

COÖS COUNTY PLANNING BOARD

Colebrook, NH

August 18, 2015

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

Also in Attendance: Bernie Waugh, Esq.; David Norden, Burt Mills, Ed Brisson, Dixville Capital, LLC; Tara Bamford, North Country Council; Becky Merrow, Colebrook Town Manager; David Brooks, Sandra Riendeau, Colebrook Planning Board; Colebrook Fire Chief Brett Brooks; members of the press and public.

John Scarinza, Chair, called the meeting to order at 6:05 PM. Jennifer Fish confirmed that the meeting had been posted in accordance with state statute.

APPROVAL OF MINUTES OF JULY 29, 2015:

Commissioner Brady made a motion to approve the minutes of July 29, 2015 as distributed. Ed Mellett seconded the motion. There was no discussion and minutes were unanimously approved.

PUBLIC COMMENTS NOT RELATED TO AGENDA ITEMS:

Chairman Scarinza stated that unless someone objected, this agenda item would be passed over until the end of the meeting.

OLD BUSINESS:

Planned Development Subdistrict Concept Plan Application Review – Dixville Capital, LLC for The Balsams Resort:

John Scarinza informed the public that this is a large project with many moving parts. On August 3, 2015, the applicant submitted a Concept Plan application which the Board will review for completeness, or determine if more information is needed.

Scott Rineer excused himself from any discussion on the Dixville Capital, LLC redevelopment project due to a potential conflict of interest. Chairman Scarinza appointed alternate Tom McCue to sit in for Rineer as a voting member.

Rick Tillotson stated that in the interest of full disclosure, he is President of Dixville Cemetery Corporation – a 501 (c) 13 non-profit. This parcel is surrounded by the proposed subdistrict. He receives no remuneration from this corporation.

Chairman Scarinza asked the applicant to make some comments related to the Concept Plan application.

David Norden stated that the Board had conducted two pre-application conferences with Dixville Capital. He asked if he was correct in his presumption that once the application is deemed complete the Board will schedule a Public Hearing on the application. John Scarinza stated that once the Board accepts the complete application, the Board will declare regional impact. The public will receive notice and have the opportunity to comment on regional impact and then a public hearing will be noticed.

Mr. Norden explained that in seeking approval of the concept plan, a new zone will be established in Dixville with a long term plan going out many decades. Dixville Capital is requesting that along with the new zone, new land use standards and site plan review regulations specific to this project will be adopted under which future development will take place. Additionally, the applicant wants the approval to include vesting. The Board can expect that a Final Development Plan for the Hampshire House and Dix House under the "to be adopted standards and regulations" will be filed very soon as well as a Site Plan Review application for the ski area.

Mr. Norden stated that the applicant needs clarification relative to where they need to present detail and where they simply cannot at this stage in the planning process for the resort. He noted that his team has a lot of experience nationally and internationally. They are accustomed to working with a planning professional at the local level as plans are developed and applications are prepared. The County does not have planning professionals as paid staff; however, they have engaged the services of Tara Bamford and Bernie Waugh. Norden emphasized the need for collaboration and suggested that the developer and representatives of the Board convene a workshop to go through the details of the plan. He envisioned that a workshop would be a more streamlined process. He stated that he was making this as a formal request to the Board to meet with a county team to facilitate the dialogue to achieve what they are looking to do. Ed Brisson asked if Dixville Capital could have a workshop with Tara as she works for the Board. The goal is for both parties to work efficiently together. John Scarinza replied that the Board is willing to discuss that request.

Mr. Norden presented PowerPoint slides that summarized the developer's understanding of the process: *(slides are included as an attachment to these minutes)*

Slide 1. A flow chart of the typical approval process beginning with the preliminary concept discussions that ultimately flow to the Final Development Plans which will include detail drawings, site specifications and infrastructure. At substantial completion, a phase is vested permanently.

Slides 2-3. Concept Plan Chart for DD-P Balsams beginning with Stage 1 plans for the Hampshire House and Dix House as well as the Stage 2 ski area. Stage 3 and Stage 4 plans will be market driven as the developers need to be nimble. Each stage will go through site plan review with the Board. Included on this slide was the request for

specific Land Use Standards for the resort which he noted, the Board has the power to adopt as well as Site Plan Standards. He stated that the team understands that waivers are available.

The chart on the slide continued that the Planning Board approved Concept Plan for the Planned Development District – Balsams will be recommended to the County Commissioners and once approved at that level will proceed to Delegation approval. Once the zoning change has been approved by the Delegation, the Planning Board will issue a Concept Plan Permit. Mr. Norden added that they understand that each phase will have conditions placed upon them by the Board. Ed Brisson stated that the whole process leads up to Site Plan Review and Subdivision as the next steps – each stage will need Site Plan Review and Subdivision.

John Scarinza responded that the Board may or may not be able to agree with the various proposals the developer has made. Ed Brisson stated that they need the new zone that allows for specific uses, identifies densities with standards spelled out much the same as the current zoning ordinance that specifies uses allowed without a permit and uses allowed with a permit.

Mr. Norden stated that once the Dix House, Hampshire House and Ski Area are completed, they are requesting that these projects will be vested as substantial completion.

John Scarinza proceeded to the discussion of application completeness. Burt Mills asked to back up a little bit before the application review began. He wanted to present what the developer's intent was in the first place. He stated that they want to bring the resort back and they have looked at its potential for economic benefit. They have expected the support of state and local agencies. Mr. Mills emphasized the importance of "Proof of Concept", a notion that gives financial investors the confidence that the project can be built. He stated that it is critical to figure out how to do that. The only way to get this project funded is vesting of regulatory permission. It is a requisite that a way is found to produce a work product that is appealing to investors. He stated that he cannot apologize for the position they are in. They are willing to work hard and they are looking for collaboration to help them get there. He stated that this project will not happen without collaboration and cooperation.

