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TOWN OF THORNTON PLANNING BOARD

Approved on: 3/18/2021
PB Initials: SBS
Rec'd by Town Clerk on: 3/25/21
Town Clerk Initials: Don
in absence of TC

Planning Board Meeting Minutes Thursday, February 18, 2021

NOTE: In light of the COVID-19 pandemic and pursuant to Emergency Order #23/Executive Order 2020-04 as amended, "Temporary modification of municipal and local government statutory requirements," this meeting was limited in scope and was conducted via teleconference with a base at the Town Offices, 16 Merrill Access Road, Thornton, NH.

CALL TO ORDER – PLEDGE OF ALLEGIANCE:

Chairman Steven Babin called the meeting to order at 6:03 p.m.

ROLL CALL:

Members present at Town Hall: Steven Babin; Chairman, Frank Freeman; Vice-Chairman, Peter Laufenberg, Nancy Decoteau, Donna O'Donnell, Roy Sabourn, Kerrin Randall; Assistant to the Planning Board,

Members present via call-in: Kathy Menici, Planning Director, Town of Thornton; Julie Piehn, Alternate

Members not present: Karen Waters

Alternates present at Town Hall: Fred Gunter, David Rivers

Alternates absent: Cynthia Schofield, Gloria Kimball

Others present via call-in (partial names are as they appeared via Zoom): Barbara Leach, Benton Messersmith, Bob Gallagher, Brett Owings, Daniela Campos, Elain, George Daniels, Hal Macomber, jeff_, John, Jonathan Grebow, JS, Justin Preisendorfer, KATHERINE's iPad, Kathleen Kelly, Laurie's iPhone, Marc, Marcia King, Michael Sununu, Mike Plotnick, Nina Wellford, Richie Silver, Ron Sykes, Rothm, Sally Davis, Scott, Thomas's iPod, Tim Kingston, Tom Johnson - Engineer for Vertex, William

Others present at Town Hall: Francis Parisi; Vertex; Brian Lash, Owner of Owl's Nest; Max Lash, Owl's Nest; John Warzocha, Horizons Engineering; Chad Stocker, Owl's Nest; Philip Hastings, Attorney for Owl's Nest

Mr. Babin appointed David Rivers as a seated alternate.

APPROVAL OF MINUTES:

Upon distribution and review of the meeting minutes of January 21, 2021, the members took the following action:

MOTION: "To accept and approve the Minutes of the Thursday, January 21, 2021 meeting with proposed changes."

Motion: S. Babin

Second: F. Freeman

Discussion: Mr. Sabourn stated that references to a 'third party planner' should be changed to state 'third party engineer.' Ms. Decoteau stated a few grammatical changes were necessary, and provided Ms. Randall with them.

Roll Call Vote: 5 YES - 0 NO - 1 ABSTAIN (N. Decoteau)

Motion passes.

PRELIMINARY BUSINESS: None

COMMUNICATIONS:

1. FA Crane Bond Period Condition

Mr. Babin stated that in approving the excavation permit renewal, the bond period was listed incorrectly; FA Crane requested a five (5) year bond period, but excavation bonds are issued for one (1) year.

MOTION: "To amend the conditions of approval of the excavation permit for FA Crane Holdings, LLC to read:

The permit will be issued for five (5) consecutive one (1) year periods beginning on January 1, 2021 and ending on December 31, 2025 with no lapses in coverage."

Motion: F. Freeman

Second: P. Laufenberg

Discussion: None

Roll Call Vote: 7 YES - 0 NO - 0 ABSTAIN

REPORTS: None

UNFINISHED BUSINESS: None

HEARINGS:

1. Continuation of APPLICATION/PUBLIC HEARING – Site Plan Review; Vertex Tower Assets, LLC as agent for Michael C. Sununu and James G. Sununu, Trustees of the SMA Realty Trust, Upper Mad River Road. [Map 17 Lot 5-21].

Mr. Babin stated a full set of plans for the telecommunication facility was submitted this morning, and that the Board would welcome comments on the plans presented.

Mr. Parisi stated he received the site plans from his engineers this morning and shared them with the Board as soon as possible. He stated he understands that the Board has not seen the plans in full, and would like the opportunity for his engineer to go over what has been done. Mr. Parisi stated the project has changed dramatically since the first submission, as the access driveway was moved; as a result of moving the access, the engineers redid all of the plans.

