

**APPROVED****LINCOLN PLANNING BOARD****PUBLIC HEARING****WEDNESDAY, JANUARY 29, 2019 – 6:00PM****LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH**

**Present:** Chairman Jim Spanos, Vice Chairman Joe Chenard, Selectmen's Representative OJ Robinson, Member Mark Ehrman, Member Stephen Noseworthy, Alternate Paul Beaudin,

**Members Excused:** Alternate Deanne Chrystal

**Members Absent:** None

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

**Staff Excused:** Recording Secretary Kristyn Daigle-Brophy.

**Guests:**

- **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.
- **Joseph Fiore**, non-resident (PRESENTER & AGENT for Proposed Applicant Robert Paris), PO Box 26, North Haverhill, NH 03774.
- **Tamra Ham**, resident of 98 US Route 3 (Map 109, Lot 002) owned by Jonathan Ham, and co-owner of Ham Rentals, LLC which owns 13 Pleasant Street (Map 113, Lot 083) and 205 Pollard Road (Map 113, Lot 058), member of the Board of Selectmen.
- **Richard (Rick) Kelley**, resident, (PRESENTER) of 16 Conn Drive (Map 117, Lot 036) owned by Rickey F Kelley & Anne Walsh Trustees, Kelley Family Revocable Trust, 26 Conn Drive, Lincoln, NH 03251. Richard Kelley is Senior Vice-President of Mountain Operations for Boyne Resorts, 3951 Charlevoix Avenue, Petoskey, Michigan 49770.
- **Judith (Judy) McGann**, non-resident (?) (PRESENTER) Interim Superintendent of Lincoln-Woodstock Cooperative School District, SAU #68, Lincoln-Woodstock SAU#68 Office, 78 Main Street, PO Box 846, Lincoln, NH 03251-0846.
- **Brian G. Norton**, non-resident, of 20 Gray Road, Campton, NH 03223 (PRESENTER), Vice President of Operations at Loon Mountain Resort, 60 Loon Mountain Road, Lincoln, NH, 03251; Loon Mountain Resort is owned by Boyne Resorts, 3951 Charlevoix Avenue, Petoskey, Michigan, 49770.
- **Christina Paris**, nonresident, 18 Cypress Street, Salem, NH 03079.
- **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.

- **Hermann G. Pfeuti**, resident (APPLICANT) d/b/a HGP Holding, LLC, PO Box 114, Lincoln, NH 03251 and owns the following residential unit.

5 Robin Road #3 (Residential Unit) (Map 114 Lot 026000-0B-00011)

Pfeuti also d/b/a HGP Holdings, LLC, PO Box 114, Lincoln, NH 03251 owns the following residential unit.

264 Main Street #18 (Residential Unit) Map 117 Lot 120000-01-0000D

Pfeuti d/b/a HGP Holdings, LLC, PO Box 114, Lincoln, NH 03251 owns three businesses:

- Aloto Gelato
- Black Mountain Burger Co.
- La Vista Italian Cuisine Restaurant

Pfeuti owns the following properties where he operates those businesses:

- A. 264 Main Street #10 (Part of Black Mountain Burger, Co. Restaurant) (Map 117 Lot 120000-01-00004)
- B. 264 Main Street #5 (Part of Black Mountain Burger, Co. Restaurant) (Map 117 Lot 120000-01-00005)
- C. 264 Main Street #9A (Proposes to make it part of Black Mountain Burger Co. Restaurant) (Map 117 Lot 120000-01-00006)
- D. 264 Main Street #3 (Aloto Gelato) (Map 117 Lot 120000-01-00003)
- E. Commercial Unit #2? (located within Hotel called RiverWalk at Loon Mountain, LLC) La Vista Restaurant (Map 118, Lot 044)

Pfeuti is a realtor at RE/MAX in the Mountains, Lincoln, NH 03251, 264 Main Street, Suite 2, PO Box 175, Lincoln, NH 03251-0175.

- **Mark Pribbernow**, non-resident (?), (PRESENTER) Linwood School District Principal, 72 & 54 Linwood Drive, PO Box 97, Lincoln, NH 03251-0097.
- **Jennifer Snyder**, resident, co-owner & co-manager of One Love Brewery, 25 South Mountain Drive, Lincoln, NH 03251, and co-trustee owner as Jennifer Riley & Michael W. Snyder Trustees, of the Snyder Family Revocable Trust, 166 Pollard Road, Lincoln, NH 03251 (Map 114, Lot 059).
- **Michael Snyder**, resident, co-owner & co-manager of One Love Brewery, 25 South Mountain Drive, Lincoln, NH 03251, and co-trustee owner as Jennifer Riley & Michael W. Snyder Trustees, of the Snyder Family Revocable Trust, 166 Pollard Road, Lincoln, NH 03251 (Map 114, Lot 059).
- **David Rodgers**, resident and owner of 19 Black Mountain Road (Map 127, Lot 305) and d/b/a Rodger's Ski and Sport Shop and principal in Great Stone Face Skier, LLC, P.O. Box 68, Lincoln, NH 03251 that owns:
  - 5 Railroad Street (Map 112, Lot 014) and 9 Donovan Drive (Map 112, Lot 013) (now

merged into 5 Railroad Street) (Rodgers Ski and Sport Shop).

- 201 Main Street (Map 117, Lot 006) (a former residence)
- 278 Main Street (Map 117, Lot 119) (former “Mothership” Snowboard Shop)

And principal in Great Stone Face Skier, II, LLC, who owns:

- 29 Main Street (Map 112, Lot 026) (a duplex)
- 195 Main Street (Map 117, Lot 005) (former Meg’s Interiors Shop)

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

*Chair Spanos excused Vice Chairman Joe Chenard and Alternate Deanne Chrystal.  
Alternate Paul Beaudin was seated until Vice Chairman Joe Chenard arrived.*

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

- December 11, 2019 (Chairman Jim Spanos, Vice Chair Joseph Chenard, Selectmen’s Representative OJ Robinson, Member Stephen Noseworthy, Alternate Paul Beaudin and Alternate Deanne Chrystal)

**Chair Spanos suggested skipping over the meeting minutes until later.**

**Motion to skip over the meeting minutes until later. Ehrman.**

**Second: Noseworthy.**

**All in favor. 5-0.**

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

**A. 6:00 PM: Public Discussion re: Town’s Interpretation of Word “Static” in the Sign Ordinance portion of the Land Use Plan Ordinance regarding LED internally lighted signs.**

**Presenter:** SAU 68 Linwood School District Superintendent Judith McGann

**Property Owner:** Linwood School District  
72 Linwood Drive  
Lincoln, NH 03251-4441

**Property Location:** Tax Map 113, Lot 077 (72 Linwood Drive)

**Zoning District:** Village Residential (VR) District and Village Center (VC) District –  
Sign is in the Village Center (VC) District

**Proposal:**

SAU 68 Linwood School District Superintendent Judith McGann was granted a sign permit. The condition for granting the sign was that it was supposed to be a “static” display. The sign display was not static. Although the school district is making efforts to comply, a broader discussion with LED sign owners as well as the public was encouraged.

**Public and General Discussion re: enforcement and interpreting the word “static” as used in the sign ordinance.**

**Sign Ordinance portion of Land Use Plan Ordinance says:**

**10. Sign Classification and Standards****f. Electronic Message Board**

- i. **Description:** Electronically controlled signs, which can change messages without the physical movement of the letters.
- ii. **Standards:** Electronic Message Signs with moving letters or numbers are prohibited.
- iii. Light Emitting Diodes (LED) Signs are allowed for **static** displays only. The sign display may change periodically, but not in a way to simulate any movement or display multiple messages. The intent is to allow gas prices or movie titles or similar information to be displayed and changed on an occasional basis.

