/b/a Michael & Daryl Shepard Trustees, Shepard Family Trust, 15 White Oak Road, Newton, MA 02468 owns 21 Hay Hill Road (Map 130, Lot 075) and 19 Hay Hill Road, (Map 130, Lot 074) in The Landing Resort and "Real Estate Developer". Investor in New Jefferson Holdings, LLC that owns LO Parcel 3 (Map 408, Lot 001), Pond Woodland Loop (M115 Lot 010), Woodland Loop LO (Map 114, Lot 0800001-00-00000), and Parcel 2 Forest Ridge (Map 115, Lot 017). (via Zoom)
- **David Yager**, (nonresident) **(INVESTOR IN OWNER LLC - APPLICANT)** of 57 Flanagan Drive, Framingham, MA 01701, principal for DLNR Family Limited Partnership, 57 Flanagan Drive, Framingham, MA 01701, owner of 10 Hemlock Drive (Map 121 Lot 007) and

Investor in Mount Coolidge Construction, LLC that owns:

- Woodland Loop Land Only – Map 114, Lot 080 (Common Areas)

- 20 Pine Bluff Terrace Unit #B – Map 114, Lot 080-000-06-00009
- 20 Pine Bluff Terrace Unit #A – Map 114, Lot 080-000-06-00010
- 21 Pine Bluff Terrace Unit #B – Map 114, Lot 080-000-07-00021
- 21 Pine Bluff Terrace Unit #A – Map 114, Lot 080-000-07-00022

And **(INVESTOR IN ABUTTER LLC)** in **NEWCO, LLC** of 3 Amalia Drive, Nashua, NH 03063 that owns:

- Woodland Loop – Master Lot – Map 115, Lot 003-000-CL-00000
- 2 Forest Ridge #Parcel – Map 114, Lot 076-000-CL-00000
- Woodland Loop – Map 114, Lot 077-000-CL-00000
- Woodland Loop – Map 114, Lot 078-000-00-00000
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- Woodland Loop – Map 114, Lot 081-000-CL-00000
- 2 Forest Ridge #Parcel – Map 114, Lot 082-000-CL-00000
- 123B Woodland Loop – Map 114, Lot 082-000-02-00041
- 123A Woodland Loop – Map 114, Lot 082-000-02-00042
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- 121A Woodland Loop – Map 114, Lot 082-000-03-00044
- 119B Woodland Loop – Map 114, Lot 082-000-04-00045
- 119A Woodland Loop – Map 114, Lot 082-000-04-00046
- 117B Woodland Loop – Map 114, Lot 082-000-05-00047
- 117A Woodland Loop – Map 114, Lot 082-000-05-00048
- 111B Woodland Loop – Map 114, Lot 082-000-08-00053
- 111A Woodland Loop – Map 114, Lot 082-000-08-00054

(via Zoom).

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. CONSIDERATION of meeting minutes from:

- **May 13, 2020** (Chairman Jim Spanos, Vice Chair Joseph Chenard, Selectmen's Representative OJ Robinson, Member Stephen Noseworthy, Alternate Paul Beaudin, Alternate Deanne Chrystal)
- **May 27, 2020** (Chairman Jim Spanos, Vice Chair Joseph Chenard, Selectmen's Representative OJ Robinson, Member Stephen Noseworthy, Alternate Paul Beaudin, Alternate Deanne Chrystal)
- **June 10, 2020** (Chairman Jim Spanos, Vice Chair Joseph Chenard, Selectmen's Representative OJ Robinson, Member Stephen Noseworthy, Alternate Paul Beaudin)

MOTION: “To skip over consideration of the meeting minutes at this time.”

Motion: Beaudin

Second: Chenard

All in favor

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

IV. NEW BUSINESS

A. 6:00 PM Application for Site Plan Review Approval –Applicant/Property Owner/Surveyor:

- 1. Applicant:** Richard Elliott Manager of Mount Coolidge Construction, LLC of 3 Amalia Drive, Nashua, NH 03063.
- 2. Property Owner:** Mount Coolidge Construction, LLC of 3 Amalia Drive, Nashua, NH 03063 (Richard Elliott, Jared Elliott, David Yager)
- 3. Engineer:** Marc Brunelle, PE, Horizons Engineering, Inc., 34 School Street, Littleton, NH 03561
- 4. Property:** The Pines at Forest Ridge (Map 114, Lot 080); and
The property is located in the Rural Residential (RR) District.

5. Proposed Project:

Application of Richard Elliott Manager of Mount Coolidge Construction, LLC for Modification of the Site Plan Review approval for The Pines at Forest Ridge which includes ponds associated with Stormwater Management to convert a micro-extended detention basin and infiltration basin (dry pond) into a wet pond near Building 1” on Lincoln Tax Map 114, Lot 080. Mount Coolidge Construction applied for and received an Alteration of Terrain (AoT) permit from New Hampshire Department of Environmental Services (NHDES) for the modification of the existing micro-extended detention pond (MP1) and infiltration basin (INF1) to a wet pond. The project will consist of removing the existing berm separating MP1 and INF1, excavation of approximately 5 feet at 3H:1V slopes, installation of a permanent pool orifice. The modifications do not propose any additional impervious area to the existing AoT 1445 (expired), and will disturb approximately 15,000 square feet.