Mr. Parisi stated moving the access driveway has resulted in many more reviews and permitting at the State and Federal level to include the Army Corps of Engineers and the NH Department of Environmental Services (NHDES).

Discussion ensued regarding bringing in a third party engineer to review the plans. Mr. Babin stated the Board wants to ensure that both the applicant and the Town are not missing anything regarding the plans.

Mr. Parisi stated Mr. Johnson would speak to the plans submitted. He stated that in the plans submitted was a report from an air navigation consultant that was requested at the last meeting. Mr. Parisi stated the report indicates that the tower will have no impact on flight navigation. He stated there is no registered flight path through the area where the tower will be and the tower does not have to be registered with the FAA. Mr. Parisi stated the Air National Guard does not need to be notified, but Vertex has reached out to them as a courtesy.

Mr. Parisi stated the notification needs to go through the Department of Defense, and they have done so in order to notify the military groups that utilize the air space around Thornton. He stated he would not build a tower that will in any way impact air travel.

Mr. Freeman thanked Mr. Parisi for the report, but the report was in regard to general aviation navigation and not military use. He stated the report clearly shows that there is no commercial activity in the airspace in question,

but the military flies very low in the area covered in the report. Mr. Freeman stated he is pleased to know that the Department of Defense has been notified.

Mr. Parisi stated that prior to construction of the tower, the FAA would be notified and they would then review the plans. If the FAA states that the tower will not be allowed in the airspace, then it will not be built. Mr. Freeman stated the FAA and Department of Defense are two different entities.

Mr. Parisi stated he agrees with Mr. Freeman, and a tower will not be built where it will hinder air travel. He stated the concern is justified and Vertex is addressing it.

Mr. Parisi shared the submitted site plan and Tom Johnson, engineer for Vertex, reviewed the plans and highlighted the following:

- The 12-foot gravel driveway will have a pitch or crown for watershed at the road entrance.
- The existing 2,300-foot abandoned logging road will be utilized; pulled culverts will be replaced.
- The driveway surface will be upgraded surface and swales will be installed.
- Along the driveway there will be two (2) large culverts in order to pass over it during construction.
- The access driveway is designed for construction access and then will not be used unless maintenance is needed at the facility or along the driveway. After construction, the facility will be unmanned and will not require plowing in the winter. Four-wheel drive vehicles, ATVs or snow machines will be used in the event that maintenance is needed.
- Storm water control will be installed; water bars to turn runoff from the driveway and a series of stone lined vegetated swale to prevent water from running across driveway. The swales will go to culverts and under the driveway. Check dams along swales will be installed to prevent flooding.
- Detention basins (small ponding areas) with a structure that releases water to match the pre- and post-construction runoff.

Mr. Johnson stated all the components were designed based on a drainage analysis done on the specific property.

Mr. Parisi stated the driveway is off of Upper Mad River Road and the entrance can currently be seen; the location of the entrance has been confirmed to be on the subject property and not the one next to it. Mr. Parisi stated abutters were re-noticed of this public hearing as the access has been moved since the last notice was sent.

Mr. Parisi stated the plans submitted were done to get through the State and Federal reviewers, and that they are very detailed. He stated they are above what the Town requires, and that the Board should not be intimidated by all the details in the plans.

Mr. Babin stated there is a maximum of 20% grade listed and some of the slopes are listed at 18%. Mr. Johnson stated there are a few steep parts of the driveway, and they know they can get equipment up the slope safely at 20%. He stated the engineers put in controls and safe guards to prevent accidents on a slope that steep.

Mr. Parisi stated the driveway engineering and construction is for a week's worth of activity and that Mr. Johnson is conscious of that. He stated once built, the driveway is unmanned and will not be maintained or plowed on a regular basis.

Mr. Babin stated that if this project were a residential plan, the Town would be concerned with the driveway as presented.

Mr. Johnson stated there are switchbacks designed to follow the contouring of the property that do not get too steep. He stated during construction there are several controls and procedures in place in the event of rain including erosion barriers to prevent flooding; one section will be done at a time, and NHDES permits will require inspections during construction.

Mr. Sabourn asked if there will be a gate at the end of the driveway to prevent trespassing. Mr. Parisi stated yes.

Mr. Gunter asked if the Town would be brought in to inspect the site during assembly of the tower. Mr. Parisi stated after the State and Federal permits are obtained, building permits from the Town will be needed, and he believes the Zoning Compliance Officer would need to come to the site.

