

# TOWN OF THORNTON PLANNING BOARD

Approved on: Feb 25 2021  
PB Initials: SB  
Rec'd by Town Clerk on: 3/1/2021  
Town Clerk Initials: dpm

## Planning Board Meeting Minutes Thursday, January 21, 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 6:00 p.m.

### ROLL CALL:

**Members present at Town Hall:** Steven Babin; Chairman, Frank Freeman; Vice-Chairman, Peter Laufenberg, Donna O'Donnell, Karen Waters, 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:** Nancy Decoteau

**Alternates present at Town Hall:** David Rivers

**Alternates absent:** Fred Gunter, Cynthia Schofield

### **Others present via call-in (partial names are as they appeared via Zoom):**

Alex L, Bob Gallagher, Bob Murray, Bob Newhart, Brett Owings, Brian, Cher Duffield, David Kelley, Diane, Elaine, James Sununu, Jeff Greeson, Jeff Scholtz, Jeremy Duffield, jgs, John; Andrews Construction, Jonathan Grebow, jp0987@live.com, JS, KATHERINE's iPad, Kayo Matsushita, Kevin Dorsey; White Mountains Escapes, Marc, Marcia King, Max Lash; LCJ Holdings, LLC, Michael Conklin, Michael Sununu, Mike Plotnick, Ron, rothm, Sally Davis, scott, Td, Tim Kingston, Tom DeMatteo, Tom Johnson; Engineer for Vertex

**Others present at Town Hall:** Francis Parisi; Attorney for Vertex, Philip Hastings; Attorney for Owl's Nest, Bob Fraser, Chad Stocker; Owl's Nest, Brad McCoil; Owl's Nest, John Warzocha; Horizon's Engineering for Owl's Nest

### APPROVAL OF MINUTES:

Mr. Babin stated that the December meeting was canceled due to weather.

Upon distribution and review of the meeting minutes of November 19, 2020, the members took the following action:

**MOTION: "To accept and approve the Minutes of the Thursday, November 19, 2020 meeting."**

**Motion: P. Laufenberg**

**Second: K. Waters**

**Discussion: None**

**Roll Call Vote: 5 YES -0 NO -1 ABSTAIN (F. Freeman)**

**Motion passes.**

**PRELIMINARY BUSINESS:**

1. Fraser Meadows Road Bond

Mr. Babin stated the board received a letter from Kevin Dorsey of White Mountains Escapes, LLC informing them that he is purchasing Fraser Meadows from the Fraser family. Mr. Babin stated a road would be installed and Mr. Dorsey had provided a road bond in the amount of \$60,000.00 for review and approval.

Mr. Sabourn stated the bond had the wrong expiration date; listed as 2021 and should read 2023.

**MOTION: "To accept and approve the road bond submitted by Kevin Dorsey of White Mountains Escapes with the following conditions:**

- **Ac copy of the bond with an expiration date of 2023 will be submitted on or before Wednesday, January 27, 2020 by end of day."**

**Motion: R. Sabourn**

**Second: K. Waters**

**Discussion: None**

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

**Motion passes.**

**COMMUNICATIONS: None**

**REPORTS: None**

**UNFINISHED BUSINESS: None**

**HEARINGS:**

1. APPLICATION/PUBLIC HEARING – Excavation Permit Request – FA Crane Holdings, LLC [Map 15 Lot 4-31].

The Board reviewed the renewal application. Mr. Sabourn asked if \$50,000.00 was a carryover costs to cover restoration costs from previous applications. Ms. Menici stated yes.

Mr. Sabourn stated the amount of \$50,000.00 for restoration seemed low and asked how much area is being claimed.

John Crane, Andrews Construction, stated they keep 5-6 acres open for excavation at a time; the rest is being recovered.

Discussion ensued regarding restoration costs. Ms. Menici stated she will research the cost of restoration to determine if future excavation permits will require a bond exceeding \$50,000.00.

**MOTION: "To accept and approve the excavation permit renewal submitted by FA Crane Holdings, LLC with the following conditions:**

- **The permit will be issued for a 5-year period beginning on January 1, 2021 and ending on December 31, 2025;**
- **The application and plat shall be corrected to show the map and lot number as Map 15 Lot 4-31;**
- **The applicant shall provide a bond in the amount of \$50,000 to guarantee the restoration of the property. The bond shall be made in favor of the Town of Thornton and shall run for a period concurrent with the dates of this permit plus six (6) months. A copy of the restoration bond shall be provided to the Town of Thornton within 30 days of this approval."**

**Motion: F. Freeman**  
**Second: D. O'Donnell**  
**Discussion: None**  
**Roll Call Vote: 6 YES -0 NO -0 ABSTAIN**  
**Motion passes.**

2. 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. Parisi stated, since the last Planning Board Meeting, the Zoning Board granted the following:

- Waiver to allow a telecommunications facility in a residential zone.
- Variance to allow the height of the tower to exceed 100 feet with a maximum height 182 feet.
- Variance to allow a vegetative buffer to begin away from the fence line.
- Variance to allow the proposed facility to have overhead utilities.
- Variance to allow a lattice style tower to be built.

