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TOWN OF THORNTON
PLANNING BOARD

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Date: 2020.11.24 15:07:21 -0500

Approved on: _____
PB Initials: _____
Rec'd by Town Clerk on: 12/1/2020
Town Clerk Initials: dpm

Planning Board Meeting Minutes
Thursday, October 15, 2020

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

ROLL CALL:

Members present at Town Hall: S. Babin, F. Freeman, R. Sabourn

Members not present: N. Decoteau, P. Laufenberg, D. O'Donnell, K. Waters

Alternates present at Town Hall: F. Gunter, G. Kimball, D. Rivers

Members present via call-in: None

Alternates present via call-in Members/Alternates absent: J. Piehn, C. Schofield

Others present via call-in: Matt Serge, Attorney for Planning Board, David E. Kelley, Sandra Kingston

Others present at Town Hall: Marc Brown, Joe Frazer, Philip Hastings, Kathleen M. Kelley, Richard Linck, Sandra Linck, B. Murray, Francis Parisi, Kali Quinlan, Chad Stocker, Kerrin Randall, Brian Regan, Charles Rowley, Anita Rowley, John Warzocha

Mr. Babin named Alternates F. Gunter and D. Rivers as acting members of the Board to have a quorum present.

APPROVAL OF MINUTES

1. Upon distribution and review of the meeting minutes of September 17, 2020, the members took the following action:

MOTION: "To accept and approve the Minutes of the Thursday, September 17, 2020 meeting."

Motion: F. Freeman

Second: F. Gunter

Discussion: None

Roll Call Vote: 4- YES, 0- NO, 1- Abstained

Motion passes.

PRELIMINARY BUSINESS: None

COMMUNICATIONS: None

REPORTS: None

UNFINISHED BUSINESS: None

HEARINGS:

LCJ Holdings, LLC – Owl's Nest Projects

Mr. Philip Hastings, Attorney for Owl's Nest and Mr. John Warzocha of Horizons Engineering, entered the meeting at 6:15 p.m.

Mr. Hastings stated the five (5) applications before the Board all of relate to one another in some way, and procedurally it would make sense to talk to all of them at once rather than spread out over the course of the meeting.

Mr. Hastings stated he had spoken with Mr. Serge and sent updated Land Dedication Agreement (herein referred to as LDA) and plans to him.

Mr. Freeman stated the Board needs to see the LDA prior to reviewing any applications.

Mr. Hastings stated the two (2) subdivision applications before the Board may be able to be approved this evening. He stated the goal tonight on behalf of LCJ is to present information and get feedback in order to get the Board what they need in order to approve the applications. Mr. Hastings stated there is some time sensitivity to the applications, and that they would like to get projects done in 30-60 days.

Mr. Babin clarified the attorneys were contacted as the LDA needed to be updated and there was an effort by applicant to complete them.

Mr. Hastings stated the LDA was done prior to Owl's Nest changing ownership, and the documents that he's prepared are trying to be consistent with the formatting of the previous documents.

Mr. Babin asked Mr. Serge if the items pertaining to Owl's Nest had to be addressed in the order they are in on the agenda. Mr. Serge stated the items could be reordered for continuity. Mr. Babin asked if anyone present had an objection to visiting the Owl's Nest items out of order from the agenda. There was no objection from anyone to review items out of order.

Mr. Hastings and Mr. Warzocha gave a broad overview of the projects Owl's Nest hopes to have accomplished. They discussed the need to update the LDA as well as the number of units permissible to have at various sites; the LDA does not accurately reflect the units that are present.

APPLICATION/PUBLIC HEARING – Site Plan Review; Max Lash as agent for LCJ Holdings, LLC, Lafayette Road/Clubhouse Lane Intersection. [Map 16 Lot 1-7, 1-7-2, 1-7-3]

Mr. Warzocha shared the master plan for Owl's Nest. Mr. Hastings stated the current LDA, picks up where the 2009 one left off with 5th amendment to the document.

Mr. Hastings reviewed plans for 'The Meadows' and discussion ensued regarding the number of permissible units that could be used. Mr. Harris stated a Site Plan Approval Application would be submitted at such a time that the project is ready to begin.