John Scarinza responded that the Planning Board has an important role to help encourage the project while working within its guidelines and is not averse to thinking outside the box. Part of the review process has been hiring Tara Bamford, a professional planner with 30 years of experience as well as engaging the services of Attorney Bernie Waugh with 30+ years of experience in municipal and planning law. They are providing guidance to the Board and feedback to the developer. When Dixville Capital, LLC filed its application it was immediately sent to Bamford for completeness review and to Waugh for legality of concepts that are being proposed. John wondered how far into the future a Board can approve a concept plan; when does vesting occur and at what level

does it take hold for each portion of the project; and how can you vest future phases that could be 20 years out.

John stated that the Board needs to balance the request of the developer and the project's associated economic opportunities for the region with the obligation to do no harm by considering the project's effects on county services and the county's taxpayers.

John proceeded with application review by component and noted that the Board will say if the component is complete or will request additional information.

Specific Application Requirements - Section 4.07(g)

A. A description of the property boundaries proposed for the DD-P, including a statement of present and proposed ownership.

Tara states, "The applicant provides existing property boundaries and the proposed boundary of the DD-P, along with a general description of ownership intentions on pp. 8- 9 of the application. No future internal lot lines are shown. Is the intent for the entire acreage to remain in one holding, e.g., no individually-owned lots, or common areas held by a homeownership association? No land transfers proposed for conservation mitigation?"

It was agreed that the applicant needs to provide mitigation components.

Mike Waddell expressed concern about clearly defined ownership patterns as the application makes reference to the right to sell any or all. He continued that overall there might be 4,600 dwelling units that could add up to about 18,000 people depending on the mix of hotel rooms, single family units and condos. He recommended that the developer provide a breakdown of where single family homes will be, where hotels will be and where condos will be. He added that Phase I is clear but there is not much clarity after that. The Board's intent is to plan for success but it must also plan for failure. If the project fails, what about a road system that is half done and buildings that are incomplete. There needs to be some legal language that assures the Board that the local government is released from any future liability. Mike said that he would like to see the envisioned future ownership information sooner than later. Currently there are 4 individuals who own the property but there may be hundreds of ownerships in the future. Attorney Waugh stated that a requirement for the plan is to provide present and proposed ownership but the developers cannot be expected to provide this information until the end of time. Tonight's meeting needs to address the completeness of the application and Mike's concerns are too specific at this point.

Tara stated that she does not expect the applicant to provide the language of homeownership covenants but would like to see where ownerships are on the map. The application states that 4,600 units can be located anywhere. John followed up with the proposed 1,500 units proposed for South Village and asked if these would be condos or vacation type rentals or single family homes. He wondered if the developer could provide internal lot lines.

Ed Brisson replied that there will be hotels, condos and single family homes. They have pretty clear ideas for the Lake Village area but for the rest, they simply do not know. He continued that all the roads will be maintained by owners or condo associations. When the developers come in for Site Plan Review, all those details will be provided as required. In terms of disclosures to buyers, the NH Attorney General has to approve the contract details, sales literature, etc. That is law. He added that the developers are not asking the Board to ignore utilities such as water and sewer. These are heavily regulated by the state and they are asking the Board to rely on state permits to prove the adequacy of these utilities.

Dave Norden stated that there will be a recurring theme of redundancy. The developers will bring all permits issued as a result of applications prepared by experts. Deep engineering studies will be provided with each Site Plan Review application.

John Scarinza asked how the Board can evaluate the dwelling units – hotel rooms versus single family homes. He noted that 4,600 homes is a small city. Burt Mills stated that they will define what they can define.

Rick Tillotson asked if the build out of 4,600 units is essential for financial investors' confidence in a return on investment. Burt Mills stated that the 4,600 unit estimate was a result of analyzing the proposed resort capacity, trail capacities of the ski area during winter. There was a need to determine a certain capacity for the scale of the ski area envisioned.

B. A statement of the objectives to be achieved by locating the development in its proposed location. The statement should describe why the site is considered the best reasonably available for the proposed use(s). The fact that the applicant owns or leases the property shall not, of itself, be sufficient evidence to satisfy this last requirement.

Tara states, "This information is provided on pp.1-2 and p.9 of the application."

There were no comments from the Board – no further information needed.

C. A preliminary development schedule and construction program that indicates when the project and stages thereof will begin and be completed. The schedule is to specify what percentage of the total project is represented by each stage and what buildings, floor areas (if appropriate), and land areas are included in such stage.

Tara states, "Only a general description of some first steps is provided (p.10)."

Ed Brisson stated that they do not want to provide misleading information. They know Phase 1 and have some idea on Phase 2. He asked why the Board needs this and wondered what the purpose of requesting this information is. John replied that for the development around Lake Gloriette, the Dix House and Hampshire House are fairly well defined – there's a plan, there's a time frame, there is information on which to make a

decision. He noted that the developer is expecting the Board to approve a big concept. It is important to know if the soils can support this big plan. He stated that if he were the Fire Chief in Colebrook, he would be asking if his department has the capabilities to provide service. He suggested that the developers provide what is realistic in the next 3-5 years.

Rep. Rideout reminded Board members that they are looking at a concept – an idea - the developers have said they will come back for each phase and the questions tonight are better addressed when each phase is brought in. The developers have stated that this build out could take 30 years and in his opinion the Board is getting into more detail than it needs for “this idea”.