Mr. Parisi stated the access road will be off Upper Mad River Road, not Treeline Road, and the overhead utilities will follow the path of the access road. He stated engineers and surveyors have been to the site several times over the last few months to walk the property. Mr. Parisi stated the access road will be a mile long and is being made at significant cost to the applicant. He stated several state and government permits are needed before construction can begin, and a Site Plan will be submitted to the Board at the next meeting.

Mr. Parisi stated the access road will use an existing driveway and curb cut, however, it has not been determined if the driveway is on the site lot (Map 17, Lot 5-21) or on the neighboring property (Map 17, Lot 5-21-1). He stated both lots are owned by SMA Realty.

Mr. Babin thanked Mr. Parisi for the update. He stated he is concerned that there is now another lot involved in this project. Mr. Babin recommended that abutters to both lots be re-noticed, as the access road being put off Upper Mad River Road may affect abutters near the new entrance.

Mr. Bain stated the Conservation Committee walked the lot with Vertex. Myrtle Lewis, Chair of the Thornton Conservation Committee (TCC) submitted the following:

- The TCC members in attendance of this site walk were duly impressed with the thoroughness of the contractors' plans for the access road, clearly marking all wetland areas and their plan to take actions to minimize impacts upon the wetlands and other natural features. Pending compliance with all DES and other applicable rules and regulations, the TCC members agree with the plan set forth by the contractors. Going forward, the TCC will review the wetland permit prior to submittal to DES.
- The TCC has requested notification when construction will begin and site access during construction.

Mr. Babin asked if Upper Mad River Road is a designated scenic highway, and Mr. Parisi stated he will investigate to see if that is the case.

Discussion ensued regarding re-noticing abutters to the site lot (Map 17, Lot 5-21) and the neighboring property (Map 17, Lot 5-21-1). Mr. Babin asked Mr. Parisi if the previously proposed access lot (Map 12, Lot 5-9) on Treeline Road was no longer involved. Mr. Parisi stated Treeline Road is no longer involved.

**MOTION: "To re-notice all abutters of the site lot (Map 17, Lot 5-21) submitted, and the neighboring property (Map 17, Lot 5-21-1) with a new description and location of the access road."**  
**Motion: S. Babin**

**Second: F. Freeman**

**Discussion:** Ms. O'Donnell stated the change in access is a significant enough change to warrant re-noticing the abutters.

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

**Motion passes.**

Mr. Freeman asked if the Air National Guard had been notified of the proposed tower, as they practice low flying maneuvers in the area. Mr. Parisi stated they have done database research for air navigation to determine if the tower would be a danger to air travel. Mr. Freeman stated that is in relation to commercial and private planes.

Mr. Parisi stated he will bring this to the attention of his aviation consultant.

Mr. Babin addressed those in attendance and on Zoom, stating that there has been no information provided by the applicant at this time to warrant opening a public hearing. He stated that letters of notice for a public hearing will be sent prior to the next meeting.

**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 February 18, 2021 meeting.**

**Motion: D. O'Donnell**

**Second: P. Laufenberg**

**Discussion: None**

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

**Motion passes.**

Mr. Babin stated LCJ Holdings, LLC has four (4) applications on the agenda. He stated more information is needed to act on the applications. Mr. Babin stated he, Mr. Serge, and Ms. Menici have been working with Owl's Nest to come to an agreement on how applications are received and processed. He stated both Mr. Hastings and Mr. Serge have agreed that all parties need to put forth more effort moving forward.

A lengthy discussion ensued regarding application timelines, checklists, and meeting availability.

3. Continuation of APPLICATION/PUBLIC HEARING – Site Plan Review: The Meadows II; Marc Burnell as agent for LCJ Holdings, LLC, Lafayette Road. [Map 16 Lot 1-7MDCO].

Brian Lash, LCJ Holdings, LLC stated he has owned Owl's Nest for five (5) years, and this was the first time he has felt the need to come before the Board; he thanked the Board for hearing him. He stated The Meadows II project has been pushed back due to meetings being cancelled because of COVID-19 and weather. Mr. Lash stated when planning the building of the Lakehouse, they had plans for other buildings to accommodate guests coming to Owl's Nest for destination weddings. He stated the proposed Meadows II building has not yet been approved by the Board, and it needs to be completed by July to accommodate wedding guests who have booked rooms already.