*Vice Chair Joe Chenard arrived at the meeting at approximately 6:05 PM. Alternate Paul Beaudin is unseated and was reseated as an Alternate. Then Alternate Beaudin explained that he is a member of the Zoning Board of Adjustment and the matter of the interpretation of the word “static” in the part of the Sign Ordinance portion of the Land Use Plan Ordinance (LUPO) pertaining to LED signs is a matter that might appear before the ZBA and probably should appear before the ZBA for consideration. Paul Beaudin recused himself, stepped away from the table in front of the room and sat down in the audience.*

**Presentation:**

SAU 68 Linwood School District Superintendent Judith McGann introduced Lincoln-Woodstock Cooperative School District (SAU 68) Principal, Mark Pribbernow and then they spoke to the Planning Board.

Superintendent Judith McGann talked about the evolution and chronology of the school’s old freestanding changeable copy sign that was replaced by the new freestanding changeable copy LED sign. Superintendent McGann stated that the previous school sign started its journey in 1998. As of late, the freestanding changeable copy sign was in need of repair and was not in working condition. The School Board was looking for a sign board that was more communicative than the old sign. The School Board discussed the school’s need for a more user-friendly sign that could present information more effectively; the School Board wished to have a more open and clearer means to communicate with the community. The School Board considered the LED changeable copy sign to

be just another communication tool.

Superintendent Judith McGann said improved communication was the main purpose of the new sign. When the new sign was installed, their intent was not to have animated or scrolling screens. After the sign was installed, however, the staff was learning how to properly operate the new technology, and that is when the community saw the animated or rolling text. Since then the staff at the school has learned how to operate the sign and is not utilizing the animated and rolling text feature.

Superintendent Judith McGann said that in order to change the message on the old display sign, someone had to go outside in all types of weather to manually change the letters. Typically, those changes would be made in the morning, and then again later in the day if there was any other information that needed to be posted. She provided an example of that necessity for more than one change per day. For example, today, first the basketball game information was displayed on the sign, but the bond hearing was not. So, when Superintendent McGann arrived at the SAU Office, she called the school and requested that the bond hearing information be added to the sign, to allow both items be displayed on the same screen.

Superintendent Judith McGann said the School's main objective for the new LED sign was to display the same type of information as was presented on the prior sign, updating the sign as needed. On days that the school did not have any updates, the sign would display either an inspirational comment or the words "Lin-Wood Lumberjacks".

### **Discussion:**

#### **Lin-Wood School SAU # 68:**

Member Ehrman asked Superintendent Judith McGann about the school staff's ability to change the old sign, specifically having to go to the sign to change it. Superintendent McGann clarified that the previous sign required someone to physically bring individual letters to the display in order to change the copy, but that the new sign can be changed remotely.

Principal Pribbernow explained that the new sign is attached to a web-based control, and when the sign was first installed the staff was very eager to use it/test it out, but as any "new toy" goes, there is trial and error.

Superintendent McGann continued that the staff has undergone training via the company who they purchased the technology from, and further training will be conducted in order to allow the staff to include up to four (4) lines of text, while still remaining legible.

Chairman Spanos stated that during the last meeting, the Planning Board decided that the definition of "static" means the message on the sign could be changed no more than once a day, continuing to ask whether they should recommend that the school go before the ZBA to request a Special Exception.



Planner Bont then inquired if all of the businesses that already have LED displays and that change their message/copy more than once a day would have to present an appeal to the ZBA requesting a Special Exception. For example, she understood that sometimes gas prices that are indicated on the LED signs change more than once per day.

Member Ehrman questioned why, in defining “static” the other members of the Planning Board focused on once a day as opposed to categorizing what is “reasonable”, as the statement in the language of the zoning ordinance. The Land Use Planning Ordinance (LUPO) should define “static” as something like “not to change enough to attract undue attention, or distract people from driving or other things of that nature”. He said that the Planning Board should allow for signs to be changed at a reasonable pace. If there is a complaint, the Planning Board will address the complaint when needed, as he feels as though most people will adhere to a reasonable standard.

Planner Bont read the following from the Sign Ordinance portion of the Land Use Plan Ordinance definition:

“Light emitting signs with diodes or LED are allowed for *static* displays, only as the sign display may change *periodically*, but not in a way to simulate any movement, or display multiple messages, as the intent is to allow gas prices, or movie titles, or similar information to be displayed or changed on an *occasional* basis.” *(emphasis added)*

Member Ehrman said that they could leave the definition as is or make community information just as important as gas prices “if we wanted to be really radical about it.”

Superintendent McGann stated that in past instances, the Parent/Teacher Association (PTA) has approached the school “last minute” requesting the display announce day-of PTA meetings, and that if the “once-a-day” interpretation of the word “static” was in place, they would be unable to accommodate specific, relevant information to the community as was previously accomplished using the old sign. They feel as though the school does not “want to go against anybody or against anything”, and with this interpretation of the Sign Ordinance, it would prevent the school from announcing important information to the community.

Principal Pribbernow stated that one of the things they have noticed with regards to the sign is that Lin-Wood Public School students who are preparing to graduate are interested in using the sign; students are interested in their ability to communicate with their community using the new sign that uses their twenty-first (21<sup>st</sup>) century learning skills. A multitude of students have approached the administration stating they would like to use the sign as a channel of digital communication, as it is a great tool used to provide information “to the masses”. The students have been advocating for their use of the sign, not just to make announcements presented by the School District or the Town. “...that’s a really cool sensation to have them advocate for themselves like that.”

*Chairman Spanos then opened the discussion for public comment.*

**David Rodgers d/b/a Rodgers Ski and Sport:**

David Rodgers stated he owns a business (Rodgers Ski and Sport) with a LED changeable digital sign on Main Street in Lincoln. He does not see any problems with his sign's changing messages or the school changes the message on the sign several times a day versus once per day, as the sign is not causing drivers to block traffic to read his sign nor is the sign "overbearing". Rodgers said his sign changes several times per day and it has been up for more than three (3) years. Rodgers said the reason he went to a digital LED sign is that his employees physically changing the text on his former sign raised significant safety concerns. Rodgers had to have an employee physically get up there and manually change the letters of the sign in close proximity to traffic. Rodgers said the new digital sign allows him to present their hours, and later on allows them to announce the current skiing conditions, and he does not think that his sign is "overbearing".

**Michael Snyder d/b/a One Love Brewery:**

Michael Snyder stated that he owns a restaurant (One Love Brewery). He thinks that having a moveable sign displaying the words like "Happy Hour Specials" would *not* serve the community. In contrast, the school, fire station, and police departments are all hubs of the community, and these should be exempt from the "once-a-day" rule, because they are informing the public of what is going on in the community. Snyder said he does not have kids in the school, but he thought it was great that he saw the school advertising the basketball game. Snyder agrees that the animation piece is not necessary, but the school's display should be the exception.

**Susan Chenard:**

Susan Chenard said she feels the school should be allowed to change their display more than once a day if needed, but not to display any animation, as the school is located at one of the busier intersections in the downtown, and an animated sign might be a distraction.

**Tamra Ham:**

Tamra Ham said she feels that only allowing people to change the message on the changeable copy digital LED sign once a day for the school is too restrictive.

*Chairman Spanos then closed public comment.*

**Discussion by Planning Board Members:**

Member Noseworthy stated that David Rodgers' changeable copy LED digital sign at Rodgers Ski & Sport has been up for the last three (3) years and the Town has not received any complaints, so he has no problem with allowing the school to do the same.

Planner Bont said she has driven by Rodgers Ski & Sport and seen the sign message change while sitting at the set of traffic lights next to Rodgers but she may not have noticed the copy change if she was not intentionally watching for it. Planner Bont said in her opinion the Rodgers' sign is not

a “Las Vegas” style sign; the message does not fade in/out, and there is no animation but an instant change from one message to the next. In her opinion, a sign operating in that manner would not be deleterious to drivers. Member Noseworthy asked Planner Bont if the Town had received any complaints regarding the Rodgers or other LED digital signs. She responded “no”.

