

COÖS COUNTY PLANNING BOARD
Lancaster, NH
December 8, 2016

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; alternate Tom McCue; and Board Secretary Suzanne Collins.

Also in Attendance: Wayne Presby and Joel Bedor, Mt. Washington Railway Company; Tara Bamford, North Country Council; Ron Anstey, NH Fire Marshal's Office; Chuck Henderson, Senator Shaheen's Office; and members of the public and press.

John Scarinza, Chair, called the meeting to order at 7 PM.

APPROVAL OF MINUTES OF AUGUST 23, 2016:

Fred King made a motion to approve the minutes of August 23, 2016 as distributed. Rick Tillotson seconded the motion. There was no discussion and the minutes were unanimously approved by voice vote.

PUBLIC COMMENTS NOT RELATED TO AGENDA ITEMS: None.

NEW BUSINESS:

- a. **Mt. Washington Railway Company – Thompson & Meserves Purchase:** Chairman Scarinza informed the public that this is a preliminary consultation and review as requested by owners Wayne Presby and Joel Bedor for a lodge at Skyline. He explained that the County's Site Plan Review regulations set forth the following guidance to applicants:

The applicant may appear at a regular meeting of the Planning Board to discuss a proposal in conceptual form and in general terms. Such preliminary consultation shall be informal and directed toward:

- *Reviewing the basic concepts of the proposal;*
- *Reviewing the proposal with regard to the County's Master Plan, Zoning Ordinances, Subdivision Regulation; and*
- *Guiding the applicant to necessary state and local requirements.*

Preliminary consultation and review shall not bind the applicant or the Board. No discussions beyond the conceptual and general review shall take place without identification of and notice to abutters and the general public.

Chairman Scarinza stated that the Board has not received an application and will not take public comments at this meeting. If an application is received, the Planning Board will be using its guiding documents and its review will be thorough, thoughtful and complete. The purpose of this agenda item is to hear the owners' ideas for the project and none of the discussions at this meeting are binding on either party. John turned the discussion over to Wayne Presby.

Mr. Presby presented a history of the Cog Railway dating back to 1869 when Sylvester Marsh built the first mountain-climbing train in the world on Mt. Washington. The historical chain of ownership included the B&M Railroad and Dartmouth College. Historic hotels such

as the Tip Top House and the Summit Hotel have accommodated guests on Mt. Washington into mid-1960. The Summit Hotel was torn down in the 1970's to make way for the State's Sherman Adams Building and Visitor Center.

After the collapse of the Old Man of the Mountains in Franconia Notch, the State and the Mt. Washington Commission have promoted Mt. Washington as one of the State's premier attractions. This has resulted in overcrowding at the summit. It would require a major expansion to accommodate the number of visitors with adequate facilities requiring water and sewer services. There are multiple communication towers and buildings at the summit and as Mr. Presby reported, the State needs \$10M for new communication buildings so there is no funding available for expanding the Sherman Adams Building. Mr. Presby stated that as part of the preliminary planning for a hotel at Skyline, he has offered railway company land to the State to run sewer down the mountain to state-approved leach fields at the base.

The proposed lodge at Skyline would have 35 well-appointed rooms and a restaurant completely serviced by the Railway. This facility will take some of the pressure off the Summit. He noted that the Appalachian Mountain Club (AMC) operates the Lake of the Clouds Hut which is filled to capacity every night. He added that the Railway provides the AMC with land at the base for helicopters that deliver food, materials, propane and remove waste and septic. The railway provides AMC staff with transportation to the hut. In addition to the AMC, the Mt. Washington Observatory provides overnight accommodations at the Summit. The State Park Service operation at the Summit runs at a deficit. The Cog Railway and the Mt. Washington Auto Road subsidize state operations. Additionally, the Railway gives to the Mt. Washington Observatory \$1 per head to help pay its lease to the State of NH. This amounts to some \$200,000 annually. Mr. Presby noted that he is a board member of the Mt. Washington Commission which is not addressing overcrowding at the Summit.

Mr. Presby continued that this is a private proposal. The Railway owns a 99' strip of land all the way to the summit and it also owns land in front of the Sherman Adams building. His company had thought of building a station at the Summit but it would have blocked the view from the Sherman Adams building. The lodge at Skyline, proposed to be built with private funding, would help address overcrowding at the summit and the demand for overnight accommodations. The Skyline site formerly had boarding platforms. The soils there have been completely disturbed. A trench was dug right beside the tracks that contains the power lines supplying electricity to the summit.

The lodge at Skyline would be a more upscale experience than the AMC huts and it would be more accessible for those unable to hike. This project would restore part of the Mountain's history. The building would be as "green" as possible. Construction would utilize local contractors and materials. The heat source would be biodiesel which the EPA states is the most advanced fuel in the country. This project would provide much needed economic stimulus to the north country.

Mr. Presby emphasized that he strives to make the railway a good corporate citizen. They have removed over 200 loads of debris left next to the tracks by previous owners and will keep working on that cleanup of materials left from track repair jobs over the years. Hikers park at the railroad base station for free and the AMC staff ride the trains for free.