John did emphasize that he wants to know more about the breakdown of the 4,600 units.

Fred King stated that the developers have a vision for the property to be done in phases and suggested that is what the Board should be dealing with. When Phase 1 is built and successful, then the developers bring in Phase 2 when they have the capital to do that phase. Mike Waddell stated that the plan looks good to him especially in the first phase but he stated there is an overtone that if the Board is okay with the first part, the developers expect the Board to go along with the rest.

Mr. Norden replied that this needs to be resolved. If Phase 1 is approved and built, the developer will come in with Phase 2. There is no way the developer is asking for carte blanche on everything.

Mike Waddell stated he has concerns about 25% grades on driveways. The concept plan looks very good but when the new zone is created, the developer will have the right to build this thing out with Site Plan Review oversight. Burt Mills referred the Board to Page 32 – section 2 a. of the application that states “Driveways shall be permitted on natural or man-made slopes over 25% grade subject to the steep slope mitigation. He explained it is not the intent to have a driveway at 25% grade but allow driveways across a steep slope.

Attorney Waugh stated that the idea of having a workshop is a good one. The developer is looking for something to be vested into the future and it is important to know specifically what the developer wants vested. David Norden replied they want land use standards, zoning regulations and site plan review regulations that will not change going forward. It is important for them to know what they are designing to especially when they get to phases 3, 4 and 5.

Tara Bamford stated that the current problem is the way of the zoning ordinance is written. She stated that an option is a change in zoning ordinance language that could be recommended to the Delegation.

Tom McCue said that this is a planned development district and the ordinance in effect right now. The Board is at the point where it is considering a Concept Plan and what is required is clearly spelled out. That is what the Board has to work with.

Mr. Norden explained that Phase 1 will cost \$145,000,000. Often in municipalities phases cost the developer \$1M, \$2M, or \$3M. By most standards a project cost of \$145M is build-out at most resorts. Investors want to know that if Phase 1 works, then the developers will move on to future phases.

Tom McCue stated that he likes the position of "Proof of Concept". Rep. Rideout stated that the Board needs to follow the process but advises against getting hung up on minute details. Those details will be presented during Site Plan Review.

Tara added that this is called a Concept Plan for a zoning district. It would seem like the middle ground is a zoning change that is bigger than Phase 1. Attorney Waugh described a Supreme Court case relative to a hotel complex in Portsmouth. The hotel's plans included retail space and conference rooms. It was a vested plan. The owners changed the configuration of the retail and conference space and the Court found that the prior plan approval was no longer vested. His concern was how to get a handle on the future. Phase 1 is enough to vest a project. The legal problem needs to be solved; there is a need to define what is vested and what is not.

Ed Brisson stated that there is a lot of land in this vast holding and it is a small percentage of the entire land that will be developed. Mike Waddell observed that the developers are looking for the right to build a small city in the future. If the Delegation zones it as requested, the developers can do it. Dave Norden stated that all phases will be subject to Site Plan Review.

John Scarinza asked that the developers show South Village and the current concept for this area. At the time that phase is reached, if the concept changes, let the Board know. Ed Mellett countered that he does not want the developers to tell the Board something that the developers do not know.

D. A statement of the applicant's intentions with regard to future selling, leasing or subdividing of all or portions of the project. The statement should describe the type of covenants, restrictions or conditions that are proposed to be imposed upon buyers, lessees or tenants of the property.

Tara's comment is that no specific details are provided on future ownership. Ownership is discussed in general terms only on p.10; this appears to be for first phase only. No details are provided regarding covenants, restrictions or conditions. For example, who will be responsible for maintenance of each component of the development in the future? Will further subdivision be allowed? Will the use of various properties be managed through covenants?

Mike Waddell stated that the Board has already covered that earlier in the meeting.

E. General statements to satisfy the Board that the project is realistic, and can be financed and completed. Such statements shall demonstrate that the applicant has the financial resources and support to achieve the proposed development and that a sufficient market exists for the goods and/or services the development will provide.

Tara states, "General statements are contained on pp. 10-11. A market study is referred to but not provided. No documentation of financial resources is provided."

Mike Waddell asked the applicants why the information required was not provided. John Scarinza stated that the Board would like a copy of the market study that was completed. Ed Brisson replied that it will be provided to the Board. As far as the financial resources, Mr. Norden stated that the zoning change is needed before the developers can provide the financial details; investors want zoning approval before they commit. Rep. Rideout stated that he does not know about the status of the loan guarantee application before the Business Finance Authority (BFA) but what he does know is that there was a lot of support statewide for SB30. Tom McCue added that the Board has the \$145M figure for Phase 1. The ordinance calls for general statements and as far as he is concerned, the requirement is fulfilled.

F. A preliminary statement of the environmental impact of the proposed development which sets forth the reasonably foreseeable adverse effects and measures to be taken by the applicant to minimize such effects. An Environmental Impact Statement (EIS) may be required after analysis of the Preliminary Impact Statement.

Tara states, "This information is not provided. Reference is made on p.11 to some state and federal permits required, however, the application material for these, which may document the environmental impacts and efforts to minimize them, is not provided. No information is referenced regarding traffic impacts, e.g., expected peak volumes, direction, adequacy of existing transportation networks, off-site improvements planned. Also, although review of the specifics is the responsibility of the Town of Colebrook, some information on the Panorama Golf Course development would be required to assess traffic impacts in regard to criterion F "provides for safe and efficient traffic circulation" (Section 4.07(g)(2.)). No information is referenced regarding visual impacts."