Mr. Hastings stated with the approval of the proposed subdivision plans, one of the parcels would be used for detached hotel units for rent, not for sale. He stated this would be subject to the LDA.

Mr. Babin stated that hotels are not single-family units, as is permissible in the LDA. He stated condominiums can be held and rented, but he is not certain that a hotel is an approved use.

Discussion ensued regarding dwelling types and zoning.

Mr. Warzocha stated that this discussion would take place at a future site plan review, and that they are only looking for subdivision of parcels at this time.

Discussion ensued regarding the number of units permissible per the LDA.

Mr. Freeman stated that the LDA should be reviewed further between Mr. Hastings and Mr. Serge, the updates then coming to the Board.

The Board agreed to continue the discussions with LCJ at 7:15 p.m. in order to address the other items pertaining to Owl's Nest.

6:45 p.m. 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 entered the meeting at 6:50 p.m. Mr. Babin stated that a new packet of information was submitted to the Board from Mr. Parisi this afternoon, and expressed his concern at not having had sufficient time to review the packet.

Mr. Parisi stated he knows they just got the packet today, and his intent is not to discuss it. He stated he was going to explain to the Board what was in the packet; some information was in response to the Zoning Board of Adjustment's (ZBA) questions, and some were in response to the Planning Board's questions.

Mr. Parisi stated when the initial application was filed to the Planning Board for Upper Mad River Road [17-5-21] the access parcel on Treeline Road [12-5-9] was also listed. He stated the ZBA requested that notice of the use of the parcel on Treeline Road be sent to abutters. Mr. Parisi stated the abutters on Treeline Road were included on the submitted abutters list with the initial application.

Mr. Freeman stated not all abutters to the Treeline Road access were notified of its use as an access. Mr. Parisi stated the abutters on Treeline Road were obviously notified, as they are present.

Mr. Parisi stated his client is not trying to provide coverage for the entire Town of Thornton, just a small part near Route 49. He stated in the packet were maps showing the various gaps in coverage for the town as requested. He stated a list of possible other sites and the reason they were not chosen is also included in the packet.

Mr. Parisi stated the ZBA requested proof of use agreement with landowner of the access parcel, and that his client has a Purchase and Sales agreement to buy the parcel. He stated the access on Treeline Road is necessary, as they can't get to the build site off of Upper Mad River Road.

Mr. Freeman stated that the logging road currently located on Upper Mad River Road can be used, rather than needing another parcel to access the build site.

Mr. Parisi stated there are substantial wetlands on the logging road in question, it will be cost prohibitive to use, and will more invasive to the land.

Mr. Babin read a letter received by Martha and Russel Roth, abutters, who shared concerns that the access parcel will be through residential neighborhood and cause congestion in the neighborhood.

Mr. Parisi stated they would be building an access driveway.

Mr. Freeman stated that there would be commercial vehicles driving in a residential neighborhood. Mr. Parisi stated there will be six (6) weeks of construction, with one day of substantial activity when the tower pieces are

brought in. He stated once a month someone in a truck or ATV would be using the driveway to check on the site; there will be no winter access and the driveway will not be plowed.

Mr. Babin stated he attended the ZBA meeting, and there was a concern from the public regarding unauthorized use of the access road by hikers.

Mr. Parisi stated his client owns the driveway for access on Treeline Road and will post no trespassing signs, private property signs, etc. to deter hikers. He stated the goal is not to provide access to anything but the tower.

Discussion ensued regarding the potential use of the access on Treeline Road by hikers, snowmobiles, atv's, etc.

Mr. Parisi stated Vertex can mitigate and address the trespassing concerns. He stated he respects the concerns of the public, but it is not relevant to the discussion.

Mr. Babin asked why the logging road was not being used to access the proposed site. Mr. Parisi stated the terrain and elevation is an issue; it is unpassable without making a major road which will be more invasive.

Mr. Babin stated the Telecommunications ordinance was put in place in 2001, and in 19 years there has not been one tower in Thornton. He stated there are other ways to bring in coverage as opposed to a large tower.

Mr. Parisi stated no one has come to town in 19 years as it's cost prohibitive. He stated no one is on Route 49, as the land is owned by the National Forest and some poles are on other side of river. He stated small cell technology is used in large populations as the signals are congested. It is a different type of technology and small cells will not work.