Mr. Johnson stated part of the building permit application is that the engineers sign that they will be responsible for inspecting during construction.

Mr. Babin opened the public hearing at 6:45 p.m. He stated that the Board has not had a chance to review the plans in full and may not be able to answer questions based on that.

Nina Wellford, Upper Mad River Road, stated her property has been in her family for 50 years and is directly opposite where the driveway is. She stated she was disturbed to see that the decommissioned logging road was being used again. Ms. Wellford stated she and her family would be directly impacted by the access driveway, and asked how long construction would be, and how often would the gravel on driveway need to be replaced; there is a concern with erosion during heavy rain. Ms. Wellford stated this access and tower will be incredibly intrusive.

Mr. Babin stated he does not know when construction would start, as several permits need to be applied for and approved. Mr. Parisi stated there will be six (6) weeks needed for construction, and that it will be months before construction will begin. Mr. Parisi stated the driveway will not be a utilized road, and will be maintained as appropriate. He stated it will not be used everyday, and the Town can require a yearly inspection as a condition of approval if they want. Mr. Parisi stated the driveway is designed to best to control erosion.

Mr. Johnson stated the driveway is pretty flat at the beginning and is 1,000 feet away from where slope starts; the driveway is less likely to wash out at the road entrance.

Ron Sykes stated the area in question is a military training area; Yankee 2 is controlled by the FAA for training. He stated he contacted the Eastern Air Defense and they said the tower will be a major hazard. Mr. Sykes stated he does not want to see an air disaster in Thornton.

Mr. Babin stated the Planning Board has no jurisdiction over this, as the Zoning Board (ZBA) granted a height variance. Mr. Sykes stated air space should be considered in the site plan.

Discussion ensued regarding the request for rehearing to the Zoning Board; no new information was brought before the ZBA and the request for rehearing was denied.

Kathleen Kelley stated she attended all ZBA meetings and the concern with Yankee 2 was not discussed whatsoever. Ms. Kelley asked how close the switchbacks in the driveway will come to the neighboring properties.

Mr. Johnson stated switchbacks are at least 1,000 feet from the nearest property line. He stated the swales run along the access driveway, and any water runoff will run down the driveway; neighboring properties should see zero (0) impact.

Sally Davis stated she is concerned that heavy rain and severe weather will cause trees to fall and block the culverts. She asked if the Town of Thornton's road engineers have an opinion on how this will work, and asked Mr. Johnson if he had references for roads that have been designed in similar situations and terrains.

Mr. Babin stated the State and Federal permitting processes will look at these concerns, and the driveway design will be subject to a thorough review; driveways are designed to keep ones water on their own properties.

Elaine Sholtz asked if the National Environmental Policies Act (NEPA) had been reviewed.

Mr. Parisi stated the project is subject to a Federal Environmental Review, but the analysis cannot be conducted until a site plan is approved. He stated several federal regulations will need to be met; archaeologists, biologists, engineers, etc. will need to examine the site.

Mr. Babin stated the applicant must have an approved site plan before applying for NEPA approval; should NEPA need the plans to change, the applicant will need to come back before the Board. Mr. Babin stated NEPA will not be completed until the section that is affected is determined; the plans are public record and available at Town Hall for review.

Mr. Parisi stated he has no intention of messing with air space; if the site plan is approved and the FAA says no, then it will not be built. Mr. Parisi stated he does not want people to be fixated on the air space, as it is not a Planning Board issue.

Mr. Laufenberg stated if Mr. Parisi lived in the area and saw the training exercises, he would be concerned too; it is going to be an ongoing concern for citizens in the area.

Ms. Menici asked Mr. Johnson what type of storm event the driveway is designed for. Mr. Johnson stated the driveway is designed, at a minimum, for a 25-year storm event.

Mr. Babin closed the Public Hearing at 7:10 p.m.

MOTION: "To continue the APPLICATION/PUBLIC HEARING – Site Plan Review; Vertex Tower Assets, LLC as agent for Michael C. Sununu and James G. Sununu, Trustees of the SMA Realty Trust, Upper Mad River Road. [Map 17 Lot 5-21] at the March 18, 2021 meeting.

Motion: P. Laufenberg

Second: F. Freeman

Discussion: None

Roll Call Vote: 7 YES - 0 NO - 0 ABSTAIN

2. Conceptual Review of 'The Ham Farm' [Map 10 lot 8-9].

Jonathan and Tamra Ham entered the meeting at 7:14 p.m.