Vice Chairman Chenard expressed his concern about “Las Vegas” style signs, stating that the Town could very well change dramatically in the next two (2) to five (5) years, but “there is nothing historical left in the downtown”; all of the historical buildings have been torn down, demolished or burned. Vice Chairman Chenard stated that for the last twenty-five (25) years he has been pushing for the Town to develop a “theme” and that it has never happened.

Vice Chair Chenard said that allowing the school to change the sign only once a day does not allow the school to notify the public about what is going on at the school. The school might need to notify the public that it will be closed in the morning and if they needed to change the message at night, they would not be able to.

Member Ehrman said that he thinks everyone is struggling to get to the word “reasonable”; he thinks that the suggestion Snyder made about having a different standard for signs with a public purpose, such as the school sign, is a very reasonable suggestion. Member Ehrman stated he was unsure if the Planning Board needed to recommend a modification in the LUPO, but if so, the Planning Board should suggest one, and if it is not required, then any changes should be “reasonable” until it becomes unreasonable or based on any complaints.

Chairman Spanos inquired as to how many times a day (worst case scenario) would the school need to change their sign, to which Superintendent McGann responded that it is possible that it may need changing 4 or so times a day, but that their goal is to put as much information on the screen as possible as one display, while needing to insure it is legible in order to assure it would not be distracting/disruptive to drivers if it becomes too hard to read.

Selectmen’s Representative Robinson responded by suggesting the Planning Board look at the history and motivation behind the purpose of the sign ordinance. At the time the sign ordinance was adopted, residents of the town did not want to have a “Las Vegas” look. At the time of the discussion, LED signs were much more primitive and distracting with poor quality animation. He continues to say that the displays have changed over time, but they still need to ensure the signs or displays do not mimic movement, flashing, or other animation. Only allowing the text of the signs to change once per day is going overboard. However, what happens when you use the term “reasonable”, is that individual people will have different interpretations of the term “reasonable”.

Selectmen’s Representative Robinson said regarding Rodgers’ sign, he feels that even though the sign changes multiple times a day, the change is instantaneous, and therefore does not become a distraction. He also takes into consideration what the impact would be if all of the businesses on Main Street decided to have LED signs that were “static” and drivers did not notice they were moving as they changed every ten (10) or fifteen (15) minutes; no one would notice the change unless they were looking for one. He continued that the Planning Board should define “reasonable” with a number that is quantifiable or measurable, and if the number of changes surpasses that limit



the staff can enforce. If the staff is given “X” amount of time along with the number of times/frequencies of change, with no simulation or movement, the Sign Ordinance provision can be enforced based on that.

Selectmen’s Representative Robinson stated that he would rather see the sign announce there is a basketball game, and then change to a PTA meeting announcement later in the day, as opposed to having all of the information “squished” into one screen and possibly confusing the public. He said there are advantages to having the sign remain simple with the ability to be changed as needed.

Vice Chairman Chenard proposed allowing the school to change their digital signs three (3) times an hour or every twenty (20) minutes, to which all board members agreed.

Superintendent McGann thanked the board.

*Alternate Paul Beaudin was reseated as Alternate.*

**B. 6:00 PM: Request for Waiver of Site Plan Review – Hermann Pfeuti**

**Applicant & Property Owner:** Hermann Pfeuti d/b/a HGP Holdings, LLC  
PO Box 114  
Lincoln, NH 03251-01214

**Property Location:** Tax Map 117, Lot 120000-01-00003 (264 Main Street Unit 3)  
**Zoning District:** General Use (GU) District

**Proposal:**

Hermann Pfeuti, d/b/a HGP Holdings, LLC, PO Box 114, Lincoln, NH 03251-0114, owns two adjacent business condominiums at The Depot, 264 Main Street in Building 1:

- Unit #4 (Tax Map 117, Lot 120000-01-00004) (264 Main Street Unit #10) and
- Unit #5 (Tax Map 117, Lot 120000-01-00005) (264 Main Street Unit #5).

Pfeuti owns and operates a restaurant by the name of **Black Mountain Burger Co** out of Units #4 and #5.

Pfeuti d/b/a HGP Holdings, LLC, recently purchased a third adjacent business condominium unit formerly operated as a dental office located on the other side of the adjacent two units where he operates the Black Mountain Burger Co restaurant. He wants to expand his restaurant into the former dental office space using a portion of the space for additional storage for the restaurant, a portion of the space to expand the size of the waiting area for the restaurant and use the existing bathroom, and adding an extra sink. He wants to use small portion of the space to add two tables with five (5) seats each to his restaurant.

**On January 8, 2020, Hermann Pfeuti came before the Planning Board for a Conceptual. Applicant was advised to apply for a Waiver of Site Plan Review.**

**Presentation:**

Herman Pfeuti stated that he does not have much to add since he appeared at the previous meeting but he is requesting that the Planning Board grant a Waiver of Site Plan Review.

Pfeuti said he purchased the business space (previously a dentist office) adjacent to his restaurant in order to expand the waiting area for his Black Mountain Burger Co. Restaurant. He explained that the current waiting area is very small, forcing some patrons to wait outside on the walkway or in their cars until they are ready to be seated. With the space he has allocated in the front of “the house”, his restaurant would be able to accommodate approximately twenty (20) to thirty (30) patrons to remain inside the building as they wait for a table. He also indicated that approximately one hundred (100) square feet of the additional space will be used for additional dining customers, adding two tables accommodating ten (10) total dining patrons.

Pfeuti said that he has only made a small number of changes to the unit itself. All of the walls are intact, less the portion of one wall they removed to allow people to move from the waiting area space into the restaurant space. They added a very small office area, and would like to change the entrance to the restaurant to that which used to be the entrance to the dentist office as there are double doors already in place, allowing the draft coming into the building to be reduced from what it currently is. Without the new unit he was previously limited in his ability to construct a vestibule as available space was very limited.

**Discussion:**

Member Mark Ehrman stated he has been in The Depot parking lot more than twenty (20) times since Pfeuti presented to the Planning Board at the last meeting. At first Ehrman was worried about an increased capacity problem in the parking lot.

However, he has since recognized the opposite is happening, which may be attributable to the increased throughput in the restaurant. Even though the required parking spaces for the two additional tables account for a small percentage of the number of parking spaces required, the restaurant is efficiently run, the circulation time is much better, and the waiting time will be less during the busy times. He feels as though granting the waiver is a “no-brainer”.

Chairman Spanos asked Planner Bont if she had calculated how many additional parking spots would be needed accommodate the additional seating for ten (10) people at the two (2) restaurant tables to which replied three (3), as one (1) parking space is required for every four (4) seats. She continued to explain that the dental office may have required more parking spaces than that, as they had at least three (3) staff members, plus parking spaces needed for their patients.

Pfeuti clarified that the dental office had three (3) dental chairs in the office, with the ability to add an additional three (3) chairs, which the dental business had originally planned for. Essentially the business was approved for up to six (6) patients at a time, plus employees, which was unlikely to happen all at once, but plausible. Pfeuti reiterated that he is looking for fewer parking spots than

what the dental office had been provided. Pfeuti said that he asks his employees to park out back allowing the patrons to park in front in the main lot.

Chairman Spanos asked Pfeuti if he has seen the letter from the NH Department of Transportation (DOT), to which he replied he has, and that he has spoken to Attorney Michael Conklin of Conklin & Reynolds, PA [264 Main Street, PO Box 849, Lincoln, NH 03251] who is President of the Condominium Association at The Depot and Attorney Conklin has agreed to discuss the matter raised in the NH DOT letter further at the Condominium Board meeting that is scheduled to take place in March.