Mr. Babin stated currently Vertex does not have a provider for the tower.

Mr. Parisi stated that was correct. He stated it has taken the better part of two (2) years to be able to come before the Board, as several things had to happen before this meeting. He stated infrastructure developers, like Vertex, build towers and carriers sign on once they are built. He stated the carriers will come eventually. He stated that carriers look at the town of Thornton and pass them over for areas with a larger population. Mr. Parisi stated he is looking at the tower as a service to the town.

Mr. Freeman suggested the Board review the information provided and discuss further at the next meeting.

Mr. Parisi stated he wanted to come to the meeting tonight to discuss what was relevant to Planning Board.

Mr. Babin asked for any comment from the public.

Ms. Kathy Kelley, abutter on Treeline Road, stated she is in opposition to the tower. She stated people are not coming to Thornton because they are concerned with cell coverage. She stated she owns two (2) lots and got them recently surveyed to build family homes. She stated she has good cell coverage on Treeline Road.

Ms. Kelley stated there is concern with the proposed driveway on Treeline Road as there have been times when hunters go on private property in the neighborhood. Any roadway that goes from Treeline Road to the top of the hill, will provide access to hikers, snowmobiles, and ATV's; people will use it. She stated she doesn't support what Vertex is proposing for the neighborhood and that, looking at the request for five (5) variances and a waiver, this may not be the right location for a tower.

Mr. Freeman asked if Ms. Kelley's concern was with the access parcel and not the tower. Ms. Kelley stated she is concerned about tower, but more concerned about access.

Mr. Brian Regan, abutter on Treeline Road, reiterated his concerns from other meetings; this is not a public hearing and not a completed application. He stated he will reserve more comments for when there is a public hearing.

Mr. Babin stated Mr. Regan is correct, in that the application is incomplete. Procedurally, the Board recognizes the public to give comment on the application.

Mr. Parisi stated he believes the application was filed in August 2020 and was complete. He stated this is relevant as the Federal Government gets involved with a time limit of 150 days for approval from the town once an application is submitted. He stated he wants to make sure we're all working on the completion of the application.

Discussion ensued regarding the completion status of the application.

Mr. Babin stated the Board voted that the application was incomplete. He stated Mr. Parisi has provided some information that addresses questions from the Board. He stated the application is not complete as it stands right now. Mr. Babin advised that he will confer with Mr. Serge as to where the application stands with the information provided.

MOTION: "To continue the discussion of the Site Plan Application at the November 19, 2020 meeting."

Motion: R. Sabourn

Second: F. Gunter

Discussion: None

Roll Call Vote: 5- YES, 0- NO, 0- Abstained

Motion passes.

APPLICATION/PUBLIC HEARING – Subdivision Review: Northside Lot; Mark Burnell as agent for LCH Holdings, LLC, Route 175, Owl's Nest Resort. [Map 16 Lot 1-7] and

APPLICATION/PUBLIC HEARING – Subdivision Review: Lakehouse; Mark Burnell as agent for LCH Holdings, LLC, Route 175, Owl's Nest Resort. [Map 16 Lot 1-7]

Mr. Hastings and Mr. Warzocha reentered the meeting at 7:43 p.m.

Mr. Babin stated that the Northside Lot Application would be reviewed first, followed by the Lakehouse Lot Application. Mr. Babin stated upon initial review of the applications, one would influence the other regardless of which one was presented first.

Mr. Hastings stated his client is here for the long term and will be going before the board a lot. He stated he wants to make sure everything is done properly moving forward.

Mr. Hastings reviewed the proposed subdivisions [Map 16 Lot 1-7]. Mr. Babin asked if powerlines ran through one of the proposed parcels.

Mr. Warzocha stated yes, it is an Eversource easement. Mr. Babin stated it looked as if 80-90% of the proposed parcel was within the easement. He asked if building was allowed underneath the lines.

Mr. Hastings stated that certain things can be built under the lines depending on the easement.

Mr. Sabourn stated it is very premature to consider the subdivision without conceptual thoughts of what will be built in them. He stated he is not comfortable building under a public service.

Mr. Hastings stated a subdivision of land will not change use of land; everything will stay in place. He stated they are looking for the parcel in question to be split into two at this time and the question of what will be built there will be determined with a Site Plan Application in the future.

