

COÖS COUNTY PLANNING BOARD  
Gorham, NH  
January 18, 2017

**Present from the Board:** John Scarinza – Chair; Fred King – Vice Chair; Jennifer Fish – Clerk; Ed Mellett, Mike Waddell, Commissioner Tom Brady, Scott Rineer, Rick Tillotson, Rep. Wayne Moynihan; alternates Tom McCue, Mark Frank; and Board Secretary Suzanne Collins.

**Also in Attendance:** Tara Bamford, North Country Council; Howie Wemyss, Attorney Randy Cooper, and HEB Engineer Josh McAllister representing Mt. Washington Summit Road Company; and members of the public and press.

John Scarinza, Chair, called the meeting to order at 6:05 PM.

**APPROVAL OF MINUTES OF DECEMBER 8, 2016:**

Rick Tillotson made a motion to approve the minutes of December 8, 2016 as distributed. Fred King seconded the motion. There was no discussion and the minutes were unanimously approved by voice vote.

**PUBLIC COMMENTS NOT RELATED TO AGENDA ITEMS:**

Barbara Tetreault, *Berlin Daily Sun*, inquired if the Board had received a legal opinion relative to the Cog Railway proposal to build a hotel on Mt. Washington. Chairman Scarinza stated he was not prepared to respond to this request.

**NEW BUSINESS:**

- a. **Great Glen House Amended Site Plan – Green’s Grant:** John Scarinza welcomed the project team from the Mt. Washington Summit Road Company. John explained that the developers had requested an amended site plan approval. Of particular note was that the changes reduce the amount of site impacts to the property, primarily due to the removal of the rear patio area.

Josh McAllister, PE referenced the project presented to the Board a year ago for a 68-room, 3 story hotel located on an 8.16 acre site in Green’s Grant, Map 1605, Lot 18.2. Zoning is Development District – General (DD-G). He noted that the only abutters to this parcel are the owners – Mt. Washington Summit Road Company and U.S. Route 16.

The previous structure located on this parcel had a large patio seating area in the rear and walkways. This is what they are proposing to change. Additionally, the original plan depicted 87 parking spaces with regulations calling for a minimum of 68 spaces. The new plan does not keep the original grass space for overflow parking; proposal is to pave that grass space.

Josh stated that in summary, the amended site plan changes include removing the existing patio and associated paths as well as new paving.

He noted that an application has been submitted to NH Department of Environmental Services for an amended Alteration of Terrain (AoT) Permit. He noted that removal of the patio will provide for better drainage.

Josh reminded the Board that the hotel structure is 51.5' from the ground up. They are requesting that the Board entertain motions that the use – a hotel – is in keeping with the Master Plan and the Zoning District DD-G; that the height of the building in excess of 35' contains no floors. Further, the Gorham Fire Chief has agreed that the plans are okay; and that the Board approve the amended site plan with conditions.

Rick Tillotson inquired about the elevation of the pond that will provide water for fire suppression. Josh replied that fire suppression for the building will meet all the requirements of the State. He did not know the specific elevation of the pond. John Scarinza replied that he can personally attest to the fire pond being sufficiently elevated as he has hiked to the site.

John Scarinza asked for any further questions from the Board. He noted that all the paperwork for the amended site plan has been received.

Tom McCue reiterated his previous concern for the busy location of the driveways off Route 16. Once again, John Scarinza stated that despite concerns about the speed limit in this location, the NH Department of Transportation has issued the necessary driveway permit.

Rick Tillotson made a motion to accept the Amended Site Application as complete. Ed Mellett seconded the motion. There being no further discussion, the Board voted in favor of accepting the application as complete.

### **PUBLIC HEARING**

Chairman Scarinza opened the Public Hearing on the amended site plan application for design changes to the Glen House Hotel, Mt. Washington Summit Road Company, Green's Grant, Map 1605, Lot 18.2. He noted that the Public Hearing had been duly noticed.

No comments were forthcoming so the Chairman closed the Public Hearing.

The Board resumed the regular meeting.

Attorney Randy Cooper asked that the Board consider 3 separate motions which the owners need as a condition of their financing of the project.

Mike Waddell made the following motion which was seconded by Rick Tillotson:

**Motion to find in accordance with Section 4.06 (c)(9) of the Zoning Ordinance for Coös County Unincorporated Places that the proposed uses of the property for a hotel, restaurant, and lounge are consistent with the purposes of the DD-G Development District and of the Master Plan and are not detrimental to the resources and uses the Zoning Ordinance is intended to protect.**

There being no discussion on the motion, the Chairman called for a vote. All Board members voted in favor of the motion by voice vote.