John advised the developers that they need to provide more information relative to the environmental impact. Ed Brisson stressed the amount of environmental analysis that the developers are doing. Dave Norden referred the Board to Exhibit 3 which lists all the state and federal agencies that are covering all fronts of environmental analysis. Tom McCue expressed his concern about the Board ceding its authority to other agencies. He understood that all permits will be provided but questioned at what point the Board cedes its authority. However, he understands what the developers are saying and wondered if this would be an area for the Board to approve a waiver as long as all permits are submitted. John stated that each agency listed will have approvals for different

components of the project. In exchange for the density of development proposed for South Village, the developer will specify what land areas will mitigate that. He was concerned that the developer has not described the big picture. Ed Brisson noted that the permitting process is for the entire project. John stated that he anticipates that most of the information that would be helpful to the Board on the environmental piece is contained in the state and federal permit applications. Burt Mills said the team is currently working the state and federal agencies on mitigation. The preliminary analysis for the existence of habitat for the long eared bat was just received and none have been identified in the project area. Mr. Mills stated that he will provide hard copies of the developer's mitigation proposals. John Scarinza asked for a synopsis of the environmental analysis in 10 or so pages. Mills replied that he will prepare something that makes sense to the Board under this section.

G. A general statement that indicates how the natural resources of the area will be managed and protected so as to reasonably assure that if those resources are currently designated within Protection Districts they will receive protection that is substantially equivalent to that under the original subdistrict designation.

Tara stated, "This information is not provided. Reference is made on p.12 to some state and federal permits required. It should be noted that state and federal regulations regarding shorelines, steep slopes and high elevations, wetlands do not provide equivalent protection to that provided by the Zoning Ordinance. No information is provided on protection of the Unusual Areas."

Tara stated that the new development district needs to provide the same protections in the Zoning Protected Districts (PDs) that currently exist in the ordinance. John asked Tara to give guidance to the developers on this item. Tara asked the developers to be specific about what development will occur in high elevations, wetlands, and other protected districts. Ed Brisson stated that when you look at PD 8 (Unusual Areas), what is important? Everything? He stated that they will be happy to work with the Board to better define where development will occur in protected districts but he noted that the Board needs to better define these districts. Tara reiterated that the Board will need some tradeoffs for mitigation. Ed Brisson replied that when the mitigation package is approved, it will be provided to the Board.

Tara noted that the developer has not provided any information relative to visual impacts and traffic impacts. John noted that traffic is something to be considered. Rep. Rideout asked the developers, "In Phase 1, how many cars will be coming in?" He then continued asking how much more traffic would the developer anticipate with Phase 2. He said that he sees traffic as an item that is a phased approval. He continued that when Site Plan Review comes in for Phase 1, the developers should provide statistics on the traffic impact to Colebrook and the State of NH's Route 26. Mark Frank suggested that the

traffic information might be contained in the market analysis that will be provided to the Board.

Tara urged the developers to provide a preliminary impact statement to be included in the application.

Becky Merrow, Colebrook Town Manager, stated that traffic counts are under consideration right now as part of Colebrook's Main Street project. She added that North Country Council generally provides that information. She stated that if Colebrook can be invited into the workshop with the developer, Colebrook can help with that. Traffic lights may have to be included in the Main Street design but it is incumbent upon Colebrook not to overdesign or underdesign the Route 3-Route 26 intersection.

Ed Brisson stated that as far as Phase 1 is concerned, the developers anticipate less traffic than what existed when the hotel, ski area and rubber factory were all operating. When the project is working its way towards Phase 5, he agreed that traffic studies will need to be done and he anticipates there will be a shared financial responsibility for infrastructure improvements as secondary development will naturally follow a successful project. Colebrook is surely the gateway community to the Balsams Resort. John asked Ed Brisson to prepare a statement for the concept plan that summarizes what he just said. Mike Waddell asked if there were traffic counts from when The Balsams was open.

H. A location map (drawn on a USGS topographic map base or zoning map) that indicates the area for which a DD-P designation is sought. This map should show all existing districts and subdistricts.

Tara noted that the developer provided Maps H-1 and H-2.

John Scarinza asked the development team if they were able to contact the NH Heritage Bureau for special features. Burt Mills replied that they were in touch with the Heritage Bureau folks for areas along the pipeline route. Only two areas were identified. John asked the developers to provide the Board with a copy of the NH Heritage Bureau letter. John asked if the developers have been in touch with the Society for the Protection of NH Forests relative to the conservation lands on the Balsams tract and any special features on these lands. John noted that when the Society was fundraising for the purchase of the easement, he recalled the solicitation described special features that should be preserved. Ed Brisson stated that he will check for that document and will provide the easement language to the Board. Burt Mills added that the easement language was attached to the Quit Claim Deed for the property. He added that he is currently in talks with the Society. There is no development proposed for the Society land but the developer needs to cross the land with a ski back trail and an extra ski lift in addition to the one already allowed in the easement.

I. A map showing existing site conditions, water courses, unique natural conditions, forest cover, swamps, lakes ponds, wetlands, existing buildings, road boundaries, existing recreational features such as snowmobile trails, property lines and names of adjoining property owners, scenic locations, and other prominent topographical or environmental features.

Tara's comment – "Although the legend on Map I-2 is incomplete, this map appears to contain most of required information. The Planning Board should pay special attention to this map to ensure that any additional features which would be important to take into consideration are included, such as trails, scenic locations, topographical or environmental features."

Rick Tillotson spoke of some inconsistencies he had noted in the maps during his review. For example, Map I-3 Existing Conditions – Lake Village Area shows buildings such as the energy plant, dormitories and a factory that have been demolished and no longer exist. Ed Brisson stated that the foundations are all there. Rick suggested that this Map should only show buildings that are still there. John Scarinza told the developers that they need to update that map.