Conflict of Interest Discussion:

Vice Chair Chenard recused himself as he has a potential conflict of interest.

Alternate Beaudin stated that he may have to recuse himself as well as he plows for Mr. Shepard during the winter months. Mr. Shepard stated that he does not see a reason why Mr. Beaudin would have to recuse himself and has no issue with him being seated for the hearing. A poll of the Planning Board showed no members took issue with Alternate Beaudin being seated.

Attorney Malia stated that Alternate Beaudin being employed by the applicant’s representation could be an issue. Attorney Malia questioned whether Alternate Beaudin felt he was impartial. Alternate Beaudin confirmed that he could be impartial. Attorney Shepard added that being the summer months, Alternate Beaudin is not currently employed by him. Alternate Beaudin was seated on the Board in Vice Chair Chenard’s place.

Missing Documentation:

Chairman Spanos called for questions from the Planning Board. Alternate Beaudin stated that there were several documents of note that he could not locate as part of the application. Applicant's Engineer Marc Brunelle and Attorney Mike Shepard confirmed that the documents were provided to Town Engineer Korber for his review but that those documents were not submitted to the Planner or to the Planning Board. Attorney Shepard said those documents would be submitted to the Planning Board in a timely manner as well.

Presentation:

Attorney Shepard then began his presentation of the project. Town Attorney Peter Malia requested that Attorney Shepard present the Planning Board with a letter from the Applicant Rick Elliott d/b/a Mount Coolidge Construction, LLC, stating that Mr. Shepard is authorized to speak on Mr. Elliott's behalf. Attorney Shepard said he will oblige. Attorney Shepard went on to say that the detention pond issue has been going on for far too long and nobody's happy about it.

Attorney Shepard gave a history of the ponds at "The Pines at Forest Ridge Resort". In short, the dry pond design was not effective and the ponds were not draining, thus a new wet pond design was engineered. Attorney Shepard said NHDES had approved the first design and the fact that the first design was not effective was no one's fault; the drainage just did not run as it was designed to. According to Attorney Shepard, this was not an act of malfeasance on anyone's part, it just did not work well. Thus, a new design was presented to NHDES and the application before the Planning Board came together with the collaboration of the team of engineers at NHDES as well as the applicant's engineers (Horizons Engineer, Inc.) over a period of several months.

Attorney Shepard said the Applicant took measures to address all of the concerns of NHDES. NHDES did approve the Applicant's new Alteration of Terrain (AOT) permit which was then presented a month ago to Town Engineer Ray Korber for his peer review and comments.

Attorney Shepard stated that they did not receive any feedback from Town Engineer. Korber until yesterday. They had a conference call last night with the Town to address Town Engineer Korber's comments. Applicant's Engineer Marc Brunelle worked through the night and the early part of today to address those comments. Applicant's Engineer Marc Brunelle did this in order that the Board could review a complete application that has addressed all of Town Engineer Korber's comments in hope that it would be approved by the Planning Board this evening.

Sitting Member Beaudin stated that the Planning Board as well as Carole Bont have not been provided with a list of the documents or responses. Attorney Shepard replied that he would provide those in writing as well as to go over them this evening.

Attorney Shepard stated that Mr. Korber had 12 concerns outlined in Technical Memorandum #7 (listed below).

- 1. As per Technical Memorandum #4, Comment 6, please comment on the correspondence from Mr. David Larsen dated July 8, 2019 regarding the reconstruction of FB1.**

Engineer Marc Brunelle stated that he spoke with NHDES and the opinion of NHDES was that since "it" [the wet pond?] was part of the original design "it" [the wet pond?] should stay part of

the current design. “It” [the wet pond?] has established vegetation and if “it” [the wet pond?] were to be dug up, there is no real place to relocate “it” [the wet pond?].

Member Beaudin questioned what the size of FB1 was as the plan submitted does not show the size or depth of the pond. Applicant’s Engineer Marc Burnelle stated that FB1 was part of the original design in 2014 and that information is part of the current plan with the size indicated on earlier plans. Attorney Shepard added that the size notation could be added.

Safety versus the requirements of the NHDES AOT were also discussed. Mr. Shepard stated that NHDES did not see FB1 as a safety hazard, but if the Town wants to see a fence around the pond, the applicant will put a fence around the pond as long as the fence around the pond is okay with NHDES.

Member Beaudin questioned whether Town Engineer Korber was satisfied with this answer. Town Engineer Korber replied that this was an issue brought up by the FRPOA that the Town felt should be addressed and now it has been. Town Engineer Korber added that NHDES does not really examine safety concerns as part of the AOT permit process. Safety is really within the Town’s purview to address; the Town should address those types of issues.