**Motion to open discussion for Public Hearing: Spanos**

**Second: Robinson**

**All in favor: 5-0, Abstentions: 0**

**Motion carries.**

Chairman Spanos asked if there were any public comments, to which there were none.

**Motion to close discussion for Public Hearing: Spanos**

**Second: Robinson**

**All in favor: 5-0, Abstentions: 0**

**Motion carries.**

Alternate Beaudin stated he would like to see a written response to the NH DOT letter, whether it comes from Pfeuti or the President of the Condominium Association, Attorney Conklin, acknowledging their concerns, and assuring the NH DOT that the Planning Board has been made aware of their concerns. Planner Bont offered to reply to the DOT and include Attorney Conklin, making them aware of the Planning Board's recommendation.

Pfeuti clarified that the first paragraph of the letter from the NH DOT is referring to their agreement of allowance of the Site Plan Review Waiver, and the second paragraph refers to the parking in general in The Depot lot. He continues to state that these are two separate issues, and although the second paragraph does not apply to Pfeuti directly, the subject will be brought up at the next Condominium Association meeting without a question.

**Motion to open approve Waiver of Site Plan Review as requested: Robinson**

**Second: Ehrman**

**All in favor: 5-0, Abstentions: 0**

**Motion carries.**

Pfeuti thanked the Planning Board and assured them that he will continue to discuss the NH DOT recommendations with the Condominium Association.

**IV. NEW BUSINESS****A. 6:00 PM Conceptual:****1. Presenter:**

Brian Norton, Vice President of Operations for Loon Mountain Resort  
Loon Mountain Recreation Corporation  
60 Loon Mountain Road  
Lincoln, NH 03251

**2. Property Owners:**

a. **Loon Mountain Recreation Corporation** (Map 126 Lot 020, Map 127, Lot 308, Map 127 Lot 307, and Map 126 Lot 001)  
60 Loon Mountain Road  
Lincoln, NH 03251; and

b. **United States National Forest** (Map 001, Lot 002) [63,784 Acres]  
Bureau of Land Management  
7450 Boston Boulevard  
Springfield, VA 22153-3121

**3. Property Location:** Tax Map 126 Lot 020 (General Use)  
Tax Map 001, Lot 002 (Rural Residential)

**4. Proposal:**

Loon Mountain Recreation Corporation d/b/a Loon Mountain Resort (“Loon”) would like to replace the Kancamagus Express Quad ski chairlift installed in 1995-1996 with a new wider ski chairlift. The location of the quad ski chairlift would shift slightly into currently wooded areas beside the ski trails so as not to disturb the existing adjacent ski trails. A portion of the existing ski chairlift is currently located on land owned by the Loon Mountain Recreation Corporation (approx. 20%); a portion of the ski chairlift is located on land owned by the United States National Forest (approx. 80%). The new ski chairlift would be similarly situated. There would also be a base terminal to house the mechanicals for the lift. Does Loon need Site Plan Review? Would Planning Board consider granting a Waiver of Site Plan Review? Would Planning Board be willing to waive certain requirements under Site Plan Review?

**Presentation:**

Brian Norton, Vice President of Operations for Loon Mountain Resort, owned by Loon Mountain Recreation Corporation (“Loon”), explained that Loon’s proposal is pretty straight-forward. Loon is looking to replace the existing chairlift [Kancamagus Express Quad] with a new, more technologically advanced chairlift, which will allow “an increase in the customer experience”. Norton stated that in the past when replacing a chairlift, Loon did not present an Application for Site Plan Review to the Planning Board for approval, as the lifts they were replacing were “in-kind”. Norton continued that there is only a small adjustment in the alignment of the ski lift at the

bottom of the lift since the new lift is wider with more chairs (8 chairs) across than the current lift (4 chairs). He stated that trimming trees would not be necessary, as the lift will be placed in the same location. Loon is looking to move forward.

**Discussion:**

Chairman Spanos inquired if the new lift would allow for them to sell more tickets. Norton explained that Loon's intent is not to increase the number of tickets sold, but to decrease lift lines and increase lift capacity. The Kancamagus Express Quad's capacity is currently at twenty-eight hundred (2,800) passengers, and the new chairs would accommodate thirty-five hundred (3,500) passengers, and the probability of all eight (8) seats being filled at once is unlikely.

Member Ehrman stated he has heard multiple variations of Loon's plan. He listed a number of variations on the plan he had heard about including one plan that involved moving the Kancamagus Quad to the "Seven Brothers" lift area. What is Loon really planning to do?

Member Ehrman's second comment was in reference to the Capital Budget for Loon's plan. Ehrman said he was made aware of plans by Loon to purchase a six (6) seat chair chairlift that was currently at a defunct ski mountain according to a newspaper article. Ehrman asked where that purchased ski lift was going to go. Ehrman said that reading the newspaper article made him question the Capital Budget, because if the Capital Budget is quite substantial, it leads him to wonder if Loon did not have an actual plan to increase the sale of tickets. In turn, if Loon's idea was to increase ticket sales, what plans has Loon made to accommodate the extra throughput in terms of parking, bus service, etc., which might create some externalities that would cost the town either convenience or money.

Member Ehrman's third question was what marketing changes did Loon have in mind, if any, in coordination with this capital expenditure. Ehrman elaborated by saying that his guess is if Loon is planning to add a lift, or move a lift, then execution of that plan would cost around twenty or twenty-five million dollars (\$20,000,000 to \$25,000,000) for "the whole shebang". Ehrman said he does not know what the engineering and installation costs are, but Loon must have a capital budget with an idea of what those costs are and he would like to make sure that the things that would easily be "externalized" by the operating company should be considered as part of the "budget" for this whole revenue-generating proposal. Ehrman said he did not think anyone would be opposed to it, but explained that he would like to see this proposed project to be as "cost-neutral" as possible in all regards for the Town and residents of the Town, including the cost of convenience and inconvenience.

Richard (Rick) Kelley, Senior Vice-President of Mountain Operations for Boyne Resorts [Boyne Resorts now owns Loon Mountain Recreation Corporation and operates the Loon Mountain Recreation Area], stated he would like to answer a couple of Member Ehrman's questions as the questions are not technically about Loon's issues, but rather are more corporate issues to be addressed by Boyne Resorts. Kelley explained that Boyne Resorts has not yet determined where the Kancamagus [Express] Quad will be relocated to. The lift may go to "Seven Brothers" [currently served by the Seven Brothers Triple] or whether it may go to Sugar Loaf [Mountain ski area in



Maine]. Kelley said they have “done research on which year is they can move lifts to, and that’s a ‘95, which is a certain type of terminal which Doppelmeier has approved to be moved to other locations”. In response to the six (6) chair model question, they are bidding again as Boyne for a lift elsewhere.

Member Ehrman stated he was asking more as a concerned citizen, less as a Planning Board member reviewing this particular part of the application. As a Planning Board member, in regards to this issue of planning as it appears to him that there has been a change in Loon’s marketing; the marketing has been more focused in some ways in the early part of this year, than in prior years, than he has seen before. If that was the case Member Ehrman is wondering if increasing visitors was a part of this plan.

Kelley asked Member Ehrman to clarify, to which Ehrman responded that his impression was that there are more large groups coming to ski at Loon from farther away than in prior years. Ehrman said he goes to Loon Mountain almost every day. He does not have hard evidence. He just sees what he sees. Up at Loon, there are concerns about the bus service and the size of the parking lot. He is not complaining. He is just asking. He stated that he sees this situation as “one big package”. If Loon wants to get people to the mountain, and then get those people onto the lifts and up the mountain and have Loon’s customers be happy at the end of the day, the Townspeople have to be happy too. The operation has to be coordinated. It is not just putting in a lift. Site Plan Review should entail review of all of the moving parts. Member Ehrman proceeded to say that Kelley is most likely very well aware of all of these things as he did an “excellent job for many, many years” and must have been aware of all of the moving parts. Ehrman said he is certain that Norton “will achieve the same level of connoisseurship”.

