

**Town of Goshen  
Planning Board  
Minutes of January 16, 2014**

Members Present: Doug O'Clair, Chair; Bob Bell; Alicea Bursey; Allen Howe; Ed Peckham

Chair O'Clair called the meeting to order at 7:00 p.m. and appointed Mr. Howe as a voting member for tonight's meeting.

**OTHER BUSINESS**

Mr. Howe updated those present on the recent developments regarding the school district's court case.

**PUBLIC HEARINGS**

Chair O'Clair explained the protocol for the public hearing. Explained that this meeting is a continuation of the December 12, 2013 public hearing, at which time there were six amendments to the zoning ordinance proposed. Amendments One, Four and Five were approved by the Planning Board to move forward as proposed for a ballot vote on March 11, 2014. Amendment Six was eliminated for consideration on March 11, 2104 since it was the Board's opinion that the issue needed further study to create a workable amendment. Since substantial changes were agreed to be made to Amendments Two and Three, this meeting will revisit only Amendments Two and Three as reworded from December 12, 2013. Chair O'Clair explained that it is the Planning Board's duty to regularly review all zoning regulations and recommend changes as necessary for ballot vote.

**Amendment 3**

*There shall only be one building allowed for residential purposes on a lot; provided however that the Zoning Board of Adjustment may grant a special exception authorizing a second dwelling unit, either contained within or attached to a single-family dwelling, or within a detached accessory building on the same lot. In order to grant such a special exception, the board must find, in addition to other standards contained in this ordinance, that a finding that the following conditions are met.*

- 1. The living space in the second dwelling unit shall not exceed 700 square feet*
- 2. The existing or proposed home is and will remain a single family, owner-occupied structure*
- 3. The existing or proposed home is currently conforming to zoning*
- 4. The existing or proposed home is currently or planned to be owner-occupied*
- 5. The property owner states that the accessory dwelling unit shall not be used as a rental unit*
- 6. The property shall have only one cub cut and driveway*
- 7. The accessory unit shares utilities in common with the primary structure*
- 8. Evidence of adequate septic capacity*
- 9. Adequate vehicle parking and turn-around on site*

*10. That a site plan be approved by the planning board to insure that the accessory dwelling unit does not change the character or negatively impact he neighborhood.*

*11. An agreement is signed with the Board of Selectmen with approval conditions and including a restriction that the accessory dwelling unit hall not be used s a rental be executed prior to the issuance of a building permit.*

Chair O'Clair the only change made to this proposal from the prior version was to eliminate the requirement that the accessory unit be occupied by a family member only.

Ms. Bursey commented in support of the change and explained that based on comment from the audience the change opens up the accessory apartment for close friends and/or others who are not blood related, which is more in the spirit of the intent of this amendment.

Question from the public was what if the family member or occupant wants to pay rent.

Chair O'Clair explained that the decision to pay their own utilities is an agreement that would be made with the property owner. This amendment as written would prohibit a property owner from advertising the accessory dwelling as a rental unit.

Alan Greenhalgh asked if someone turns their home into a two unit dwelling, how do you control the maintenance of the electrical system in a residence that has an accessory apartment.

Chair O'Clair explained that there is only one electrical meter allowed.

Mr. Greenhalgh commented that there is no enforcement capability with this amendment. It is possible to have a family member share residence and not necessarily need a separate dwelling unit, without negatively impacting the neighborhood. He commented that he feels the Board is opening Pandora's Box by creating a lesser code of building and this practice should not be encouraged. It also creates issues with trying to certify and/or update the capacity of an old septic systems that have no records available on file. How is a homeowner going to get approval for an additional bedroom - who is going to inspect the septic systems? He commented that the Town should leave well enough alone and deal with things issue by issue.

Chair O'Clair explained that if someone wants to create an in-law apartment in an accessory building they will need an occupancy permit since it is new construction, which will uphold the building standards. All accessory apartments will need Planning Board approval and have to meet the town regulations.

Mr. Greenhalgh commented that if a property owner wants to sell their home and it has an existing in-law apartment, passage of this regulation will make that existing apartment an illegal use and the new homeowner may not be able to get a mortgage because the property won't be on record within the Town as having an accessory dwelling. Expansion of low income living quarters is going to increase the expansion of children, which will in turn result in an increase in the tax rate.

Chair O'Clair commented that the limitation of 700 sq. ft. should eliminate the possibility of large families, which could have a negative impact on the tax rate.

Fred Smith commented there are records available on old septic systems going back to 1972 from DES if something can't be found in the local file.