Mr. Babin stated the Hams were seeking guidance from the Board, as they received a letter from the Board of Selectmen (BOS) regarding their property on Route 3.

Ms. Ham stated the letter from the BOS stated they had too many cars on their property, and they need to know what they can do. She stated that cars are her family's livelihood and passion and she does not want to see their farm be zoned as a garage, towing company, or storage facility in order to keep their cars. Ms. Ham stated the RSA says that there can only be two (2) unregistered vehicles on a lot. She stated she wants the property to remain a farm.

Mr. Laufenberg asked why this was a BOS issue. Mr. Sabourn stated citizens have complained that the property looks like a junk yard.

Discussion ensued regarding ways to put the vehicles under cover and/or spreading them out on other lots owned by the family.

Mr. Babin confirmed that there are eight (8) unregistered vehicles that are going to remain outside at this time. Ms. Ham stated yes; no more than eight (8).

Mr. Babin confirmed that eight (8) cars cannot be put under cover and that they are personal property that will be fixed at some point. Ms. Ham stated they can apply for a change in use for the property, but they do not want to do that.

Ms. Decoteau suggested coming up with a long term (5 year) plan that addresses the concerns of the BOS; this will show the BOS that they want to resolve the concerns.

Mr. Babin stated he will inform the BOS that the Hams came to seek guidance from the Planning Board. He thanked the Hams for coming and they exited the meeting at 7:26 p.m.

3. APPLICATION/PUBLIC HEARING – Site Plan Review: The Lakehouse and Amenities Area; Marc Burnell as agent for LCJ Holdings, LLC, Clubhouse Lane. [Map 16 Lot 1-7 and Lot 1]

Mr. Hastings stated Ms. Menici sent him her comments on the previously submitted. He submitted updated plans with responses to her comments for the Board to review.

A lengthy discussion ensued regarding the changes in the plans made from the initial submission.

MOTION: “To amend the submission date of conditional approval items from September 1, 2020 to September 1, 2021.” This motion was made at the July 16, 2020 meeting.

Motion: S. Babin

Second: P. Laufenberg

Discussion: Mr. Sabourn stated the process for approving is moving too fast, as Ms. Menici has not had the opportunity to review the latest set of plans.

Discussion ensued regarding the changes made and the timeline to review plans.

Ms. Decoteau stated that she is uncomfortable moving forward with the plans if they are different from the originally submitted ones; are there items that were not covered in the July meeting included in the newly submitted plan?

Roll Call Vote: 7 YES - 1 NO - 0 ABSTAIN

Motion Passes.

Mr. Warzocha went over the plans with the Board and reviewed updates in detail including the responses from Mr. Hastings regarding Ms. Menici’s report. Mr. Hastings stated they were requesting waivers of some items on the Site Plan Review Checklist, as laid out in his memo response to Ms. Menici.

MOTION: “To grant waivers of the following items from the Site Plan Checklist:

B 12. Deed restrictions, easements, etc.

B 19. Landscaping

B 20. Exterior Lighting”

Motion: N. Decoteau

Second: F. Freeman

Discussion: None

Roll Call Vote: 5 YES - 0 NO - 2 ABSTAIN

Motion Passes.

Mr. Babin asked for public comment; there was none.

MOTION: “To accept the application as substantially complete.”

Motion: F. Freeman

Second: N. Decoteau

Discussion: None

Roll Call Vote: 6 YES - 0 NO - 1 ABSTAIN

Motion Passes.

Mr. Stocker reviewed the fire suppression system submitted for the facility.

MOTION: “To approve the Site Plan: The Lakehouse and Amenities Area; Clubhouse Lane. [Map 16 Lot 1-7 and Lot 1] subject to the following conditions as well as the conditions from the July 2020 meeting:

1. Copies of all necessary federal, state and/or local permits shall be received by the Planning Department and the permit numbers shall be added in a note on the site plan prior to the Planning Board signing the plan.
2. The Applicant shall submit to the Planning Board a landscaping plan in accordance with the requirements of the Site Plan Review Regulations as may be applicable, prior to the use and occupancy of the improvements shown on the site plan.
3. The Applicant shall submit to the Planning Board lighting and signage plans in accordance with the requirements of the Site Plan Review Regulations as may be applicable, prior to the use and occupancy of the improvements shown on the site plan.
4. Prior to the use and occupancy for the improvements shown on the site plan, the Applicant and the Planning Board shall agree upon, approve, and execute an amendment to the Land Dedication Agreement to account for the changes in available density thereunder as a result of this project.