Chairman Spanos reminded the Planning Board members and Loon’s representatives that they need to be careful not to get too much into the particulars as this meeting is a “Conceptual”. Member Ehrman stated this discussion should be part of the “Conceptual” as all parts are included.

Chairman Spanos directed Kelley to answer Member Ehrman’s question. Kelley expressed his view that he does not feel the need to disclose what Boyne or Loon are spending as part of their capital budget as Boyne is a private company. Boyne Resort’s capital budget is not a public piece of information that has been released anywhere. Kelley said Boyne Resorts is continuing to work on the budget. Boyne’s intent for this lift at Loon is to reduce lift wait-times. He reminded the Planning Board that when Loon Mountain Recreation Corporation presented the South Peak expansion as part of Loon Mountain Ski Area for Site Plan Review approval in 2003, they substantiated that whole project with certain capacities. Loon Mountain Recreation Corporation does not plan to expand those approved capacities or expand beyond them. Kelley said he sees this proposed project of swapping out the Kancamagus Express Ski Lift as having no impact on Loon’s capacity; Loon Mountain Ski Area is nowhere near the approved threshold capacity they applied for and were approved for back in 2003.

Vice Chair Chenard reiterated when Loon Mountain presented its plan for Loon Mountain Ski Area to the Planning Board back in 2003, Loon’s approved plan included a “sports complex and the whole master plan”, to which Kelley agreed. Vice Chair Chenard said that since then, Loon’s Site

Plan Review approvals have expired. Chenard asked Kelley whether those approvals have been renewed.

Kelley responded that “we” (i.e., Boyne Resorts d/b/a Loon Mountain Recreation Corporation) does not own the land where their parking is located. Kelley said Loon has an operating agreement with the South Peak Resorts that stays with the land that allows Loon to use land owned by South Peak Resorts for parking for the Loon Mountain Ski Area in perpetuity.

Vice Chair Chenard said that when he looked a 2003 “Concept Map” for Loon that said “Final Copy”, he saw that Loon originally had an approval to create parking spaces on South Peak land for parking 1,400 people (customers) and 300 or 400 parking spaces for employees. Kelley responded that none of that has changed. Chenard said he wanted to verify those numbers as the Planning Board had not been updated in the past seventeen (17) years. He was concerned because he saw the “For Sale” sign for the land associated with South Peak Resort. He wanted to verify that the parking for Loon would still be in place. Kelley said the land could sell, but Loon has an operating agreement that goes with the land that requires Loon to have the requisite parking spaces.

Alternate Beaudin verified with Kelley that Loon’s Representatives are before the Planning Board for a “Conceptual” where Loon is proposing to convert the Kancamagus Quad lift into an eight (8) passenger lift, with no intentional increase of ticket sales. To which Kelly responded yes, Loon will continue to abide by the number of lift tickets allowed based on their Forest Service Permit. Kelley added that Loon is not close to achieving that capacity threshold as of yet.

Vice Chair Chenard alluded to a traffic scenario that presented this past weekend where there were three (3) lanes of traffic on Main Street/NH Route 112/Kancamagus Highway exiting the Loon Mountain ski area. Kelly replied that the traffic leaving Loon Mountain was smooth in comparison to other ski resorts during that time frame. At any other major ski resorts at that time of day, closing time would have resulted in the same type of traffic. Based on the previous traffic study conducted at the time of Site Plan Review, the traffic plan operated as approved [back in 2003]. Alternate Beaudin agreed that the traffic operated as approved.

Kelley said the new ski lift will operate in the same fashion as it is currently operated, but that there will be eight (8) seats on each lift, instead of four (4). He continued that there will be two (2) less towers than there are now, and the towers will have to be taller in order to accommodate the eight (8) person chairs.

Member Ehrman asked if the new lift would be faster than the current lift, to which Kelley responded it would. Kelley said he feels that Loon’s original plan, as stated in their permit, still stands regarding capacity.

Alternate Beaudin stated his concern about parking in regard to the “[NH Route] 112” side by the Loon Bridge [also known as the Sherman Adams Bridge], and how it was never brought before the Planning Board for Site Plan Review approval as part of the bridge expansion. Beaudin said that if the land swap between Loon and the Town as part of the bridge replacement allowed for the creation of a new parking area for the Loon ski area, the new parking area was never presented to

the Planning Board for Site Plan Review approval.

Chairman Spanos stated the Planning Board has four (4) options.

1. They don't need Site Plan Review
2. Apply for waiver of Sight Plan Review in which case all of the abutters would be notified.
3. Apply for Site Plan Review with waivers under certain requirements under the Site Plan Review.
4. Apply for a full Site Plan Review.

**Motion to Waive Site Plan Review: Robinson**

**Second: Chenard**

**All in favor: 4-1. (Ehrman opposed.) Abstentions: 0**

**Motion carries.**

**B. 6:00 PM Conceptual:**

**Presenter:**

Joseph (Joe) Fiore III  
Joe & Shane Fiore Builders, LLC  
74 Rock Creek Drive  
North Haverhill, NH 03774

**Property Owner:**

Robert Paris  
(formerly)  
~~PO Box 537~~  
Lincoln, NH 03251-0537  
  
18 Cypress Street  
Salem, NH 03079

**Property Location:** Tax Map 117 Lot 008 – Main Street #LO (General Use)

**Proposal:**

In 2013 Robert Paris purchased a 0.76 Acre vacant lot on Main Street/NH Route 112/Kancamagus Highway at the intersection with Dodge Place. Since that time, he has been exploring possible mixed business and residential uses for the property. He would like Planning Board input on a proposal to build a prefab residential Cape Log Home to live in and three (3) 500 sq. ft. cabins to rent out as Airbnb's as a business on the same premises.

**Presentation:**

Contractor Joe Fiore stated he was acting as the General Contractor for Robert and Christina Paris, and that they would like to construct a residential log home, and within a three (3) year time-span, also construct three (3) small cabins with the intended purpose of creating supplemental income by renting the cabins through Airbnb. While the Paris' are here inquiring about their conceptual plans prior to coming before the Planning Board for Site Plan Review approval, he would like to make sure the Town was on board with idea in their proposed plans.

**Conceptual, Not Site Plan Review Yet**

Chairman Spanos reminded Contractor Fiore that the Planning Board cannot approve anything including a permit as this meeting is just a Conceptual.

**Compliance with the Stormwater Management Ordinance**

Contractor Fiore agreed that their intent was to inform the Planning Board of the Paris' future plans for the property. Robert (Bob) Paris has a survey map of their proposed plan, showing where the proposed structures would go; they were aware of the limitations associated with drainage compliance if they were to disturb more than fifty (50%) percent of the lot. He reiterated that he understands the purpose of this meeting with the Planning Board is just to identify what their plans are so they would not have to come back with another presentation to continue their plans of expansion.

**Business Use**

Chairman Spanos questioned if they would consider the buildings (other than their primary residential building) to be transient housing. Contractor Fiore agreed and said that that the main residential building would be sited on the "back" of the lot.

**Prior Plans**

Alternate Beaudin asked about the survey map in the packet showing an earlier proposal to build a diner on the lot. Planner Bont informed the Planning Board the reason that survey was included was to provide the Planning Board members with an idea of how much space was available on the lot. Paris no longer intends to build a diner. Planner Bont said she gave the old plan to them so the Planning Board could see the actual size of the lot on a new survey (versus the less accurate Town tax maps).