2. Submit written verification from the FRPOA that the FRPOA has accepted responsibility to operate and maintain the stormwater management facilities.

Attorney Shepard stated that the junior association known as “The Pines HOA” has confirmed that “they” are going to accept responsibility for this pond as the pond is located on their common property.

Member Beaudin said he would like the Town to have written verification of this. Town Engineer Korber agreed that verification that “The Pines HOA” is going to accept legal responsibility for maintenance and operation of the pond should be in writing. Attorney Shepard stated he would provide the written verification.

Chair Spanos questioned how many more units are left to be built at “The Pines”. Attorney Shepard replied that there are two (2) more buildings with a total of four (4) dwelling units and “they” [Rick Elliott d/b/a Mount Coolidge Construction, LLC] hope to have the four (4) dwelling units completed within approximately six (6) months and occupied by ski season.

3. The precipitation value for the 25-year rainfall event is incorrect. The value should be 5.28 inches as per Northeast Regional Climate Center Extreme Precipitation Tables. Revise model as required.

Attorney Shepherd stated that Applicant’s Engineer Marc Burnell took a look at this recommendation and noted that the value used was 4.55 inches. The Northeast Regional Climate Center Extreme Precipitation Tables use 4.54 inches. The model used on the most recent version is actually correct. Town Engineer Korber replied that the email he received did not have the attachment they were referring to. Korber said he will look again in his inbox. Attorney Shepard said he will resend as the attachment was quite large. Attorney Shepard said he may have to reduce the file size to get it to go through. Town Engineer Korber said when he gets it he will take another look at this.

4. Provide documentation that confirms the stormwater design meets the groundwater recharge volume requirement as specified in the Stormwater Management Ordinance.

Attorney Shepard stated that on the most recent AOT drainage report, the Applicant was granted a waiver on the GRV requirements from the State of NH and the Applicant would like to request a waiver from the Town as well. Attorney Shepard said as this is a wet pond system, it is always going to be wet. There was some discussion as to the technical aspects of the design.

5. Provide a detail and show location of Post 1A Sediment Bay on site plans and post-development drainage map.

Attorney Shepard said Post 1A Sediment Bay is something that was on the original plans and was not altered so it is not on the new plan. Town Engineer Korber confirmed that **Post 1A Sediment Bay** was in the model but not in the plan so if the Applicant would send him the available plan that addresses the design of the sediment bay, he will review it. Applicant's Engineer Marc Brunelle said he will draw it up this week if needed. Town Engineer Korber and Applicant's Engineer Marc Brunelle agreed to have a conversation regarding the sediment bay this week.

6. The dimensions of the broad-crested weir and the length and outlet invert elevation of the 18" HDPE culvert as shown on Sheet 3 are not consistent with the HydroCAD model. Revise as required.

Applicant's Engineer Marc Brunelle said he has made those revisions and they will be provided to Town Engineer Korber. Planner Bont questioned whether these revisions needed to come to the Planning Board. Attorney Shepard replied that it is his understanding that providing the information to Mr. Korber as the Town's representative is essentially providing the information to the Planning Board. Planner Bont added that it is helpful to her as Planner and the Planning Board if she and the Board have copies as well. Attorney Shepard said he would oblige.

7. We recommend a safety bench to be installed in the pond as per the NH Stormwater Manual.

Attorney Shepard stated that the maximum vertical distance between the top of the bank and the slope is fourteen inches (14"), therefore a safety bench is not required under the NH Stormwater Rules which requires a bench after a vertical distance between the top of the bank the slope of thirty inches (30") or more. Applicant's Engineer Marc Burnell's opinion is that a safety bench is not required. Town Engineer Korber stated that his understanding is that the bench is recommended and given some of the safety concerns expressed, his recommendation is that a safety bench be considered.

The Planning Board discussed technical aspects of the safety bench. Applicant's Engineer Marc Burnell stated that there is no room to put a safety bench around the entire perimeter. There are some spots at three feet (3') where they might be able to incorporate a partial safety bench but likely only around 40% of the perimeter of the pond. Attorney Shepard replied that perhaps fencing at the top is the better way to go.

Town Engineer Korber and Applicant's Engineer Marc Burnell will look at the plans and see what can be accomplished to alleviate some of the safety issues raised by the abutters. If some sections of safety bench can be accommodated, Attorney Shepard stated it would be constructed.

8. Add the following to General Notes, Sheet 2:

A. Owner shall install guardrail at the retention pond within 30 days after completion of the retention pond unless otherwise approved by the Town of Lincoln

B. Owner shall retain the engineer of record to observe the construction of stormwater management facilities. Owner shall submit a construction control affidavit signed by the engineer of record that the stormwater management facilities were constructed as specified.