Rick Tillotson made the following motion which was seconded by Mike Waddell:

**Motion to find in accordance with Section 7.06(b) of the Zoning Ordinance for Coös County Unincorporated Places to approve the architectural plans with a proposed 51.5-foot height of the building finding that the features of the building which contains no floors begins at 32.5 feet above grade, and thus that area of the building above 35 feet contains no floor areas.**

It was noted that a letter was submitted from the Gorham Fire Department referencing the installation of fire ventilation scuttles.

There being no further discussion, the Chairman called for a vote on the motion. All Board members voted in favor of the motion by voice vote.

Mike Waddell made the following motion which was seconded by Scott Rineer:

**Motion to approve in accordance with the Site Plan Review Regulations, Unincorporated Places, Coös County the site plan submitted by the applicant, specifically the “Site Layout Plan for the Glen House Hotel, located in Green’s Grant, New Hampshire prepared for the Mount Washington Summit Road Company” as prepared by HEB Engineers, Inc. dated and revised through December 16, 2016, subject to the following Conditions Subsequent:**

- a. Final approval by NHDES for the Alteration of Terrain Amendment Request;**
- b. Certification by the State Fire Marshal and Gorham Fire Chief that there is adequate water storage for fire protection;**
- c. Certification by the State Fire Marshal and Gorham Fire Chief approving the final architectural plans for the proposed hotel and restaurant; and**
- d. Final approval by NHDES for the Water Supply Permit.**

**Site Plan approval shall become final without further public hearing based upon evidence submitted by the applicant of satisfactory compliance with the above conditions imposed.**

Chairman Scarinza asked for comments or questions from the Board. None forthcoming, he called for a vote on the motion. All members voted in favor by voice vote.

#### **RATIFICATION OF BUILDING PERMITS:**

**Millsfield:** Chairman Scarinza stated that the Board had received a request for the extension of a building permit previously granted on February 3, 2016. The Vigneault’s building permit is to construct a 44’x 27.5’ home in Millsfield. Building is scheduled to begin in the spring.

Fred King made a motion to grant a one year extension. Commissioner Brady seconded the motion and all board members approved the motion.

Chairman Scarinza stated that he had received correspondence from Attorney Bernie Waugh that would have to be discussed in non-public session.

Dave Govatski asked if the Board had received any updates from the proposed developers of the proposed hotel on Mt. Washington. John Scarinza replied that he had received a call from an attorney representing the Cog Railway with process questions – the process for applying for

variances and for preparing an application. He stated that he had also asked Tara Bamford for help in preparing his response.

Mr. Govatski asked for the name of the firm who had made the inquiries. John replied that the call had been from Attorney Elizabeth Thompson, Duval & Klasnick, a Massachusetts firm.

Ed Brisson inquired if the Board would be discussing the agenda item – Continued review to ensure zoning ordinances adequately implement the goals established in the Master Plan. John Scarinza replied that the Board would return to that agenda item after a non-public session.

Rick Tillotson made a motion to go into Non-Public Session under the provisions of RSA 91-A:3 (e) Consideration of Legal Advice. Fred King seconded the motion. Roll Call: Scarinza - aye; King - aye; Waddell - aye; Moynihan- aye; Tillotson - aye; Brady – aye; Fish – aye; Mellett – aye; Rineer – aye. Vote to enter into non-public session is unanimous.

Rick Tillotson made a motion to exit non-public session. Motion was seconded by Commissioner Brady. Roll Call: Scarinza - aye; King - aye; Waddell - aye; Moynihan- aye; Tillotson - aye; Brady – aye; Fish – aye; Mellett – aye; Rineer – aye. Vote to exit non-public session is unanimous.

A motion was made by Mike Waddell to seal the minutes of non-public session until the Board takes action on the item that was the subject of the non-public session. Rick Tillotson seconded the motion. There being no further discussion, the motion was approved unanimously by voice vote.

#### **OLD BUSINESS:**

- a. **Zoning Ordinance Review:** Chairman Scarinza stated that he had sent via e-mail a communication received from Tara Bamford dated 1-16-2017 Follow Up Zoning Discussion for consideration by the Board.