Mr. Lash stated he is in a crisis and is asking for leniency in the approval of this site plan. He stated the new plan reflects that the units are not dwelling units. Mr. Lash stated if this site plan is not approved by March, they will not be able to house 80 guests who have reservations, and Owl's Nest will not become a premiere resort; they will be an embarrassment. He stated they need help.

Mr. Laufenberg asked what the Board could do to assist them, as the pace at which plans are coming in is proving difficult for both Owl's Nest and the Board to process.

A lengthy discussion ensued regarding application timelines, submissions, and information needed to go before the Board for approval.

Mr. Hastings suggested bringing in a third-party engineer to assist in the submission of applications for Owl's Nest to the Board. Mr. Warzocha stated the third-party engineer would only work on submissions for Owl's Nest, and plans will not go before the Board until all necessary information is gathered by this engineer.

Mr. Laufenberg clarified that should a third-party engineer be hired, they would assure that applications would not come before the board with missing information. Mr. Warzocha stated yes; the town would hire the engineer, and they would be paid through an escrow account set up by LCJ Holdings, LLC.

**MOTION: "To hire a third-party engineer for LCJ Holdings, LLC.**

- **The third-party engineer will facilitate the completion of application submissions from Owl's Nest to the Planning Board.**
- **The third-party engineer will work exclusively with LCJ Holdings, LLC for any and all projects pertaining to Owl's Nest only."**

**Motion: P. Laufenberg**

**Second: K. Waters**

**Discussion:** Mr. Hastings stated Mr. Babin will have the power to negotiate with the hiring of the third-party engineer.

Mr. Freeman asked what the relationship the third-party would have with Ms. Menici. Mr. Babin stated the third-party would be under the direction of Ms. Menici and the Board.

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

**Motion passes.**

Discussion ensued regarding the timeline of application submissions and having more meetings.

Mr. Babin stated the current timeline for applications ensures that there is ample time for public notice, and for Ms. Menici and the Board to review. Mr. Babin stated deadlines have been extended for Owl's Nest and were still not met.

Ms. Menici stated that the turnaround time to get a complete application from Owl's Nest has been a challenge, and having an engineer who can work directly, daily with Horizons will help resolve some issue. She stated she does not want to comment on adding extra meetings.

Mr. Babin stated that conceptual plans are always welcome prior to applications being submitted to discuss possible missing information before it comes before the Board.

Mr. Hastings presented the updated floor plans for Meadows II. He stated the kitchen units have been removed, and the question of the units being 'dwelling units' has been eliminated; they are hotel units. Mr. Hastings stated the units will be under a single management and will not be condos. He stated the amendment to be made to the Land Dedicated Agreement (LDA) would reflect these units as commercial.

Mr. Freeman asked what the numeric equivalency would be in relation to the LDA. Mr. Hastings stated the equivalency is a fraction based on acreage, as per zoning ordinance; take the number of acres used vs. density of the unit.

Mr. Hastings stated there would be 36 commercial units, which equates to .11 being deducted from the unit availability bank found in the LDA based on the calculations per the zoning ordinance.

Discussion ensued regarding the language in the zoning ordinance in relation to the LDA.

Mr. Hastings submitted requests for waivers of the following for Meadows II:

## **SITE PLAN REVIEW REGULATIONS**

### **TOWN OF THORNTON**

JUNE 8, 1988 (Amended 2004)

#### **V. SUBMISSION REQUIREMENTS**

##### **A. Site Plan Requirements**

1. Property lines showing bearing, distance, monuments, and the lot area of the entire parcel for which the site plan is proposed, and the source of the information. In some situations, the Board may require a property survey and certification of the survey by a Land Surveyor.
2. The location of all existing and proposed deed restrictions, easements, covenants, right-of-way, etc. along with a draft copy of the full legal description of proposed rights and restrictions.
19. The location, type and size of all proposed landscaping or screening.
20. Exterior lighting as signs to be located on the site.
23. Copies of all applicable state approvals and permits, such as:
  - State Water Supply and Pollution Control Commission water supply approval, sewage approval, alteration of existing terrain approval, or groundwater discharge approval;
  - Special Board Approval for the relocation, filling, dredging, or re-channeling of any man-made or natural drainage way.
  - State Department of Public Works and Approval for and required driveway or curb cut.

Mr. Laufenberg stated the Meadows II needs to be delt with at this meeting, and he is comfortable moving forward with conditional approval. He stated conditional approval cannot continue to be granted to Owl's Nest for future projects, as the addition of a third-party engineer will eliminate the need to ask for conditions.