A lengthy discussion ensued regarding landmarks not shown on the proposed maps, and the roads that intersect the parcels. The Board agreed that, as proposed, the plan would result in a five (5) lot subdivision due to where the roads fall within the proposed parcels.

Mr. Warzocha and Mr. Hastings asked that the submitted subdivision applications [Map 16 Lot 1-7] be rescinded.

Mr. Warzocha stated he will submit new subdivision plans based on the conversations had tonight to include present and proposed landmarks as well as the new division lines.

Continuation of APPLICATION/PUBLIC HEARING – Site Plan Review; Max Lash as agent for LCJ Holdings, LLC, Lafayette Road/Clubhouse Lane Intersection. [Map 16 Lot 1-7, 1-7-2, 1-7-3, and 1-7-SRCO].

Mr. Warzocha reviewed the updated layout for Hole 1 on the proposed 9 Hole Mini Golf Course; this was requested at the previous meeting.

Mr. Babin asked if the AOT permit had been obtained from the State. Mr. Warzocha stated that it is in process and will be approved and sent to them later this week.

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

Upon distribution and review of the presented information the members took the following action:

MOTION: “To accept the Site Plan for LCJ Holdings, LLC, Lafayette Road/Clubhouse Lane Intersection. [Map 16 Lot 1-7, 1-7-2, 1-7-3, and 1-7-SRCO] as complete.”

Motion: R. Sabourn

Second: F. Freeman

Discussion: None

Roll Call Vote: 5- YES, 0- NO, 0- Abstained

Motion passes.

MOTION: “To accept and approve the Site Plan Application for LCJ Holdings, LLC, Lafayette Road/Clubhouse Lane Intersection. [Map 16 Lot 1-7, 1-7-2, 1-7-3, and 1-7-SRCO] upon submission of an approved AOT permit from the State of New Hampshire.”

Motion: F. Gunter

Second: F. Freeman

Discussion: None

Roll Call Vote: 5- YES, 0- NO, 0- Abstained

Motion passes.

APPLICATION/PUBLIC HEARING: Application Review; Fraser Family Revocable Living Trust, Mary R. Fraser, Trustee for Subdivision and lot line adjustment, Blake Mountain Road. [Tax Map 15, Lot 4-13A].

Mr. Sabourn stepped off the Board and presented the application and stated that the Fraser Family Trust was looking to subdivide one (1) parcel into (2) two; One lot would be sold in order to cover the costs of care for Mrs. Mary Fraser and the second lot would remain in the Fraser Family.

Mr. Sabourn stated the lot line adjustment was done to allow the current septic being used by [Tax Map 15, Lot 4-13] to be annexed to that lot. The current lot lines show the septic for [Tax Map 15, Lot 4-13] on the neighboring property. The Board agreed to waive the fee for a lot line adjustment (\$150).

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

MOTION: “To accept and approve the Subdivision Application and lot line adjustment; Fraser Family Revocable Living Trust, Mary R. Fraser, Trustee for, Blake Mountain Road. [Tax Map 15, Lot 4-13A].”

Motion: F. Gunter

Second: D. Rivers

Discussion: None

Roll Call Vote: 4- YES, 0- NO, 1- Abstained (R. Sabourn)

Motion passes.

OTHER BUSINESS:

Application for Voluntary Merger; Floating Feathers, Robert Frazer

The Board reviewed the Application for Voluntary Merger of [Tax Map 13, Lot 6-7 and Lot 6-8] by Floating Feathers, LLC.

MOTION: “To accept and approve the Application for Voluntary Merger of [Tax Map 13, Lot 6-7 and Lot 6-8] by Floating Feathers, LLC.”

Motion: R. Sabourn

Second: F. Freeman

Discussion: None

Roll Call Vote: 5- YES, 0- NO, 0- Abstained

Motion passes.

ADJOURNMENT:

MOTION: “To adjourn at 9:27 p.m.”

Motion: F. Freeman

Second: D. Rivers

Discussion: None

Roll Call Vote: 5- YES, 0- NO, 0- Abstained

Motion passes.

Respectfully Submitted,

Kerrin Randall, Board Assistant