C. Owner shall submit record drawings of the as-built condition of the stormwater management facilities in hardcopy and digital format to the Lincoln Planning Coordinator upon completion of the work. Record drawings shall be prepared and stamped by a certified surveyor or professional engineer licensed in the State of New Hampshire.

D. The successful performance of erosion and sediment control measures shall be a condition of the Land Use Authorization Permit for the duration of the project. The erosion and sediment control plan shall be subject to revision to meet changing conditions on the site and to ensure compliance with the intent of the Town of Lincoln Stormwater Management Ordinance. The plan and its implementation is subject to the review and approval of the Planning Board and Planning Director for the duration of the project.

E. Owner shall permit duly authorized employees and representatives of the Town of Lincoln to enter the site at all reasonable hours with or without advance notice for the purpose of completing necessary inspections and observations to ensure compliance with the design intent of the project and Town of Lincoln regulations and requirements.

Attorney Shepard stated that “a-d” would be added but that “e” was too broad. However, they would be happy to incorporate language stating that Fire Chief Ron Beard and Town Engineer Ray Korber can access the site. The applicant would ask for notice of a site visit as their insurance policy does not support all access all the time for safety reasons. Attorney Shepard asked that the accepted language be more along the lines of *“shall permit the fire chief and the town engineer to enter the site preferably between working hours and with advance notice.”* Town Attorney Malia and Town Engineer Korber said they thought this proposed change was acceptable and language along those lines could be drafted.

9. Revise the Inspection and Maintenance Manual for stormwater management facilities as follows:

A. Identify the party (individual(s) and firm) responsible for the operation and maintenance of the facilities. Provide contact information of the responsible party.

B. Provide drawings of the stormwater management facilities as an appendix in the document with cross reference to the specific stormwater management practices described in the manual.

C. An inspection log is provided for an infiltration pond. This does not apply. Delete or revise in accordance with the design as submitted.

D. Provide an inspection form for treatment swales.

E. Reference is made to “maintain features as described below” in the last line of each of the stormwater practice descriptions, but no text is provided. Revise as required.

F. Manual shall be stamped by a professional engineer licensed in the State of New Hampshire.

Attorney Shepard stated that these blanks on the maintenance manual would be addressed and a copy provided to the Town. Town Engineer Korber replied that the manual is acceptable as long as his comments are incorporated.

10. Submit a construction schedule for completion of work.

Attorney Shepard stated that “they” would provide a schedule and work with Town Engineer Korber on this however, they cannot put together a schedule until Land Use Authorization Permits are issued and the work is lined up.

11. Submit engineer’s opinion of probable construction costs for a performance bond.

Applicant’s Engineer Marc Brunelle said he is working on this and it will be provided to the Town. The applicant will obtain whatever bond the Town deems appropriate.

12. Revise and submit all documentation as required to verify compliance with Town requirements.

Attorney Shepard stated that the applicant will continue to work with all involved parties and endeavor to make sure everyone has what they need on this. Town Engineer Korber replied that this requirement is referencing the aforementioned eleven recommendations.

At this time, the Board reviewed the Site Plan Review Checklist. Few revisions were made and the following motion was made:

MOTION: “To accept the application as complete.”

Motion: OJ Robinson Second: Paul Beaudin Motion carries

MOTION: “To open the hearing to public comment.”

Motion: OJ Robinson Second: Paul Beaudin Motion carries.

Public Comment:

Harold Schofield

Harry Schofield, President of Forest Ridge Property Owners Association (FRPOA) – the Master Association of Forest Ridge Resort – and FRPOA representative, reviewed his comments made on behalf of the FRPOA at the August 14th, 2019, Planning Board meeting concerning the malfunction of the ponds and their strong objection to turning the ponds into wet retention ponds. President Schofield said the FRPOA is unhappy with the extensive delays the Town has granted to Mt. Coolidge Construction, LLC (“Mt. Coolidge”)’s requests as well as the fact that many additional months have gone by because of the failure of Mt. Coolidge to renew their Alteration of Terrain (AoT) permit in a timely manner. FRPOA President Schofield stated the FRPOA provided written testimony. FRPOA President Schofield stated that the FRPOA has been discussing this matter with the Select Board and Planning Board for five (5) years. The FRPOA strongly objects to the ponds and suggests Mt. Coolidge provide for a gravel wetland as it is much more effective than wet and dry detention ponds. FRPOA President Schofield cited case studies. FRPOA President Schofield said the FRPOA also objects to unsightly fences and the accompanying landscaping as Mt. Coolidge has yet to finish any landscaping they started.