Mark Frank asked how the Board will provide these comments to the developer. John replied that at the end of the Concept Plan review, the Board will outline for the developer the specifics of what the Board still needs to consider this a complete application.

J. A soils map of at least medium intensity that covers those portions of the site where any development is proposed. The description should use the soil group designations utilized in the USDA Soil Series.

Tara noted that this information is provided on Map J.

John stated that as part of the application he would like the developers to provide a map that shows areas of steep slopes and wetlands. For steep slopes, specifically depict areas above 2,700 feet. Dave Norden referred the Board to Map H-2. John and Ed Mellett studied the map and John agreed with Ed Mellett that the information he is seeking has been provided.

K. A preliminary site plan that shows the approximate location of all existing and proposed buildings, structures and other improvements, including roads, bridges, beaches, dumps, wells, sewage disposal facilities, storm drainage, cut and fill operations and general green areas. This plan should show the approximate proposed lot lines, the location of open spaces, parks, recreational areas, parking areas, service and loading areas and notations of what is to be in common or private ownership.

Tara's comment – "Much of the information the Board needs to begin concept plan review of the ski trails and lifts and the Balsams Lake Village Area is contained on Maps K-2, K-3 and K-4. Utilities such as water, sewer, and stormwater; any substantial cut and fill areas; and service and loading areas, in concept plan form, should be added on these or separate sheets. Any proposed lot lines should also be added.

No preliminary site plan was provided for the Ski Area Base Village, Cascade Basin or South Village to enable Planning Board review for compliance with the Zoning Ordinance."

Mike Waddell stated that as he understands it, the developers do not know what the site plan will look like for the Ski Area Base Village, Cascade Basin or South Village so they will not be able to provide it. He stated that the information provided for Phase 1 should be adequate.

Rick Tillotson informed the Board that he spent a great deal of time reviewing maps K 1-K 4 and noted that some things are described differently on the different maps. Rick offered to provide the developers with a list of discrepancies or inconsistencies that he noticed so the developers can have a correct set of maps to provide to the public. John stated that Rick's list would be sent to the developers so they can address the concerns. Members of the Board agreed.

Tara advised the Board members that they need to let the applicant know if they need to provide other items now or if the items will only need to be provided with the Phase 1 Site Plan Review application. She also advised the Board that what the Board waives should be very clear.

L. A map or description of the approximate size, type and location of proposed utility systems including waste disposal, water supply and electric and telephone lines. Where a public water supply, and/or a central sewage collection and/or treatment system is proposed, evidence shall be required to show that these facilities will meet applicable governmental requirements and that the soils are suitable for such sewage disposal system.

Tara noted that "No information on approximate size or location is provided. No information on soil suitability for on-site septic systems is provided. No information is provided to show where water and sewer would be shared vs. individual. General statements are contained on pp.14-15."

Ed Brisson noted that in regards to water and sewer capacity, it will need to be increased after the completion of the Dix House and Hampshire House. He understands that final approval of Phase 1 will be conditioned on those DES approvals.

Tom McCue stated that the items listed on page 28 of the application contain sufficient details to support the entire development.

John asked that the development team address the items required in Section L. in writing.

Ed Brisson continued that there exists a permitted sewer lagoon with a capacity of 225,000 gallons. The plant is there but the collection system is not yet designed. Additionally, the current water system will be redesigned. He added that they will provide a copy of the drinking water permit from DES. He stated that there is an adequate drinking water supply and asked if the Board wants to know where every underground pipe will be located. Rick Tillotson replied, "Not in the concept plan application."

Tara had provided comments on "Other Issues"

1. It should be noted that one of the Planned Development boundaries shown on the plans does not coincide with a property line. A subdivision plan for Map 1626 Lot 1 owned by Bayroot LLC will be required at some point. Attorney Waugh can better address the recommended timing of this step.

2. I noted that the signatures of the owners of several of the small lots within the outer boundary of the planned development have not been provided. My interpretation of the requirement that an application may be filed only by the owner or lessee of all lands to which the application pertains contained in Section 4.07 (c), coupled with the fact that a planned development approval pursuant to the Zoning Ordinance takes the form of a zoning change, led me to expect we would see all of the lots within the outer boundary included as part of the zoning change. The question of whether the Planning Board would in effect be creating "spot zoning" might be something better addressed by Attorney Waugh.

Attorney Waugh stated that there should be some type of evidence provided that all owners have been informed. Rick Tillotson stated that as far as he knows there has been no communication from the developer inquiring if internal owners want to be included within the boundaries of the DD-P. He noted that the application states that 2 or 3 owners will be excluded. Ed Brisson replied that these two owners are the Dixville Cemetery Corporation and Tom Tillotson. Rick inquired about the Frizzell parcel and stated that Susan Nash is on the outside of the DD-P. Burt Mills asked if the Frizzell ownership is the leased lot on the Bayroot Property. Jonathan Frizzell, in attendance at the meeting, verified that his lease is located on Bayroot property.

3. The application contains the statement "In addition to the identified primary development areas, other portions of the subdistrict may be developed in future phases to provide additional amenities, services, housing or other approved use" (p. 7). For the Planning Board to judge whether or not the proposed planned development meets the criteria contained in the Zoning Ordinance and is consistent with the goals and policies of the Master Plan, concept plans for each development area should show proposed lot lines, accessways, building footprints and uses, including number of square feet of each land use category, and number of units of each

type of residential use. Proposed common areas and areas to be conserved as mitigation to balance the increased density allowed in development areas should be shown.