**Updated Plans**

Contractor Fiore agreed that the survey map provided to the Planning Board was for a previous idea, but after receiving community input, the Paris' decided to "scratch that idea". The new plan is for three (3) short-term rental properties that seems more realistic.

Contractor Fiore then showed the Planning Board a new survey map displaying the main building project being their year-round residence, with three (3) additional buildings with a three (3) year projected timetable.

### **Curb Cuts onto Dodge Place, Not NH Route 112**

Contractor Fiore said there is a drive-way-access plan, but they intend to contact the State to ensure there is a proper permit. Paris said that when the Town put in the sidewalks in a few years ago, they provided for a twenty (20) foot wide opening on Dodge Place to be utilized as a driveway.

Chairman Spanos asked Paris to clarify if they were looking to have a new “curb-cut” to which Paris responded they were not based on a previous letter received from the Town allowing the current curb cut off from Dodge Place – the town road off from the state road (NH Route 112/Kancamagus Highway/Main Street).

Member Ehrman inquired if this is the current lot that houses the horse, to which Paris responded that it was. Member Herman joked that his grandchildren would be upset, and in response Paris joked back that the animals would still be welcome to roam around the property with the house on it, saving them some lawn-mowing.

### **Size of the Lot**

Chairman Spanos pointed out that the land, as surveyed, has 0.69 acres whereas the lot depicted on the Town tax maps shows 0.76 acres. Planner Bont said the survey is dispositive. Planner Bont said that in addition, if they look at aerial photos of the lot, it looks like the Parises have more land than they actually do, because some of land that looks like it would be part of the Paris’ front yard along NH Route 112 is actually owned by the State as part of the State right-of-way.

Paris asked why the original town map stated the land was “0.8-something” acres when he purchased the land. Bont explained that the tax maps are based on the best information the Town has at the time. Many lots are not surveyed. Planner Bont explained that when a survey is submitted to the Town the survey is included on the tax map. All of the surveys are put on the base map first. Then the cartographers then do the best they can with the information they have to fit everything else in around the surveys. Everything else (i.e., deeds with good and poorly crafted descriptions) is sort of gerrymandered, and fit-in over the land that is left over after the surveys are put on. Paris included that as long as there is enough property to “do what he wants to do” he is satisfied.

### **Water and Sewer Hookups**

Contractor Fiore stated that he has reached out to the Town Director of Public Works Nate Hadaway. Hadaway is looking into where the sewer and water is located on that lot because there was originally a house there (and maybe a trailer in the back). They are looking into where the curb stops and sewer hooks up were previously, so it would just be a matter of locating them and replacing everything that is there with “new” to ensure they are up to code.



**Change of Use from Vacant Lot to a Cabin Colony Business Use**

Chairman Spanos recommended that the Planning Board and Paris consider this as a transient/lodging project, which would be no different than any of the other cabin colonies in town and use the “Percentage of Lot Coverage” as the density calculation.

**Timetable for Construction**

Paris said his home would be prefab construction. He assumes the prefab company will be coordinating with the police department and others to execute construction. Contractor Fiore elaborated saying he is looking to have the lot set up so that the big rigs would be able to utilize the whole lot to ensure safety and minimal intrusion/damage. He said the prefab buildings can be constructed in less than two weeks.

**Noisy Location**

Alternate Beaudin pointed out that the sounds of traffic will be very noisy for the occupants of the lot location along Main Street/NH Route 112/Kancamagus Highway. Paris said that is why he is planning to put his residential house in the back corner of the lot further away from the traffic. Alternate Beaudin recommended that Paris plant some trees or shrubs to cut down the noise because the traffic noise will definitely disturb those people renting through Airbnb in the cabins.

**Change of Use from Vacant Lot to a Cabin Colony Business Use**

Discussion re: Spanos’ recommendation that they treat the project like a “cabin colony” as a transient/lodging business project. Chairman Spanos included that the area is zoned for commercial use and would have two parking spaces per unit. Vice Chair Chenard said there is no regulation that says you cannot rent out cabins like an Airbnb. Chair Spanos pointed out that the lot is in the General Use (GU) District which is the “commercial district”.

Contractor Fiore offered to show the Planning Board building blueprints in order for the Planning Board to get a better idea of the eventual plans. The Planning Board declined as this meeting is strictly a “Conceptual”; that level of detail about the proposed project goes too far for a “Conceptual”.

**Discussion of the Options**

Alternate Beaudin pointed out that the lot does not seem large enough to meet the Minimum Lot Size required on the “Dimensional Chart” according to Planner Bont’s calculations if the Planning Board treats the cabins as single family residences, to which Chairman Spanos responded that if the Parises proceed by characterizing the project as a commercial cabin colony then Paris can cover eighty (80%) percent of the lot.

*[Note: In the Dimensional Chart, a “Commercial Cabin Colony” is not specifically delineated as a “Business Use”. However, a commercial cabin colony would come under*

*“Business Uses” as a “Hotel, Motel, Motor Inn, etc.”.]*

Contractor Fiore continued that according to their surveyor, Gardner Kellogg of Kellogg Surveying LLC the entire project would “consume” less than fifty (50%) percent of the lot.

Chairman Spanos clarified that if the allotted fifteen-thousand (15,000) square feet is the minimum lot size for the main residence, treating it as a single-family home, then Paris would need an additional fifteen-thousand (15,000) square feet for each for the cabins for them to exist as single-family residences. The lot is too small; the proposed project would not work based on Planner Bont’s assessment.

Planner Bont suggested that perhaps Paris could subdivide off 15,000 square feet to support one residence and then use the rest of the lot as a business property. Then just the limitation of the “Percentage of Lot Coverages” for the General Use (GU) District of 70% would apply to the remaining land.

Representative Robinson stated that if Paris is applying for a commercial use, of which there is an owner component to it (just like every motel on US Route 3 that has the owner living there) Paris should treat the whole property as business, including the primary residence. It is transient lodging or like a motel.

Contractor Fiore questioned this advice, as Paris was not looking to move forward with his business-related expansion for another three (3) years approximately. They just want the Planning Board to know about what their future plans are for the property.

Chairman Spanos interrupted stating that he thought the limit for Site Plan Review approval was five (5) years; when the US economy “went into the tank” the NH State legislature extended the limit you could have Site Plan Review approval without actually building from two (2) years to five (5) years.

Planner Bont thought that the term for Site Plan Review approval was five (5) years, but she wanted to check. Planner Bont said they could get the approval and then request an extension. [The actual statutory requirements are more complicated than that. See Statutory Vesting as described below in the November 2019 edition of the Planning Board Handbook.]

#### **STATUTORY VESTING (RSA 674:39)**

The provisions of RSA 674:39 protect approved and recorded subdivision and site plans from subsequent changes in planning board regulations and zoning ordinances. They also protect municipalities from having development that is based on outdated regulations and ordinances, or from development work that has dragged on for years in a less-than-half completed state.

In the first instance, every approved and recorded subdivision or site plan is exempt from all subsequent changes in subdivision and site plan regulations and zoning ordinances for a period of five years after the date of approval (except those regulations and ordinances that expressly protect public health, such as water quality and sewage treatment), provided that:

- Active and substantial development has begun in accordance with the approved plat within 24 months after the date of approval;
- Development remains in full compliance with public health regulations;
- The subdivision plat or site plan conforms to the planning board's regulations in effect at the time of approval.

Planning Boards should define and identify what improvements and features as well as percentage of completion of features that constitutes "Active and Substantial Completion of Improvements" in their subdivision and site plan regulations.

Once the project's improvements have been substantially completed in compliance with the approved subdivision plat or site plan, unless otherwise stipulated by the planning board, the project is permanently protected from subsequent ordinance or regulation changes, except for impact fees. If the board fails to specify and define by regulation what is "active and substantial" for a particular project, the project automatically gets the five years of protection.