#### **Lot Size and Clustering**

Tara stated that this is what she believed the Board agreed on:

1. The maximum density shall be one dwelling unit per acre.
2. The minimum lot size shall be the greater of:
  - a. one acre, or
  - b. the soil-based lot size required by NHDES for on-site wastewater disposal.
3. In a subdivision or PUD, the minimum lot size may be achieved by averaging the sizes of each lot within the subdivision.
  - a. In a subdivision where the lot sizes are averaged, the Planning Board may approve reduced frontage and reduced setbacks when the road or adjacent lot line is internal to the subdivision.

Tara referred Board members who wish to read more about this concept and some other language that might be included in the ordinance on this topic, to a link to the model ordinance she wrote:

[http://www.des.nh.gov/repp/documents/ilupt\\_chpt\\_1.2\\_ord\\_only.doc](http://www.des.nh.gov/repp/documents/ilupt_chpt_1.2_ord_only.doc).

Rick Tillotson stated that he had done some research and could not find any regulations that had less than 2 units per acre or more than 10. Tara replied that density does not mean lot size.

### **PD Districts**

Tara stated that on a couple previous occasions she had talked about the awkward language of the PD Districts. Why do some uses require no permits, or other uses require a permit? Where are the criteria for the Planning Board to use in making a decision?

First, consider whether there should actually be 3 categories of uses (this question applies to all districts, not just PD):

- A. Uses not requiring a permit (b/c zoning is irrelevant to it, e.g., hiking, fishing, etc.)
- B. Uses requiring a permit (b/c they are regulated by the zoning ordinance in some way, but the issuance of that permit is administrative, i.e., it does not involve any discretion, and so could be issued by a designee)
- C. Uses that require the judgment of the Planning Board and application of appropriate conditions (typically called a conditional use permit under NH statutes)

She suggested some performance standard language from other sources to consider as Board members discuss criteria/conditions for uses in the various PDs.

She provided the following language for **all Protected Districts** but stated that this is not necessarily recommended language.

In all PDs:

- Incorporate appropriate methods from NH Stormwater Manual, Volumes 1, 2 and 3, as amended.  
<http://www.des.nh.gov/organization/divisions/water/stormwater/manual.htm>
- Incorporates NH Best Management Practices for Erosion Control on Timber Harvesting Operations, as amended, as appropriate.  
[https://extension.unh.edu/resources/files/Resource000247\\_Rep266.pdf](https://extension.unh.edu/resources/files/Resource000247_Rep266.pdf).

John asked for volunteers to form a subcommittee to look at recommended language for permitted uses in protected districts.

Rick Tillotson stated that he would be willing to work on the subcommittee. He asked if the sub-committee's work could be accomplished by using e-mail. Tara replied, "no due to the provisions of RSA 91-A".

John Scarinza volunteered as did alternate Tom McCue who serves on the Planning Board in Berlin.

### **PD1 Aquifers:**

Tara suggested incorporating NHDES Best Management Practices for Groundwater Protection, as amended, as appropriate.

<http://www.des.nh.gov/organization/commissioner/pip/factsheets/dwgb/documents/dwgb-22-4.pdf>

Mike stated that the Town of Gorham has aquifers and that prevents any development in the zone. Tara explained that the BMP talks about how to handle materials in that zone that could be detrimental to the aquifer.

**PD2 Flood Prone Areas:**

Tara stated that there really isn't a BMP for Flood Prone Areas  
She suggested criteria for the proposed use:

- A. Will not result in an increase in base flood levels, flows, peaks or velocity.
- B. Will not increase the potential for flood damage to the owner's property or that of others.
- C. Will protect the benefits provided to the community by the floodplain.
- D. Will result in no increase in erosion and/or sedimentation or other degradation of water quality.
- E. Will not increase the risk to public safety or to emergency personnel during flood events, or result in an increase in the cost of public services above costs incurred when not in a floodplain.

These recommendations are based on No Adverse Impact model:

[http://www.des.nh.gov/repp/documents/ilupt\\_chpt\\_2.7\\_ord\\_only.doc](http://www.des.nh.gov/repp/documents/ilupt_chpt_2.7_ord_only.doc).