Robert McLaughlin

Robert McLaughlin, President of the Forest Ridge Unit Owners Association (FRUOA) – a junior association of Forest Ridge Resort – explained that the first thing the Planning Board needs to understand is the significance of the AoT permit and its limitations. The AOT permit program is set up to protect bodies of water from construction runoff. Its primary focus is protecting the East Branch of the Pemigewasset River from adverse effects of the construction runoff including protecting endangered species etc. The AOT permit program is not concerned with potential downstream flooding or adverse effects on neighboring properties, or the impact on the character of the area. These are all areas that are within the Planning Board’s jurisdiction and are areas the Planning Board is required to consider. The FRPOA believes the Planning Board should deny the application as the plan for the ponds proposed by Mt. Coolidge cannot satisfy these standards and does not support their proposal.

Further, FRUOA President McLaughlin added that the AoT Permit requires that the property owners are responsible for the maintenance of the ponds. In this case, neither the junior homeowners’ associations nor the Master Homeowners Association – the FRPOA – are willing to take on responsibility of the maintenance of the ponds as stated by Attorney Shepard.

Harold Schofield

FRPOA President Schofield stated that the majority of the homeowners at “The Pines at Forest Ridge Resort” (who are Mt. Coolidge’s customers) have approached the FRPOA Master Association for help because of their concerns that Mt. Coolidge will turn “The Pines” over to those homeowners before the roads are finished, the landscaping finished, or the detention ponds are straightened out. These homeowners of units in “The Pines” are worried that the site will be left unfinished and the developers will walk away. The FRPOA has a pending lawsuit with Mt. Coolidge over the annexation of “The Pines” to Forest Ridge Resort. The FRPOA believes that “The Pines” is not part of the Forest Ridge Resort because “The Pines” has not been annexed properly.

David Larsen

David Larsen, President of Forest Circle Condominium Association (FCCA) and Property Manager of Forest Ridge Resort, stated that FB1 is on the opposite side of the road from the ponds. FB1 does not infiltrate; the water just sits there. The water in FB2 is three feet (3’) deep and the slopes are steeper than is shown on the design drawings. FRPOA Property Manager Larsen said he is really afraid of someone falling into that pond and not being able to get out.

FRPOA Property Manager Larsen said that NHDES does not look at the safety aspects of drainage systems, including ponds. NHDES employees depend on the project engineer and the Town for to address the safety aspects of the ponds. FRPOA Property Manager Larsen also spoke to the NHDES Program Manager for the AOT about viable solutions to get rid of this safety hazard. FRPOA Property Manager Larsen explained to the Planning Board what the NHDES conclusions were as explained to him by NHDES. There are two possible simple solutions. The easiest solution may be just to fill FB2 so that the water runs through to the culvert down the grass swale and to apply for a waiver from NHDES to just be done with it. There would be no standing water with this solution which would satisfy everybody.

Harold Schofield

FRPOA President Schofield stated that after five (5) years of delays and missed expectations, continued non-compliance with Town rulings by Mt. Coolidge Construction, any solution to the current malfunctioning detention pond other than a properly functioning dry detention pond or a properly installed wetland is unacceptable to the FRPOA. FRPOA is tired of debating this. FRPOA extended its own funds to retain its own engineer (at the Town's specific request) to develop a third-party solution which was done within weeks and this was last fall, almost a year ago! The suggestion by Mt. Coolidge Construction to replace the non-functioning dry detention ponds that do not drain with wet detention ponds is their latest scheme to do things on the cheap, by passing responsibility and the cost on to the homeowners at The Pines, the FRPOA residents, and ultimately the residents of Lincoln.

FRPOA President Schofield reiterated that the gravel wetland area is the only acceptable solution to the FRPOA. FRPOA President Schofield provided a study by the University of New Hampshire Stormwater Center that outlines the benefits of gravel wetlands. The Planning Board stated last fall that Mt. Coolidge Construction must satisfy all parties including the FRPOA. After this long struggle, the FRPOA fully expects the Planning Board to honor that commitment. This is not an unreasonable request. Anything less is unacceptable.

Norm Butler

Norm Butler, a resident of Pollard Road, explained that his property is located directly down the hill from the site. Butler attended the meeting hoping to learn something and hoping to hear a solution to the continuing water problems. Butler was encouraged to hear the progress was being made but then listening to this presentation on the gravel wetland, he stated that this is the first he has heard of this proposed solution. Butler has been following the matter and reading the minutes and questioned whether the gravel wetland solution was presented last fall and whether the Planning Board has considered it. Butler would like a drainage system that works.

Myles Moran

Resident Myles Moran stated that he is a resident and prior resident of Forest Ridge. Moran said there have always been water problems at Forest Ridge from the very beginning, day one. Moran questioned whether the Town could at least require a performance bond on. If the developer is indeed finishing up on this project, it would seem the Town should at least have some financial assurances.

Rebuttal by Attorney Shepard

As there was no other public comment on the matter, Chairman Spanos permitted Mr. Shepard a rebuttal. Attorney Shepard addressed FRPOA President Schofield's comments that all parties must be satisfied. Attorney Shepard stated that satisfaction is not a legal standard. Satisfaction is subjective. The fact that the term was used in a municipal permitting process was not well considered.