4. The application states that power, water, wastewater, stormwater, gas and telecommunications will not be subject to site plan review (p.7.). I recommend that the Planning Board not waive any subdivision or site plan requirements in advance.

5. The application states that Golf Links Road will be repaired and resurfaced by NHDOT and the resort will assume ownership (p.7). Documentation should be provided for this, as well as information on the anticipated use and traffic to enable the Planning Board to make an informed decision about the adequacy of the existing road for proposed uses.

John asked the developers what is anticipated for traffic on Golf Links Road. Ed Brisson stated that they do not know what the traffic impacts might be. They do not want to widen the road and will post slower speed limits within the resort boundaries. Burt Mills stated they will offer internal circulation alternatives within the resort such as trollies to the golf course, etc. The plan is for guests to park their cars on arrival and travel throughout the resort by other means during their stay. John asked that the developers provide the Board with an opinion about traffic in Phase 1 for those who want to go golfing.

6. The applicant appears to have conflated vesting pursuant to RSA 674:39 with vesting of the concept plan/planned development approval (p.8). Once a concept plan for a planned development is approved by the Planning Board, the applicant needs to file a final development plan pursuant to the site plan review regulations within 18 months (unless extended by the Board) (Section 4.07(g)3.C.) Meeting this requirement, along with any other conditions of approval, ensures that the planned development subdistrict remains in place in accord with the approved concept plan. RSA 674:39 is referring to actual development activity that needs to take place to ensure that the portion of the development approved through site plan or subdivision review does not need to comply with any future changes to the regulations. When a site plan is approved for the first phase of the project, the Board should at that time articulate what will constitute "active and substantial development."

John noted that in regards to the vesting issue above, the Board will need to work on this issue some more.

7. Although most comments relative to the proposed Land Use and Dimensional Standards (pp. 16-22) would more appropriately be provided as part of a substantive review if requested following acceptance of a complete application, I noted one point in particular that has bearing on the application content: Dwelling Unit Definition (p. 16) and Rental Unit Definition (p.17) - The applicant proposes to group together in one land use category hotel rooms, employee housing, multifamily housing, and single family homes, whether permanent and transient. These are distinct land uses with different impacts on and needs from the County and surrounding

communities. For example, single family homes would likely have some year-round residents and require different services than hotel rooms. The numbers and location of each type of lodging unit and each type of residential unit should be provided as part of the concept plan. To underline this point, think about 1. the proposed definitions, 2. the statement earlier in the application that the proposed 4,600 dwelling units may be located anywhere in the 8,175 acres (pp. 3), and 3. the provision that ownership can be transferred for specific parcels (p.7). If the resort community envisioned by the current applicant were to not succeed in obtaining the required investment, approval of the application as submitted would mean the property could be sold to a future owner who would then have the right to develop 4,600 single family lots, or 4,600 apartments.

8. Although there is at least one New Hampshire community that contains in their zoning ordinance a provision that enables waivers from site plan review regulations and subdivision regulation standards to be granted in advance as part of the Planned Development Concept Plan, it does not appear to be specifically enabled in New Hampshire law. Further, the Zoning Ordinances for the Unincorporated Places are clear that site plan review is required. The proper way to request standards different than those required in the County's Site Plan Review Regulations and Subdivision Regulations would be to submit requests for waivers with future site plan and subdivision applications, accompanied by the justification for each specific waiver. It is my recommendation that pp. 23 - pp. 34 of the application not be accepted as part of the Planned Development application as written. Attorney Waugh may be able to provide some guidance as to whether or not some waivers from site plan requirements and subdivision regulations may appropriately be requested and granted as part of Planned Development approval if justification is provided.

9. Some important considerations are listed in the review criteria of the Zoning Ordinance that are not specifically mentioned in the "checklist." These are road maintenance, fire protection, solid waste disposal, and police security (Section 4.07(a)) and safe and efficient traffic circulation (Section 4.07(g)(2)). Additional material should be required to document that these facilities and services will be provided by the development without placing an undue burden on the County. Energy best practices are also listed in Section 4.07(g)(2).

Regarding Tara's comments in Section 9, John noted that additional documentation should be provided about road maintenance, fire protection, solid waste disposal and police security. He said, "Give us a statement that you will address these items." Burt Mills asked what form these statements will be made in. John stated it is extremely important for the developer to work with Colebrook regarding fire protection. On law enforcement, some statements should be provided by State Police, the Sheriff's Department or whatever agency the developer proposed to work with. Same with dispatch.

Burt Mills asked if the Board wants statements of where the developers are on these services.

Fred King cautioned that some of the services mentioned in Tara's list are not a function of the Planning Board. It is a function of the Commissioners to provide certain municipal services unless the developer wants to provide them. Commissioner Brady stated that the Board of Commissioners already negotiates contracts for certain services in some of the unincorporated places such as dispatch, fire protection, ambulance, etc. It is the Board of Commissioners who enter into those agreements and the Planning Board does not need to assume those responsibilities. Rep. Rideout did suggest that the developers provide a statement on how they plan to provide for life safety of their guests and employees.

Burt Mills assured the Board that they will work with the Commissioners regarding services. They have talked with Colebrook Town Manager and a Selectman and have scheduled to meet with the Selectmen in Colebrook. They will have similar discussions with the Town of Errol. At these meetings they are discussing and working on regional impact. Ed Brisson added that most of the regional impacts will come with future phases. In Phase 1, no more services will be required than the original Balsams required.

John Scarinza stated that the Board has laid out a laundry list during the review of the Concept Plan.