Rick Tillotson referred to Item D – there will be no increase and/or sedimentation in a flood plain. Mike Waddell stated that his issue with Flood Prone Area is that you have to define it – you would have to draw a line around a flood prone area. John Scarinza read the definition of Flood Prone Area from the Ordinance. **Description:**  
**Areas located within the 100 year frequency flood plain as identified by the Board after consideration of relevant data including, without limitation, identification of areas as flood prone by state and federal agencies, historical data and the National Cooperative Soil Survey.**

Mike Waddell suggested that if we come across land that we think is flood prone, we can ask FEMA to get it mapped. The Board should not be identifying flood prone areas arbitrarily. The Board should not try to establish a mirror process to the FEMA process. Mike added that Board members are not qualified to do the mapping; have FEMA do it so that people can obtain flood insurance. It was suggested that we wait until we have an identifiable problem.

Tara suggested that the Board remove the PD2 from the Ordinance. Mike Waddell agreed that it is best to get rid of the PD2 District. Tom McCue suggested that the subcommittee should work on this.

#### **PD3 Wildlife Habitat:**

Tara suggested that the Planning Board shall consider the recommendations of NH Fish & Game.

#### **PD4 Fish Spawning Areas:**

Tara suggested that the Planning Board shall consider the recommendations of NH Fish & Game.

Tara stressed that in the PD3 and PD4, the key word is that the Board “consider” the recommendations of NH Fish & Game.

Ed Mellett stated that the current maps show PD3 areas but do not have the breakdown of the subcategories of PD3a, PD3b and PD3c. If maps are revised, the Board should get NH Fish & Game’s recommendations for those subcategories.

Tara suggested that Fish & Game should come to a meeting to talk about how they are interpreting the language of the PD3.

#### **PD5 Shorelines:**

Tara encouraged the Board to review  
[http://www.des.nh.gov/repp/documents/ilupt\\_chpt\\_2.6\\_ord\\_only.doc](http://www.des.nh.gov/repp/documents/ilupt_chpt_2.6_ord_only.doc)

She further stated that with the exception of creation of a path to the water's edge and limited clearing to establish a filtered view, the 100 foot setback shall be maintained as a naturally vegetated buffer.

#### **PD6 Steep Slopes and High Elevations:**

As suggested earlier, the Planning Board shall consider the recommendations of NH Fish & Game. Additionally, she pasted in the language from an ordinance she had written for NHDES:

- A. The grading cut and fill should not exceed a 2:1 ratio.
- B. Existing natural and topographic features, including the vegetative cover, will be preserved to the greatest extent possible. In the event that extensive amounts of vegetation are removed, the site shall be replanted with indigenous vegetation and shall replicate the original vegetation as much as possible.
- C. No section of any road or drive may exceed a 10 percent slope.
- D. No structure shall be built on a slope greater than 25 percent (prior to site disturbance).

Performance standards A-D adapted from  
[http://www.des.nh.gov/repp/documents/ilupt\\_chpt\\_2.2\\_ord\\_only.doc](http://www.des.nh.gov/repp/documents/ilupt_chpt_2.2_ord_only.doc) .

#### **PD7 Wetlands:**

Tara suggested criteria to consider from the State model wetlands ordinance. She suggested that Board members look at these between meetings.

1. The proposed activity minimizes the degradation to, or loss of, wetlands and wetland buffers, and compensates for any adverse impact to the functions and values of wetlands and wetland buffers, including but not limited to the capacity of the wetland to:
  - a. Support fish and wildlife
  - b. Prevent flooding
  - c. Supply and protect surface and ground waters
  - d. Control sediment
  - e. Control pollution
  - f. Support wetland vegetation
  - g. Promote public health and safety
  - h. Moderate fluctuations in surface water levels.
2. The proposed activity will have no negative environmental impact to abutting or downstream property and/or hydrologically connected water and/or wetland resources, including:
  - a. Erosion
  - b. Siltation
  - c. Turbidity
  - d. Loss of fish and wildlife
  - e. Loss of unique habitat having demonstrable natural, scientific, or educational value
  - f. Loss or decrease of beneficial aquatic organisms and wetland plants.
  - g. Dangers of flooding and pollution.
  - h. Destruction of the economic, aesthetic, recreational and other public and private uses and values of the wetlands to the community.
3. The proposed activity or use cannot practicably be located otherwise on the site to eliminate or reduce the impact to the wetland or its buffer.

From [http://www.des.nh.gov/repp/documents/ilupt\\_chpt\\_2.4\\_ord\\_only.doc](http://www.des.nh.gov/repp/documents/ilupt_chpt_2.4_ord_only.doc) .