Attorney Shepard said with respect to the gravel wetland design, the applicant hired engineers who worked with NHDES engineers to come up with the best possible design. It is not the only design but this is what NHDES permitted. There is no evidence that a gravel wetland design is going to work. People want a solution that works.

Attorney Shepard addressed David Larsen's comments about aesthetics. He did not think a gravel wetland would be any more aesthetically pleasing than a pond especially given the fact that there is already a large pond on site. No one is complaining about that pond but all of the sudden another smaller pond in The Pines has become a menace to the wellbeing of the residents of Forest Ridge.

Attorney Shepard stated that the applicant agrees that if the Town and FRPOA want a fence, they will install a fence although this small pond is no more or less dangerous than the large pond already in place.

Attorney Shepard stated that he takes no small amount of offence that this is a charade as indicated by Mr. Schofield. A lot of time has been spent preparing for the meeting, preparing the application and getting everything together to answer Mr. Korber's comments. The idea that the FRPOA will not accept The Pines into the FRPOA is a separate matter.

Chairman Spanos questioned whether the applicant reviewed the gravel retention design. Attorney Shepard replied that he did and it was also reviewed with NHDES engineers. NHDES and the applicant ultimately decided that the wet pond design was the one that would be most effective.

Comment by Harold Schofield

Mr. Schofield stated that this design does not consider the safety aspects of the design and further Mr. Schofield has no record of the truthfulness of what transpired between NHDES and the applicant.

MOTION: "To close the public comment period."

Motion: Paul Beaudin Second: OJ Robinson Motion carries.

Questions by Planning Board Members

Member Ehrman asked Town Engineer Korber whether he had reviewed the proposal for the gravel wetland. Town Engineer Korber said he did review the Bedford Design Group proposal. In Town Engineer Korber's opinion, the Bedford Design Group did make good points and he takes no exception with their design of the gravel retention area.

Member Ehrman stated that development costs should not be buried under the guise of development expenses. Everything should be left in good standing once the development is complete and within the economic means of the community as far as ongoing maintenance.

Member Ehrman questioned what Attorney Shepard and the FRPOA's thoughts were on this. Attorney Shepard replied that he understands many of the homeowners are not happy with the way certain developments have not been finished (particularly the end of Woodland Loop) but he and the current developers had no part in that ownership. "It" [Mount Coolidge Construction, LLC] is the same builder (Rick Elliott) but under a different LLC name. The current owners and developers had no part in "that" [the old builder(s) "JORI Properties, LLC" or "Lincoln Development, LLC"?]. The current developers have given no indication whatsoever that they will not complete the project or that anything would be left undone. They are here today to try to

get these ponds completed and to finish development by this fall. The current owners have gone above and beyond to complete “The Pines” and “they” [12 duplexes planned for Map 114, Lot 080] “are by far the best construction in Forest Ridge”. Attorney Shepard added that “the developers took less of a profit and spent more to make this happen. They used more expensive materials so that maintenance on the buildings would be minimal.”

Member Ehrman questioned what would be done if the ponds are not affective. Attorney Shepard replied that the developers [Mount Coolidge Construction, LLC?] would have to cross that bridge when they come to it and further, they’ve hired professionals to address the situation moving forward. The current owners [Mount Coolidge Construction, LLC?] have pledged to do the right thing. While “they” [Mount Coolidge Construction, LLC?] cannot change the past and what prior owners have done, Attorney Shepard stated that “he and the other owners” [Attorney Shepard is an owner or principal of Mount Coolidge Construction, LLC?] should not be held responsible for what has gone on in the past there. Attorney Shepard feels bad about the past but is not responsible for it. The current owners [the principals involved in Mt. Coolidge Construction, LLC, including Attorney Shepard?] do not own the other units in Forest Ridge Resort so cannot do anything about “them” [the other units] anyway.

Town Attorney Malia addressed some of Mr. Schofield’s comments and the fact that the FRPOA hired an engineer to design an alternative plan. Town Attorney Malia stated that the Planning Board does not have the legal authority to require an abutter to hire an expert or to do anything. Further, a Planning Board does not have the legal authority to require that all parties be satisfied before granting final approval.

Town Attorney Malia addressed Mr. McLaughlin’s comments about The Pines being annexed under the FRPOA and the possibility that The Pines may not be accepted into the FRPOA. Attorney Malia expressed concern that Mr. McLaughlin’s comments suggest that the pond being proposed this evening may eventually fall into disrepair because nobody is taking care of it. Further discussion ensued regarding the lawsuit and in short Attorney Shepard stated that if “The Pines” is not accepted under the FRPOA he cannot imagine that the junior association would walk away from the maintenance.

MOTION: “To open public comment back up.”