Attorney Waugh suggested that the Board might want to vote to allow him to share his legal opinions relative to the application with the developers. John stated to those in attendance that Attorney Waugh had provided the Board with some legal opinions on vesting, site plan waivers and vesting for a longer term. John stated that the Board will share those opinions with the developers.

Mike Waddell made a motion to share Attorney Waugh's legal opinion with Dixville Capital, LLC. Commissioner Brady seconded the motion. Chairman Scarinza asked for any further comments. Being none, he called for a vote on the motion and all members voted in favor.

Attorney Waugh noted that his legal opinion is now part of the public record. He suggested that he have a phone conversation with the developers as soon as possible. Mike Waddell made a motion to authorize telephone talks between the Board's attorney and the developers. Fred King seconded the motion and all members voted to approve.

John Scarinza asked how Tara could help facilitate the process. Tara replied that she reviews the documents submitted by the developer for the Board and her comments go to the developer much like a planning staff person would interact with a developer.

Rick Tillotson made a motion to assign Tara Bamford to the role of County Planner. Mike Waddell seconded the motion.

Ed Brisson requested clarification regarding Tara providing review versus being actively involved in the planning. He stated that the Board had asked the developer to pay for costs of outside independent review. John asked if Tara is uncomfortable with being part of the planning process. Ed Brisson stated that they want to work with Tara as if she was a town planner. Tara replied that she has served in that role before and can provide comments on their submittals. Commissioner Brady suggested that Tara be used to get things expedited.

Tara stated that it is her observation that the Board is not looking for all the stuff that is in the zoning ordinance. Attorney Waugh stated that to some extent all of the detail about future phases that they do not have, they are implying they are looking for waivers. The Board can recommend the zoning change with the waivers.

The Chairman called for a vote on the Tillotson motion to allow Tara to work on the Board's behalf and work with the applicants. There was no further discussion and all voted in favor of the motion.

John summarized that the Board has identified some items that need to be in the application before it can be accepted as complete. Attorney Waugh will work with the developers on existing legal issues and Tara will work on the zoning regulations with them. John indicated there is a need to continue this meeting and asked the developer how long it will take to put some of this together. Attorney Waugh stated that the Board needs a date certain to continue a meeting. Ed Brisson stated the developers want to meet as quickly as possible and suggested meeting next week.

Burt Mills requested that the Board provide the developers with a list of items required. John stated that a list could be developed from the minutes of the meeting and from items he and Tara have included in their notes.

Tara stated that she and Attorney Waugh think that the developers cannot under current state law have separate site plan review regulations.

John suggested that it is reasonable to schedule a continuation of this meeting in two weeks. A list will be provided to the applicants but Board members will need 3 or 4 days to review the developer's responses. Burt Mills stated that it is his understanding that the information to be provided is to complete the application, and then substantive review happens subsequent to that.

DATE AND TIME OF CONTINUED MEETING:

The decision was made to reconvene at 6 PM on September 2, 2015 at the Tillotson Center.