Discussion continued with the list, “Items that were Set Aside to discuss more” distributed at the last meeting. The Board continued with Item #5 on that list:

**5. Erosion/Stormwater.** Tara suggested the language adopted in the Site Plan Review regulations be added verbatim to the Zoning Ordinances. Rick Tillotson agreed that it needs to be exactly the same in order to be consistent – so everyone is dealing with the same concepts.



**6. Vegetative Buffer** – Tara wondered if this should be specified in 4.03E and 7.04. Section 4.03E is the PD5 **Shoreline**. Tara stated that we have the PD but we don't protect the vegetation. Section 7.04 has a 100' setback from the shoreline but the ordinance doesn't say you have to leave the vegetation. Ed Mellett reminded Board members that forestry can still happen within 100' of a shoreline as long as the cut complies with state regulations. Tara stated that protection under the Shoreland Protection Act is pretty minimal right now. Mike Waddell stated that in Little Berlin (a camp development along the Magalloway River in Wentworth Location), vegetation restriction makes no sense at all. It may work in some places but it doesn't in others. Tom McCue thought that a vegetative buffer should be addressed somewhere in the regulations.

Scott Rineer stated that LURC (Land Use Regulatory Commission) in Maine has great maps.

John Scarinza asked Ed, Scott and Mike to look at the Zoning maps. All agreed it was time to update the maps. Fred King stated that producing new maps is a budget issue for the Commissioners; however, each unincorporated place could budget for and pay for its updated zoning maps.

Commissioner Brady stated that if updating the maps is something the Board wants to do, the Board of Commissioners would need an estimate by February 8<sup>th</sup> which is the deadline for making changes to the County Budget for 2017. Mike Waddell asked who does the property maps for the unincorporated places. Sue Collins replied that Cartographic Associates in Littleton does. Mike replied then that is who the County needs to contact about a cost estimate. Tara asked if all the property maps are GIS. If yes, then Cartographics can probably do it; if no, then North Country Council can do it since NCC has GIS capabilities. Mike added that FEMA can map the floodplains.

Representative Moynihan asked how often a building permit is submitted for a PD.

Tara wondered if it would make more sense to finish the language of the Zoning Ordinance and do the maps next year. If the Board ends up eliminating a Protected District, then the Board would not want to map these. John Scarinza agreed that the Board should start the process of getting the map updates into the budget for 2018.

The Board continued with **Items discussed but not resolved** from Tara's list.

**7. Slope** math is wrong = 4.03F 2.(b) 60% is 31 degrees; 27 degrees is 51%. It was agreed that Ed Mellett will check this item.

**8. Lot Coverage** – Tara asked what is the purpose of lot coverage limit – building or impervious. See 3.19 or 7.05. If it is impervious, why doesn't it include parking? John Scarinza stated that on small lots, impervious is important. Tara replied then

the language needs to be refined. John stated, "Let's go with impervious for the next meeting discussion".

**New things that have come up since the Board left off on this review project:**

**9. Accessory Dwelling Law** – It was decided to incorporate it into the ordinance.

**10. Signs** – Tara stated that a Supreme Court decision has implications for the sign regulations. Tom McCue stated that the Berlin Planning Board is dealing with this issue right now. He added that the Town of Warner has just adopted an ordinance and he will bring a copy of it to the next meeting.

**11. Nonjurisdictional** – Tara stated that the National Forest Lands are not zoned and the board should have a list of them.

John Scarinza stated that he is getting questions from the folks at the Cog Railway.

Rick Tillotson made a motion, seconded by Mike Waddell, authorizing the Chairman and Tara Bamford to talk to representatives of the Mt. Washington Railway Company between meetings. A majority of Board members voted in the affirmative by voice vote.

Rick Tillotson made a motion to authorize Attorney Waugh to prepare a legal brief on questions related to process and zones on Mount Washington. Ed Mellett seconded the motion. All members voted in favor by voice vote.

**TIME AND DATE OF NEXT MEETING:**

It was decided that the next meeting will be held on Wednesday, February 22 at 6 PM. Location will be the North Country Resource Center in Lancaster if it is available.

**ADJOURNMENT:**

Rick Tillotson made a motion to adjourn. Mike Waddell seconded the motion and all voted in favor.

Respectfully submitted,

Suzanne L. Collins  
Secretary to the Planning Board