Motion: OJ Robinson **Second:** Paul Beaudin **All in favor.**

FRPOA President Schofield disagreed completely with Attorney Shepard. FRPOA President Schofield added that he does not want the Planning Board to lose the point of why the FRPOA is here. FRPOA President Schofield’s argument is that the Planning Board has an obligation to at least vet the gravel wetlands design. Further, he does not believe that the Planning Board should feel the need to rush to a solution when this has already been put off for five (5) years. As the suggestion was made by the Planning Board that the FRPOA hire their own engineer and the FRPOA has gone to the expense to provide an alternative, it should at least be vetted. If said gravel wetland can solve the safety problems, it should at least be considered.

MOTION: “To close public comment.”

Motion: OJ Robinson **Second:** Paul Beaudin **All in favor.**

Member Ehrman stated that he did not think Mr. Schofield was off topic for expressing concerns that the developer did not meet his prior obligations and is therefore worried about him meeting his current obligations. Member Beaudin stated that the Planning Board has spent five (5) years on this so he does not feel the Planning Board is rushing at this point. Member Beaudin added that all of the prior approvals have not worked and he believes the best course of action is that the Town has financial surety that this will either work or it will not. Had that been done years ago, the Town would not be in this position.

Selectmen's Representative Robinson had questions about Property Manager Larsen's recommendation to fill FB1 and whether it was a feasible option. Town Engineer Korber stated that FB1 was part of the original design. Applicant's Engineer Marc Brunelle added that FB1 is across the road and that FB1 accepts water from the half of the roadway that goes up towards the undeveloped area. FB1 could be filled in but performance in the pond would be lost as far as suspended solids in the area; the pond is always filled with suspended solids.

Member Beaudin commented that he does not believe that the Town can issue any more Land Use Authorization Permits to build additional duplexes until the Site Plan Review application is approved per the Town's Stormwater Management Ordinance. Town Attorney Peter Malia stated that whether to issue Land Use Authorization Permits is a separate matter under the purview of the Town Manager.

Attorney Shepard said he was confused about why the hearing needed to be continued when everything has been provided to the Planning Board and the Town's engineer has approved the plan. Member Beaudin replied that the Board has not received the Operations and Maintenance Plan/Manual and financial surety needs to be discussed.

Attorney Shepard asked that the Planning Board approve Mt. Coolidge Construction, LLC's Application for Site Plan Review plan the condition of a performance bond. Town Attorney Peter Malia responded that it is up to the Planning Board to decide whether they need more time and information to review the application or whether the Board is ready to make a decision tonight. Town Attorney Peter Malia added that the approval to construct the last two buildings was likely given years ago by the Planning Board in a previous decision. Attorney Shepard agreed that the application is for the redesign of the retention ponds and has nothing to do with the remaining pre-approved building lots.

Town Manager Burbank requested that the Planning Board clarify for him who makes the decision on the amount of the bond as he does not want the Town Engineer, himself or the Applicant's Engineer to make the sole decision on that. Town Attorney Peter Malia stated that it is under the purview of the Planning Board to decide whether the Planning Board wants to maintain control over the performance bond or whether they want to delegate that responsibility to town staff.

Chair Spanos polled the Board as to whether they felt ready to make a decision.

- Mark Ehrman stated that he does not feel he has enough information to make a decision on the application tonight.

- OJ Robinson stated that he does feel he has enough information to make a decision but that there will be a numerous amount of conditions.
- Paul Beaudin agreed with OJ Robinson although he believes another meeting would be in order so that the Board has time to review the documents submitted to Ray Korber that the Board has not had a chance to look at yet.
- Steve Noseworthy is not ready to make the decision. He would like to see the Board take a look at the gravel detention area.
- Joe Chenard is prepared to make a decision with conditions.

MOTION: “To continue the hearing until the Planning Board meeting on July 22nd.”

Motion: Paul Beaudin

Second: Steve Noseworthy

No vote taken.

OJ Robinson thought that July 22nd was too long to put off the application.

MOTION: “To continue the hearing on the aforementioned applicant until the July 15th Planning Board meeting.”

Motion: Paul Beaudin

Second: Mark Ehrman

All in favor.

Planner Bont reviewed what the Board needed to obtain from the applicant and review prior to their next meeting. As follows:

- Operation and Maintenance Plan;
- Authorization from Rick Elliot that Mr. Shepard is authorized to speak on his behalf;
(As Rick Elliot is present at the meeting, he stated that Mike Shepard is authorized to speak for him. Town Attorney Peter Malia confirmed that Rick Elliott’s verbal authorization as reflected in the minutes was adequate.)
- The documents sent to Town Engineer Ray Korber but not to the Planning Board need to be forwarded to the Planner to forward to the Planning Board;
- The size of FB1 needs to be on the plans;
- Written verification of who is responsible for the operation and maintenance of the ponds;
- Town Engineer Ray Korber and Applicant’s Engineer Marc Brunelle to check the value of the rainfall to make sure it is correct;
- Documentation from the model be included on the site plan regarding the sediment and post development drainage map;
- The arrow depicting where the guard rail starts by FB1 and correction of the street name be made on the plan;
- A cost estimate on the possible bonding requirement (Horizons Engineering to draft an estimate to be reviewed by Town Engineer Ray Korber and ultimately approved by the Planning Board); and

- Town Engineer Ray Korber questioned whether the Planning Board wanted him and Applicant's Engineer Marc Brunelle to look further into the matter of the safety bench (as long as it does not violate the AOT permit). The Board would rather see a fence than a safety bench. The Board would also like to see a simple landscape description and surrounding fence around the pond.