Mr. Babin stated he agrees with Mr. Laufenberg. He stated he is concerned with the way the calculations of acreage are being deducted from the unit availability bank found in the LDA. He stated that per the zoning ordinance in the LDA, Owl's Nest could potentially have more than 64,000 hotel units on the property. Mr. Babin stated that he does not think this is the intention of the applicant, but a fact based on the available acreage Owl's Nest has.

Discussion ensued. Mr. Hastings stated he would like legal counsel to review the language of the zoning ordinance for calculations in the LDA for future review.

Mr. Babin stated before a certificate of occupancy is issued, an agreement on the calculations for the LDA needs to be decided; a decision on the calculations does not need to be made at this meeting.

Discussion ensued regarding meeting dates and application deadlines.

Mr. Babin opened the public hearing at 9:01 p.m. No public comments were given. Mr. Babin closed the public hearing at 9:03 p.m.

**MOTION: "To grant the waiver requests."**

**Motion: R. Sabourn**

**Second: P. Laufenberg**

**Discussion: None**

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

**Motion passes.**

**MOTION: "To accept and approve the Site Plan Review: The Meadows II; Marc Burnell as agent for LCJ Holdings, LLC, Lafayette Road. [Map 16 Lot 1-7MDCO] with the following conditions:**

- **A revised Alteration of Terrain Permit (AOT) be submitted to the Board.**
- **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.**
- **The proposed fire suppression system shall be approved by Thornton Fire Department and the location of all hydrants and fire ponds shall be shown on the site plan prior to the Planning Board signing the plan.**
- **Prior to the issuance of a certificate of occupancy for the improvements shown on the site plan, the Applicant's surveyor shall submit to the Planning Department certification that all boundary monuments have been set in the field.**
- **Prior to the issuance of a certificate of occupancy for the new improvements shown on the site plan, the Applicant and the Planning Board shall 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.**

**Motion: R. Sabourn**

**Second: K. Waters**

**Discussion: None**

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

**Motion passes.**

Mr. Warzocha stated he will submit updated plan sets to Town Hall by close of business on Monday, January 25, 2021 for review.

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

Mr. Hastings stated this site plan was already approved in July 2020, but with the approval of a sub-division of the lot, there was confusion as to where the lot lines now were. He stated a new site plan was requested because of the sub-division.

Discussion ensued.

Mr. Sabourn stated the Board never received approval from the Fire Chief for the building, proof of an egress for safety, and a determination of whether there would be a cost to the town for use of the fire department. Mr. Stocker stated he has this information and will email the Board.

Mr. Babin stated the Board would like a full set of updated plans to review thoroughly. Mr. Warzocha stated he will submit updated plan sets to Town Hall by close of business on Monday, January 25, 2021 for review.

**5. 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]**

Mr. Hastings stated, upon recommendations from Ms. Menici, that this be moved to the February 18, 2021 meeting for the Board to review updated plans. Mr. Warzocha stated he will submit updated plan sets to Town Hall by close of business on Monday, January 25, 2021 for review.

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

Mr. Hastings asked if a full site plan application needed to be filled out. Mr. Babin stated the plan is asking for a commercial addition to an existing building.

Mr. Babin stated that several pieces need to be discussed, as it is a commercial space and requires more information than what was submitted; the addition of 2,050 square feet of space results in septic, water, parking, etc. to be updated on the plans.

Mr. Stocker stated that there will be no impact on the current utilities and parking, as they are moving the existing restaurant space to the proposed 'Slice Restaurant' addition. Mr. Sabourn stated the plans submitted are not labeled to reflect this.

Mr. Lash stated the proposed addition will not add more seating capacity to the clubhouse, as the current dining area in the building will be used as a retail store; the restaurant seating will be moved to the addition. Mr. Lash asked for conditional approval from the Board to begin digging the foundation for the addition; heaters and tents have already been procured for this project to pour the foundation. Mr. Sabourn stated that poor planning on the applicant's part is not the Board's concern, and the plans need to be reviewed more thoroughly.

Mr. Babin stated the Board would like a full set of updated plans to review thoroughly. Mr. Warzocha stated he will submit updated plan sets to Town Hall by close of business on Monday, January 25, 2021 for review.

**MOTION: "To continue the 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 February 18, 2021 meeting."**

**Motion: R. Sabourn**

**Second: K. Waters**

**Discussion:**

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

**Motion passes.**

**OTHER BUSINESS:**

1. Proposed 2021 Meeting Dates

**MOTION: "To approve the 2021 Meeting Dates as presented."**

**Motion: P. Laufenberg**

**Second: D. O'Donnell**

**Discussion: None**

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

**Motion passes.**

**ADJOURNMENT:**

**MOTION: "To adjourn at 9:56 p.m."**

**Motion: S. Babin**

**Second: D. O'Donnell**

**Discussion: None**

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

**Motion passes.**

Respectfully Submitted,

Kerrin Randall, Board Assistant