*The Planning Board in New Hampshire: A Handbook for Local Officials (November 2019)* (emphasis added)

NH Office of Strategic Initiatives (OSI), Johnson Hall, 107 Pleasant Street, Concord, NH 03301. pp. V-20 & V-21

[www.nh.gov/osi](http://www.nh.gov/osi)

Contractor Fiore continued that Paris' purpose was to get approval for the primary residential building first, with the plan to return for future adjustments/improvements/upgrades at a later date. Paris said he has owned the land for five (5) years and he and his wife want to come up here to live. They want to build the house now and then come back to the Town for permission to build the cabins later. Alternate Beaudin said that if Paris went that route, then in three (3) years Paris would have a residential house and he would want to change it into the owner's house as part of a colony of tourist cabins so that would be a "change in use" requiring Site Plan Review anyway.

Chair Spanos advised Paris to come for Site Plan Review approval for the whole project now. After Paris receives Site Plan Review approval, then he would have to come to the Town for a Land Use Permit to actually build or construct his project.

### **Stormwater Management Ordinance**

Alternate Beaudin said Paris would have to address the Stormwater Management Ordinance issues as part of the Site Plan Review process. Chair Spanos asked Contractor Fiore if he intended to disturb less than fifty percent (50%) of the lot. If he disturbs more than fifty percent (50%) of the lot, he has to provide a Stormwater Management Plan. Contractor Fiore said that he is trying to stay under that fifty percent (50%) threshold to avoid having to submit a Stormwater Management Plan.

Contractor Fiore stated the way the land is laid out, they “will be bringing grade up, but to the back of the property where the natural run-off is” it is going to “work nice”. There is actually a little stream back there anyways that “kind of takes care of everything.” (Robert Paris interrupted to say that there used to be a stream back there, but the stream has been all filled in.) Chairman Spanos emphasized that the Planning Board will take a closer look at the stormwater run-off, to which Contractor Fiore agreed was a good idea - you will see that everything slopes to the back of the lot.

Alternate Beaudin said he did not think Paris would have any problems with lighting or anything like that. Stormwater would be an issue; will the project come under the threshold square footage or percentage requirements to require a Stormwater Management Plan?

### **Pavement**

Alternate Beaudin asked if Paris intended to pave the driveways and parking spaces. Paris said not right now – not until the cabins are up. Initially Paris intends to use the crushed gravel.

### **Discussion re: Recommendations**

Vice Chair Chenard said that in his opinion it would be wise for Paris to come before the Planning Board for Site Plan Review approval now versus later to which Contractor Fiore agreed: “That is why they are here.” Vice Chair Chenard said if Paris gets Site Plan Review approval now, “you’re in” and then, when and if the Town changes the Land Use Plan Ordinance and changes the whole scenario your cabin colony will still be okay because it is grandfathered.

Chairman Spanos stated that is possible that during a later Town Meeting, like the Town Meeting of 2021, the Town could decide to not allow cabin colonies, for example. Contractor Fiore established that this is why they appreciate the board’s input, and that the five (5) year goal is accomplishable.

### **Water and Sewer Limitations**

Alternate Beaudin stated that the Town is on a first-come, first-served basis as far as water and sewer is concerned, and is unsure how that would play out if the proposed “hotel up the road” is approved for water and sewer capacity prior to Paris’ plan to build the cabins and the Town runs out of sewer capacity. Chair Spanos said “they would have to wait, but they would still have approval for their cabins.” Beaudin suggested that the sooner Paris gets his project in, the sooner he gets his approval, the better off he would be. “First come, first served” is the way it goes. Selectmen’s Representative Robinson stated that each building would be approved as they applied for a Land Use Permit and built the property.

Planner Bont included that, for example, the Rodeway Inn, “[Patel] has the approval for all ten (10) cabins. But she is coming in for a Land Use Permit for maybe only two (2) cabins a year, depending on their financial ability to expand, so she just comes in for a renewal for her Site Plan Review approval.



Alternate Beaudin asked whether the water and sewer rights were vested once the applicants got approval for Site Plan Review approval from the Planning Board or whether they became vested once applicants received their Land Use Permit. Alternate Beaudin asked whether the applicants must come in every time they decide to add a new structure for water and sewer approval, or if their pre-approval would suffice for all additional buildings that were included in the original proposal, as he assumed the water and sewer allowance was vested. Representative Robinson stated that it is not related to the Master Plans for development. For example, the Town has approved a South Peak Resort Master Plan for over 1,000 units. We are not “reserving water for all [one] thousand units” included on the Master Plan.

Alternate Beaudin asked what if Dennis Ducharme builds Phase II of RiverWalk. Ducharme already has his Site Plan Review approval. When Dipak Patel comes in for approval for the Hampton Inn on Main Street, are they approved yet? Chair Spanos said “no”, Dipak Patel has requirements he has not met yet. They do not have rights to the water and sewer reserved even though the Planning Board has approved the Plan. Alternate Beaudin questions whether if “the hotel up the street” applies for water & sewer rights, would that hotel essentially have precedence over the approved application that decided to build later down the road. Chairman Spanos declared that the Planning Board is getting into too many “hypotheticals”, that the applicants have come in with their concept, “we have expressed our thoughts, and we should leave it at that.”

Contractor Fiore continued to say that the Paris’ have brought forth their Conceptual Plans, including the need for water and sewer hook-ups, with the intent to present details “later down the road”. Paris stated “The sooner we go for the permits, the better. We’re ready.”

Contractor Fiore again stated that they should assume they are going for the residential property as well as the three (3) cabins. Planner Bont suggests they not call the home “residential”, as it would technically be considered part of a commercial property.

### **No Credit for Water and Sewer Tap Fees for Prior House Gone for Years**

Member Noseworthy inquired if Paris should get “credit” for the water and sewer based on the buildings that were already there. Planner Bont disagreed; the building that was originally on the lot was removed many years ago. Water and Sewer Tap Fees would be owed and payable at the time they applied for a Land Use Permit after receiving Site Plan Review approval.

Contractor Fiore states that he believes that the Paris’ are on-board with doing “everything right” and that they do not want any problems. Paris is here because he does not want to cut any corners and to make sure he is proceeding in the appropriate way.

### **Foundation Type**

Member Noseworthy asked if Paris was going to put in a foundation, or stilts or frost walls. Contractor Fiore responded they were going to put in frost walls with footings on a slab, and the log home is a full eight (8) foot basement.



## Signage

Paris asked whether he would have to register as a business or display signs as it will be a transient/short-term rental property, to which the Planning Board responded he would not. Paris wants to keep it low key. Chair Spanos said it was up to Paris to decide how to market his business.

Planner Bont included that if Paris decided to advertise as a business and wanted to include a sign, that sign would become part of Site Plan Review.

## Business Registration

Paris continued to ask, regarding taxes, if he had to register as a business. Chairman Spanos said that would have nothing to do with Planning or Zoning Board.

Contractor Fiore stated that they would treat this as a commercial permit and thanked the board for their time.