From the July 2020 Meeting

5. Approved water supply permitting.
6. Approve septic permitting.
7. Satisfactory comment from the Fire Chief as to life safety issues.
8. Satisfactory comment from the Fire Chief as to any financial impact on his department.

Motion: F. Freeman

Second: D. O'Donnell

Discussion: None

Roll Call Vote: 6 YES - 0 NO - 1 ABSTAIN

Motion Passes.

3. Preliminary Consultation – LCJ Holdings, LLC for property identified as Tax Map 16 Lot 1-7 to discuss preliminary plans for Phase 1 of a hotel villa development to include a total of 13 units.

Brian Lash, Owner of Owl's nest presented a preliminary plan for Owl's Nest, moving forward highlighting the following:

- Racquetball, Tennis, and Pickleball Complex
- Lake area and beach
- Hotel Units
- 30% discount on certain activities for Thornton and Campton residents.
- The Master Plan for Owl's Nest will be given to the Town tomorrow.

Mr. Lash stated they will need to build a hotel complex to accommodate guests that have already been booked for the summer; this includes bridal parties and families. He stated the units the Board has before them can be built faster than the Meadows building that was approved at the last meeting. Mr. Lash stated he wanted the Board to have plans in front of them, so that they can get approval at the March meeting.

Discussion ensued regarding the costs and timelines for construction of the proposed units. Mr. Lash stated he recently purchased the Gilcrest Motel and will be housing workers to expedite the building of the proposed units.

Mr. Laufenberg asked if a change in use needed to be done for Gilcrest. Mr. Lash stated the workers and guests that are staying there are being charged for their stay and it is still being used as a hotel.

Ms. Decoteau asked how the Land Dedication Agreement (LDA) was going to be addressed with the proposed units and in relation to the Master Plan. Mr. Hastings stated the LDA is being worked on based on the Master Plan that will be submitted.

Mr. Hastings stated that with the third-party engineer on board, plans can be reviewed and the LDA can be discussed simultaneously. Mr. Hastings suggested a work session between Mr. Babin, Ms. Menici, and himself to

talk more about master plan and LDA. He stated following the March meeting they will have a better understanding of how the LDA fits in with the Master Plan.

Discussion ensued regarding the LDA, Master Plan, and dwelling units.

The Board thanked Mr. Lash for his presentation.

3. APPLICATION/PUBLIC HEARING – Site Plan Review: Sunrise Nanos - J, K, L; Marc Burnell as agent for LCJ Holdings, LLC, Lafayette Road. [Map 16 Lot 1-7SROC]

MOTION: “To continue the APPLICATION/PUBLIC HEARING – Site Plan Review: Sunrise Nanos - J, K, L; Marc Burnell as agent for LCJ Holdings, LLC, Lafayette Road. [Map 16 Lot 1-7SROC] at the March 18, 2021 meeting.”

Motion: S. Babin

Second: P. Laufenberg

Discussion: None

Roll Call Vote: 7 YES - 0 NO - 0 ABSTAIN

Motion Passes.

4. APPLICATION/PUBLIC HEARING – Minor Site Plan Review: Slice Restaurant; Marc Burnell as agent for LCJ Holdings, LLC, Lafayette Road. [Map 16 Lot 1-8]

MOTION: “To continue APPLICATION/PUBLIC HEARING – Minor Site Plan Review: Slice Restaurant; Marc Burnell as agent for LCJ Holdings, LLC, Lafayette Road. [Map 16 Lot 1-8] at the March 18, 2021 meeting.”

Motion: S. Babin

Second: P. Laufenberg

Discussion: None

Roll Call Vote: 7 YES - 0 NO - 0 ABSTAIN

Motion Passes.

OTHER BUSINESS:

Mr. Babin stated Mr. Gunter will be stepping down as an alternate to the Board. He stated Mr. Gunter has been an exceptional help and would like to recognize his time on the Board. Mr. Babin stated the 2020 Town Report is being dedicated to him.

ADJOURNMENT:

MOTION: “To adjourn at 9:31 p.m.”

Motion: N. Decoteau

Second: D. Rivers

Discussion: None

Roll Call Vote: 7 YES - 0 NO - 0 ABSTAIN

Motion passes.

Respectfully Submitted,

Kerrin Randall, Board Assistant