Applicant's Engineer Marc Burnell will have all of the documentation requested by the Board to Town Engineer Ray Korber by July 10th. Attorney Shepard questioned the Planning Board as to whether the next public hearing would be taking public comment on anything additional or just the list of items the Planning Board outlined this evening. The Board agreed that only the items outlined this evening would be discussed.

B. Application for Site Plan Review Approval –Applicant/Property Owner/Surveyor:

1. **Applicant and Property Owner:** Applicant Marcus Corey d/b/a Loon Mountain Ministry, LLC, 264 Main Street, Lincoln, NH 03251.
2. **Property:** 4 adjacent business condo units in Building 1, Units #10, #11, #12, & #13 at The Depot, 264 Main Street. (Map 117, Lot 120-000-01-000010, Map 117, Lot 120-000-01-000011 Map 117, Lot 120-000-01-000012 Map 117, Lot 120-000-01-000013). The property is located in the General Use (GU) District.

3. Proposed Project:

Application for Site Plan Review Approval, Article IV, Change or Expansion of Use subparagraph (d) which requires Site Plan Review approval to change from one category of permitted or special exception use (retail) to another such category of listed use (restaurant use), regardless of whether the change involves construction.

Applicant Marcus Corey d/b/a Loon Mountain Ministry, LLC, owns 4 adjacent business condo units in Building 1, Units #10, #11, #12, & #13 at The Depot, 264 Main Street where the ministry operates a thrift store known as Encore. (Map 117, Lot 120-000-01-000010, Map 117, Lot 120-000-01-000011 Map 117, Lot 120-000-01-000012 Map 117, Lot 120-000-01-000013). The property is located in the General Use (GU) District.

All four units are combined and currently operate as one thrift store. Corey wants to change use of a portion of the combined space (Unit #10) (Map 117, Lot 120-000-01-000010) from a retail thrift store to a coffee shop as part of the thrift store. No additional parking will be required per Planning Board.

Presentation:

Vice Chair Chenard resumed his seat on the Board. Selectmen's Representative Robinson recused himself and Paul Beaudin was seated in his stead.

MOTION: "That the application be accepted as complete."

Motion: Paul Beaudin

Second: Chenard

Motion carries.

Presentation:

Marcus Corey gave a history of Loon Mountain Ministry (LMM) and explained the project. LMM would like to put a small coffee bar in the pre-existing thrift shop. Corey explained the uses of the two thousand two hundred square feet (2,200 SF) they are looking to remodel a portion of the current thrift shop (retail) space to be used as a combined thrift shop (retail) space and restaurant space. Corey said the renovated space will include a small coffee bar and light service kitchen. Corey said there will be approximately 30 seats.

Hours:

Chair Spanos questioned what the hours would be. Corey replied that for the first year it would be the same hours as the thrift shop 10:00-5:30, Monday-Saturday. Corey said the coffee shop will only be open 3-4 days a week to start.

Parking:

The matter of parking was discussed. Corey stated that he does not see additional parking spaces being utilized outside of what they have allotted in the application. Chair Spanos stated that if the Planning Board is using today's parking standards as set forth in the Land Use Plan Ordinance and the Site Plan Review Regulations, LMM is not taking any action that requires additional parking spaces. The former retail space required the same number of parking spaces as the proposed restaurant.

MOTION: "To approve the site plan review application of Loon Mountain Ministry for a change of use of a portion of the combined space (Unit #10) (Map 117, Lot 120-000-01-000010) from a retail thrift store to a coffee shop as part of the thrift store."

Motion: Paul Beaudin

Second: Joe Chenard

Motion carries.

V. MINUTES OF THE PREVIOUS MEETING

MOTION: "To approve the minutes of the March 11, 2020, May 13, 2020 meetings as presented and the May 27th meeting as amended."

Motion: OJ Robinson

Second: Joe Chenard

Motion carries

VI. ADJOURNMENT

MOTION: “To adjourn the meeting at 10:30pm”

Motion: Joe Chenard Second: Robinson

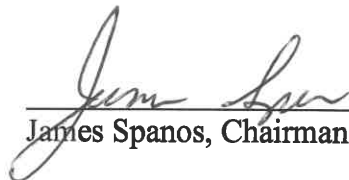
Motion carries.

Respectfully submitted,

Brook Rose

Recording Secretary

Date Approved: July 15, 2020



James Spanos, Chairman