Mr. Presby asked the Board to consider and give feedback on the next steps. The Skyline site is located at 5,200' and would clearly need a high elevation – PD6 permit. He would also be seeking leeway on the setback rule for the 99' strip.

Mr. Bedor emphasized that this project requires no financial guarantees. He and Mr. Presby owned and operated the Mt. Washington Hotel for 15 years after taking ownership of the foreclosed property in 1991. They have the experience to operate a lodge at Skyline.

Fred King stated that based on what he has read about the project in the news media, this project would benefit a segment of the population, like himself, who are elderly or not physically able to hike to a hut to enjoy a lodging experience on Mt. Washington. Mr. Presby agreed. He added that the AMC runs a string of huts which provide bunks for overnight guests. He added that some folks don't enjoy bunks or shared bathrooms.

Fred King also noted that sewerage disposal at the Summit is becoming a major problem for the State. This proposal will help the State with its problem. Mr. Presby replied that the State has large holding tanks at the Summit that need to be pumped out at considerable cost. He provided information on the State's tertiary treatment plant that doesn't work well when there are many visitors at the summit. He stated that they would build a line big enough to handle the effluent from the Summit and will design leach fields at the base on their lands to handle the volume.

Mike Waddell asked if there are any conceptual drawings of the Skyline proposal. Mr. Presby stated that this is a preliminary discussion. They do not know what the design of the lodge will look like –whether it will be L-shaped or U-shaped has yet to be determined. Mike stated it would help a great deal to see something a little more advanced and substantial for the board to look at.

Mike asked if the Mt. Washington Commission has talked about maximum capacity at the summit. Mr. Presby replied, "No, they want to continue to promote it". It is difficult to limit the number of people at the summit since there are 50 hiking trails leading to the summit; there is the Auto Road and the Cog Railway. Mike did suggest that the Commission needs to be having discussions about capacity at the summit on good days.

Mr. Presby stated that their future lodge design would include additional bathrooms for hikers.

John Scarinza reiterated that the Board will focus its review based on its Master Plan, Zoning Ordinance and Site Plan Review. He stated that Tara Bamford of North Country Council has been working with the Board to review and update its documents. John had asked Tara to look at those documents for guidance to the Board on this proposal.

Tara noted that her observation is that the building is allowed in the underlying zone – the DD (development district) but is currently not allowed in the PD6 (Protected District – High Elevation).

Mr. Presby stated that his reading of the PD-6 allows for a permit to be issued by the Board under section 4.03F (b) 4 which states under *Uses Requiring a Permit – Other Structures, uses or services which the Board determines are consistent with the purposes of this subdistrict and Master Plan and are not detrimental to the resources or uses which they protect*. Fred King agreed. Tara Bamford disagreed stating that it was not the intent of the crafters of this regulation to allow buildings in a PD6.

John Scarinza stated that the developers also have the alternative of asking the Coös County Delegation to approve a change to the Zoning Ordinance that would allow their project.

Tom McCue inquired about fire safety issues. John Scarinza stated that Ron Anstey from the NH Fire Marshal's Office was present. Mr. Anstey stated that the State must require additional fire protection since no fire department can respond to the proposed location.

Commissioner Brady related that he was reminded of the past hotels at the Summit when this proposal was first announced. He asked his 90+ year old mother if she recalled the last hotel. She related that she had ridden up and stayed overnight for a White Mountain Attraction event held there over 50 years ago. Commissioner Brady stated that we need to remember that there have been hotels at the summit in the past.

Fred King stated that the State wants tourists to spend money in New Hampshire and they need accommodations. Even the AMC has recognized that need even though they recently withdrew their application for a 9th hut in the White Mountains.

Mr. Presby asked about the procedure to move forward with an application. John Scarinza replied that the Board has to come to consensus as to what the PD zone incurs. He suggested that the Board refer this to its attorney for his input. The Board wants to make a well informed decision.

Fred King stated that in addition to the permit allowed in the PD6, there is authority for a special exception. Special exception use is defined as a use which may be allowed by the Planning Board in certain locations within certain specified districts. Such a use, when approved by the Planning Board, shall be construed to be conforming under this Ordinance.

Mr. Presby stated, "Say you make a decision, who has the authority to contest the decision, who has standing?" John Scarinza replied that the Board needs to provide clarification.

Mr. Presby stated that he will also have to apply for a waiver of the setback requirements. John replied that this would go to the ZBA. He noted the Commissioners have appointed a Zoning Board of Adjustment and they have to get that Board up and running.

b. **Wagner Forest Management – PD6 High Elevation Timber Harvesting Permit**

Application – Millsfield: Scott Rineer requested to be recused from the Board for this item. The Chairman approved. Scott distributed copies of Wagner Forest Management's formal application for a permit to harvest timber in a PD6 high elevation area located on Owl Head Mountain in Millsfield dated September 26, 2016. He noted that the application included a letter from Will Staats, NH Fish & Game Regional Wildlife Biologist as required by the Board. Mr. Staats had made a site visit on September 12th and walked the harvest area. Both parties had agreed on a harvest prescription based on the site visit.