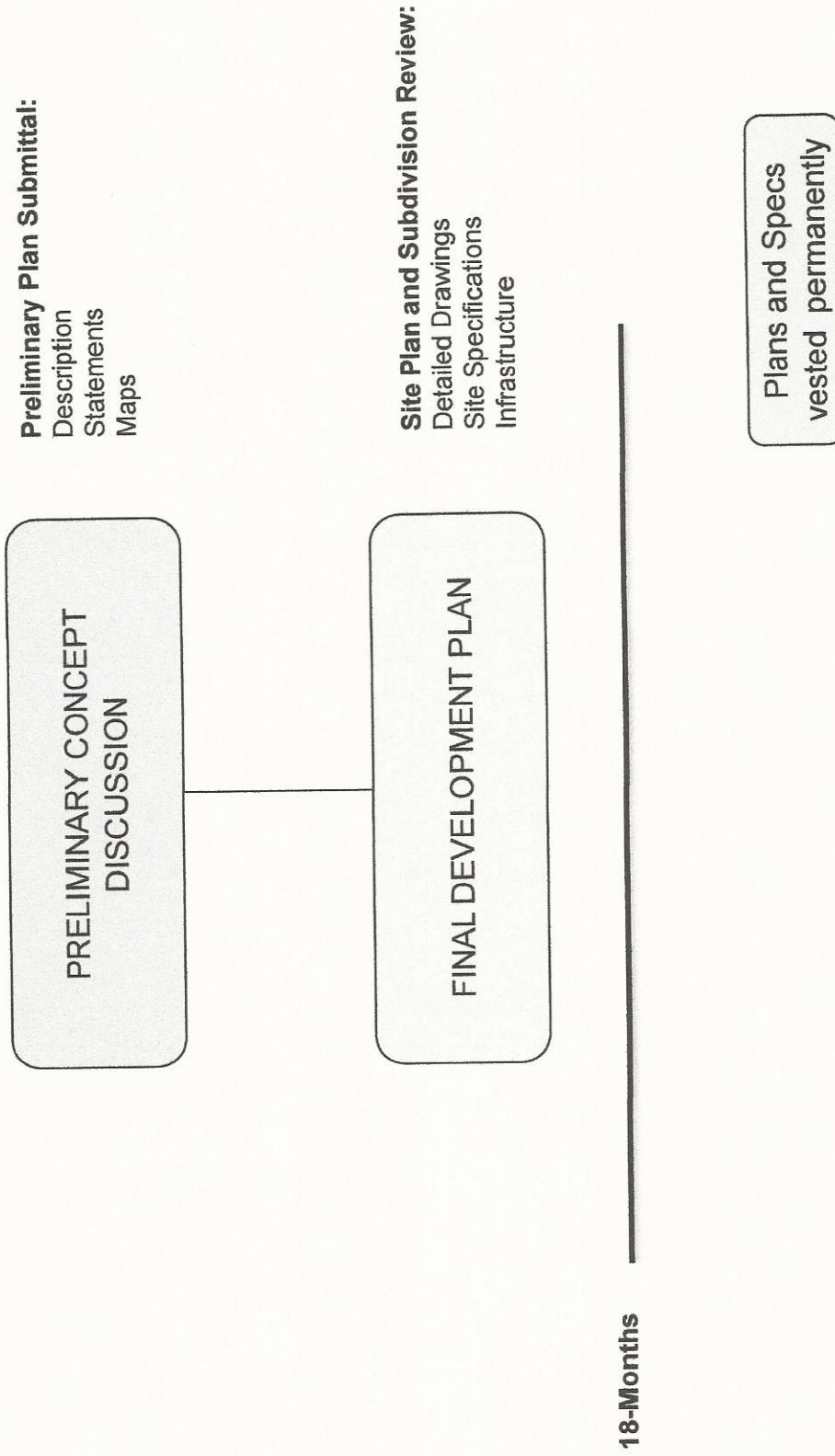
Respectfully submitted,

Suzanne L. Collins
Secretary to the Planning Board

Pending Approval

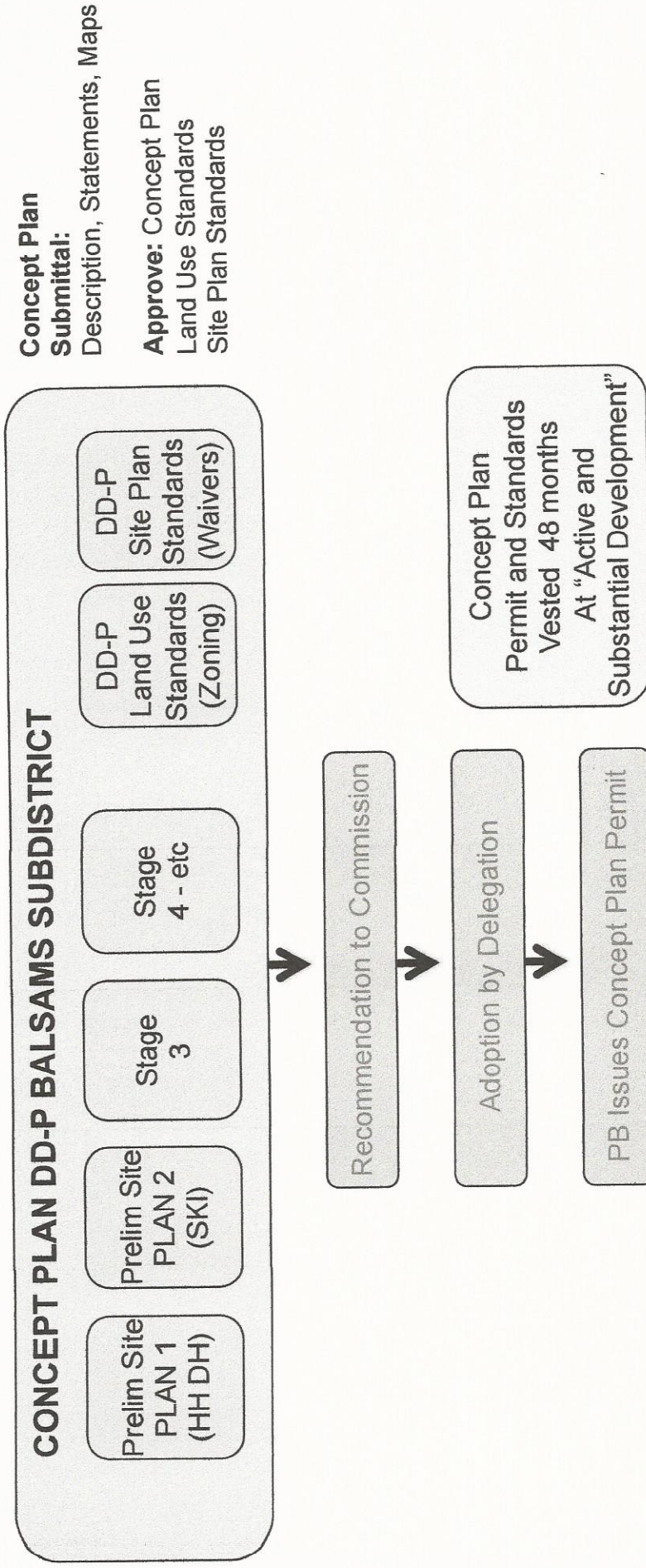
COOS County Approval Process - Typical

August 18 2015



DD-Balsams Subdistrict Approval Process

August 18 2015



Conditions of Approval for Final Development Plan Review

1. General Conditions of Approval (i.e. Transferability)
2. Reviewed under DD-Balsams Subdistrict Land Use and Site Plan Review Standards
3. Vesting outlined
4. Initial Stage – Hampshire House and Dix House
 - a. Conditions (i.e. Fire Marshal Approval)
 - b. Conditions (i.e. Drinking Water)
5. Ski Area Components (lifts, trails, snowmaking)
 - a. Conditions (i.e. 401 Permit)
 - b. Conditions (i.e. AOT Permit)
6. Future Stages
 - a. Conditions (i.e. Final Development Plan)
 - b. Conditions (i.e. Water / waste water)

DD-Balsams Subdistrict Approval Process

August 18 2015