Chair Spanos and the Planning Board returned to:

## II. CONSIDERATION of meeting minutes from:

- December 11, 2019 (Chairman Jim Spanos, Vice Chair Joseph Chenard, Selectmen's Representative OJ Robinson, Member Stephen Noseworthy, Alternate Paul Beaudin and Alternate Deanne Chrystal)

## Discussion Re: Planning Board Draft Minutes:

*Note:*

*At the last Planning Board meeting Vice Chairman Chenard asked the following question:*

**Can the Town Planning Board propose amendments to the zoning ordinance (Land Use Plan Ordinance) at a time other than the Annual Town Meeting in March?**

*Vice Chairman Chenard was certain the Planning Board could propose amendments to the zoning ordinance as soon as the Annual Town Meeting was over, based on what he learned at various Planning Board trainings he attended. Planner Bont was asked to research the question and get back to the Planning Board. Prior to this meeting, Planner Bont sent the Planning Board members a memorandum dated January 28, 2020, outlining the results of her consultation with Attorney Stephen Buckley of the NH Municipal Association. Planner Bont forwarded a memorandum to the members of the Planning Board prior to the meeting. (See January 28, 2020 Memorandum attached.)*

*At several meetings over course of the past year, Vice Chairman Chenard expressed his concerns that the parking requirement of one parking space per room under the Land Use Plan Ordinance (LUPO) were not adequate, particularly for hotels, motels and establishments that provide lodging*

*for transient guests. On January 8, 2020, the Planning Board determined that it did not have enough time to thoroughly discuss the matter before the deadline for publication of 10 days clear notice for holding two (2) public hearings and then vote to recommend whether to recommend or not recommend a proposed amendment in time for the 2020 Town Meeting.*

In response to the reference to that question in the draft minutes and based on the legal advice in the memorandum they had just received, Board of Selectmen's Representative Robinson stated that it seems as though the day after the 2020 Annual Town Meeting, the Planning Board could vote to propose and then recommend a new amendment to the Land Use Plan Ordinance (LUPO), but that the Planning Board would have to wait for the following Annual Town Meeting (March 9<sup>th</sup> of 2021) for the proposed amendment to be voted on and possibly adopted. They could not do so without getting Superior Court approval if the warrant article were to involve the appropriation of money. A change in the Land Use Plan Ordinance would not involve the appropriation of money.

Planner Bont said that it may be "more squishy" than that. Per Attorney Buckley, the Planning Board has to read both RSA 675:3, I and RSA 675:4, I together because there is not a straight-forward answer to that question spelled out in the RSAs. Although the statutes do not say specifically that the Town can make changes to the zoning ordinance by a Special Town Meeting, the statutes say so, "by implication" – suggested by reading certain portions of RSA 675:3, I and RSA 675:4 together.

Planner Bont continued that if the Planning Board decided to go the Special Town Meeting route, the Planning Board might consider reducing the cost of holding a Special Town meeting if they can "piggy-back" the Special Town Meeting onto another Town Election like the September 8, 2020 State Primary Election where the election and ballot clerks would already be holding an election so that adding another meeting would not adversely affect the Town's budget as significantly. According to Attorney Buckley, this year the September 8, 2020 State Primary Election is the only other town election that would allow them to do so. Even taking the "piggy back" approach, there still would be a large number of extra costs associated with holding a Special Town Meeting like printing notices, warrants, and ballots, publishing notices and additional other costs associated with bringing the proposed amendment to a Special Town Meeting vote.

Alternate Beaudin requested clarification on the subject, to which Chairman Spanos responded that the discussion was about inadequate parking requirements for hotels and motels.

Representative Robinson clarified that during the last meeting the Planning Board discussed when the Planning Board could propose changes to the zoning ordinance. His understanding of the RSAs is that the Planning Board can schedule a hearing at any time and that they can propose a change during the Town Meeting, but they are not required to.

#### **Enactment and Amendment of the Zoning Ordinance**

A zoning ordinance may be enacted or amended by ballot vote of a majority of the voters present and voting at the annual or special town meeting where the matter is taken up.

However, a properly filed protest petition that meets all of the requirements of RSA 675:5 may result in an increase of the required affirmative vote for enactment to two-thirds of the voters present. A zoning ordinance may be enacted or amended at either the annual town meeting or at a special town meeting, although a voter-petitioned amendment may only be presented at the annual meeting. In cities and town council towns, charter provisions provide the procedures required for enacting zoning ordinances and amendments.

**2019 Planning Board Handbook p.III-8.**

Selectmen's Representative Robinson brought up the point that Vice Chair Chenard mentioned that you can present at the Town Meeting and can enforce it, but if it gets turned down (during a town meeting vote) you cannot. He continues to state that he did not read that in the RSAs, to which Alternate Beaudin agreed.

Vice Chair Chenard stated that it came from the Office of State Planning Boards (OSP) that you can put it in (inaudible) the existing one, and cannot be less stringent in case it gets shut down at Town Meeting, but in doubt there needs to be a Public Hearing in order to discuss with the Planning Board.

Alternate Beaudin interjects to state that he feels as though it would be convoluted, and that they would want to stick to regular process, so that everyone would have the ability to discuss and "weigh-in on it" at a Publicly Noticed Hearing in case there are other publicly noted concerns.

Planner Bont interjected stating that it seems as though the Planning Board feels they all will immediately agree. She said it will take a while for them to come to an agreement on what the requirements should be. She proposed they set a target-date, approaching the resolution during the June, and July meetings. If the Planning Board decides on proposed changes and language in July, they would be able to "piggy-back" onto the September Primary Election. Then there would be enough time to present notices. The second option would be to strategize and present the proposed amendments at the Annual Town Meeting in March of 2021. The Planning Board would have to decide when they want to "go for it" and then go back through the calendar to make sure when you would have adequate time to give notice, publish notices in the paper, and hold Public Hearings in relation to "whatever that meeting is"

To assure compliance with all notice requirements, consider the following:

1. the date of the annual or special town meeting;
2. the fifth Tuesday before that date;
3. time for two planning board hearings 14 days apart;
4. 10 days of notice before each planning board hearing;
5. publication dates of local newspapers;
6. and that voter petitions are timely only if they are received between 120 and 90 days before the annual meeting.

**2019 Planning Board Handbook Page III-10**

Alternate Beaudin asked whether the Planning Board wanted to change the parking requirements now, to which Member Ehrman and VP Chenard responded "Yes". Representative Robinson stated that he would not mind tackling these issues as they come along as a board instead of saying "We cannot do this until next March" and then it being "too late" next March. Planner Bont stated that

she will add Parking Requirements to her calendar to be added after the Annual Town Meeting on March 10, 2020.

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

- January 22, 2020 (Chairman Jim Spanos, Vice Chair Joseph Chenard, Selectmen's Representative OJ Robinson, Member Stephen Noseworthy, Alternate Paul Beaudin)

Representative Robinson said the word "he" on line 169 should be Representative Robinson, not Herbert Lahout.

Also, on line number 168, where it states "but Lahout has already stated" he would like to include the words "applying to Site Plan Review is not preferable".

It was also brought to the Recording Secretary's attention the Vice Chairman Chenard has been referred to as "Vice President" Chenard on line 173, that she will correct going forward.

**Motion to accept meeting minutes from January 22, 2020 as amended:  
Robinson.**

**Second: Noseworthy**

**All in favor: 5-0, Abstentions: 0**

**Motion carries.**

- December 11, 2019 (Chairman Jim Spanos, Vice Chair Joseph Chenard, Selectmen's Representative OJ Robinson, Member Stephen Noseworthy, Alternate Paul Beaudin and Alternate Deanne Chrystal)

Discussion re: Motions and Seconds made by Alternate Paul Beaudin who was not seated at the time. The Planning Board ultimately decided to leave the approved December 11, 2019 minutes as previously presented and approved as the minutes accurately reflected what actually happened.

**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.

**VI. ADJOURNMENT**

**A. Motion to Adjourn meeting at 7:31pm: Chenard**

**Second: Robinson**

**All in favor: 5-0, Abstentions: 0**

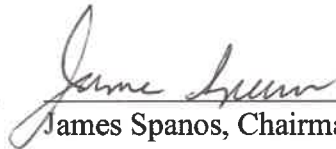
**Motion carries.**

Respectfully submitted,

*Kristyn Daigle-Brophy*  
Recorder

February 21, 2020

Date Approved: February 12, 2020

  
James Spanos, Chairman