Fred King made a motion to approve the PD6 permit for Wagner Forest Management. Rick Tillotson seconded the motion. John Scarinza asked if this timber harvest will be part of a bigger project. Scott replied in the affirmative; there will be harvesting at the lower elevation too. There being no further questions, the Chair asked for a vote on the motion and all members voted in favor.

Scott Rineer rejoined the Board.

RATIFICATION OF BUILDING PERMITS:

The following building permits approved by the Chairman were presented to the Board:

468	Thomas Bushey	Odell	Replace existing porch/replace metal roofing.
469	Eddy & Patricia Rose	Odell	Construct a new 9'6" addition
470	William Bonney	Cambridge	6'x15' deck

John explained that he had spoken with Mr. Bonney whose application included 2 decks. The second deck did not meet setback requirements. That one will have to go to the ZBA. Mr. Bonney agreed that during the winter he will appeal to the ZBA for the non-compliant deck.

Rick Tillotson made a motion to ratify the building permits. Fred King seconded the motion and all board members approved.

OLD BUSINESS:

- a. **Zoning Ordinance Review:** John Scarinza stated that Tara Bamford has continued the review of the zoning ordinance to ensure it adequately implements the goals established in the Master Plan.

John reminded Board members that the review had been interrupted by the need to develop ordinances related to the Balsams Resort District. Tara noted that completion of this project had been on hold for 1 ½ years. Tara distributed a list of items that were set aside for further discussion.

1. Fences – are all fences really structures requiring a permit? Tara supplied the Town of Gorham's ordinance. John noted that there is a state law that speaks to fences greater than 6' in height. He noted that fences secured in concrete are not easy to move. Mike Waddell stated that it seems like there is a provision in state law that allows someone to maintain a fence that is installed on the property line; however, he thought an ordinance should require enough setback so that an owner can maintain the fence. Fred King suggested that the Board requires the applicant to bring evidence that an abutter is in agreement with the placement of the fence or bring in the survey that clearly shows the property line.

Tara stated that two questions need to be addressed. Do all fences need a permit? How do you want to deal with fences in the required setback?

John Scarinza suggested that if a fence is higher than 6' it should require a permit. Do we care if it's in concrete – no.

2. Soil Based Lot Size – Tara noted that the Zoning Ordinance is incomplete as the old table in the original ordinance is outdated. Currently the Board has no way to determine minimum lot size due to the obsolescence of the previous table. Tara distributed a document, Soil Based Lot Sizing, sponsored by the Society of Soil Scientists of Northern New England dated September 2003.

John stated the Board has to give some thought to the pros and cons of soil based lot sizing. Some communities have exact lot sizes; e. g. 2 acres, 5 acres. The soil based

methodology does not arbitrarily prescribe a certain size. Mike Waddell stated that the Board needs to be cautious about this because with raised beds you can build a leach field – it is better to look at what is reasonable on a lot on which to build a house.

Tara stated that it is common in zoning ordinances to require a specified lot size. One acre is the standard unless bad soils require a larger lot.

Mike suggested the ordinance specifies a minimum lot size of one acre unless there is a problem with the soils or if the proposed lot includes raised beds.

Tara suggested that perhaps the Ordinance not include a table but just states that the lot meets DES approval for septic. She added that DES requires one acre or larger.

3. Clustering. Tara stated she does not see a reason to have Clustering in the Zoning ordinances (see sections 3.14, 4.13, 7.01 and 7.07).

Rick Tillotson stated that in the cluster you assume that everyone in the cluster accepts the conditions within it. It's the abutters. That is where the clustering circumstances are different – within and without the cluster.

John Scarinza stated that he hears no preferences from Board members either way on how to handle the question. Tara asked if it is lot size that matters or the lot size per unit. John replied that with a 1 acre minimum lot size you don't need cluster language. Rick added that if an owner has 10 acres, it is better to put 10 units on 3 acres and have 7 acres left open. Perhaps there should be language that states that there will be an average of 1 unit per acre.

Commissioner Brady inquired about a campground that might want to add some cabins.

Tara stated that she will write some language for the Board to consider.

4. More about PDs? Should the PD regs include some conditions, for example, BMPs in aquifer, no or no net loss in floodplains, vegetated buffers on streams, NH Fish & Game input on habitat?

Tara stated that when the Board discussed the protected districts last year there was discussion about adding some standards to them – like Best Management Practices language. She asked if Board members are still interested in adding more language. The current language for the PDs say what is allowed but not how it will be done.

Tara stated she will draft some language.

5. Erosion/stormwater. Tara stated it was previously agreed to include something but the Board did not discuss what. Tara provided the language from the Site Plan Review regulations on the topic. She suggested adding this language to the Zoning Ordinance. The Board took no action.
6. Vegetative Buffer – should something be added to Sections 4.03E Shorelands and 7.04?

DATE AND TIME OF NEXT MEETING:

John Scarinza suggested that meetings be regularly scheduled on the second Wednesday of each month. Commissioner Brady noted that the second Wednesday is Commissioner meeting day and wondered if this was too much for Jennifer. There was discussion about meeting on the third Wednesday of each month.

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

Pending Approval