Chair O'Clair commented that most towns in the area are creating in-law apartments as a way of trying to be conscientious of the economy and higher living expenses. Much of what is proposed here is similar to that which is already in effect and working in neighboring towns.

Mr. Howe commented that this amendment proposes that the record keeping will be filed with the Board of Selectmen regarding conditions and restrictions on use of properties. The Board previously had talked about requiring a deed reference recorded at the registry; but the majority of the Board felt that requirement would be too restrictive and create unnecessary costs on the property owner.

Bruce Nadeau commented that if there was an indication in the property deed, then there would be no grey area, everything would be above-board for the buyer, seller, and mortgage lender, and it would also be on the tax records.

Chair O'Clair commented that the signed agreement would be in the property file at the Town Office. If the agreement is part of a signed, recorded deed; then the property owner will incur an expense to hire a lawyer to create a new deed. The Board's intent is to try to help reduce costs, and the deed requirement seems contrary to that intent.

Chair O'Clair commented that the realtors are following up on the accessory apartments and would make sure there is an approval on file prior to marketing the property.

Being no further questions/comments on this amendment, Chair O'Clair closed public input on this amendment and explained the Board will deliberate on this amendment after discussion of proposed Amendment 2.

## **Amendment 2**

### **A.4. Recreation District**

*There shall be a Recreational District to accommodate the needs of year-round recreational and other uses within the leasehold area of Mt. Sunapee Resort. More specifically, the purpose of this district is to: (a) provide for the base and on-mountain facilities necessary to operate the ski mountain; (b) encourage the use of facilities and site for year-round recreational and cultural uses and activities; and (c) allow for commercial and other uses.*

#### **A.4.a District Boundaries**

*The initial boundaries of the Mt. Sunapee Recreation District are all of the land owned by the State of New Hampshire within the Town of Goshen Tax Map 411 as Parcel 011, and Tax Map 412, Parcel 32.*

*If a Mount Sunapee Resort 5 year Master Development plan is approved by the New Hampshire Department of Resources and Economic Development ("DRED") for expanding the recreational facilities of Mount Sunapee in Goshen, the following parcels, owned by Mt. Sunapee Resort and shown on the aster Development Plan submitted to DRED, shall automatically be added to the Recreation District: Tax Map 411, Parcels 010,013,015,024,025, and the remainder of Tax Map 412, Parcel 32.*

**A.4.b. Uses Permitted (subject to site plan review approval by the Planning Board)**

- A.4.b.1 Chair and surface lifts, and gondolas;*
- A.4.b.2 Alpine and cross country ski trails, hiking, biking and snowshoe trails;*
- A.4.b.3 Base lodge facilities to accommodate lift ticket sales, ski and bicycle repair, rentals, sales and accessories; ski and bicycle lockers/employee locker room; ski school and ski patrol facilities; restaurant/lodge/banquet facilities; snack bar sales; meeting facilities; offices and facilities ancillary to the Mt. Sunapee Resort including recreational, real estate sales and rental offices, cultural and educational programs; and parking lots;*
- A.4.b.4 Ski racing facilities;*
- A.4.b.5 Snowmaking facilities;*
- A.4.b.6 Outdoor ski and bicycle storage facilities;*
- A.4.b.7 Inline skating and skateboard park;*
- A.4.b.8 Recreational uses and facilities including, but not limited to, parks, playgrounds, play fields, tennis and volleyball courts, swimming pools, and ice rinks;*
- A.4.b.9 Special community events;*
- A.4.b.10 Day care centers/nurseries for recreational activities, day camps and child care services;*
- A.4.b.11 Temporary structures/tents to accommodate cultural recreational, educational or commercial uses;*
- A.4.b.12 Accessory buildings for maintenance equipment, water treatment and storage, and other storage needs accessory to the principal recreational uses;*
- A.4.b.13 Public utility and public service structures and service; wastewater treatment facilities and **potable** water wells; and*
- A.4.b.14 Toboggan, luge ,and bobsled runs; alpine slides;*
- A.4.b.15 Equestrian facilities;*
- A.4.b.16 Water slides and water parks*
- A.4.b.17 Miniature golf and golf driving range;*
- A.4.b.18 Other structures or uses ancillary to the operation of the principal recreational uses.*

**A.4.c Uses Not Permitted**

*Prohibited uses within the Mt. Sunapee Recreation District include:*

- A.4.c.1 Golf course and associated facilities; and
- A.4.c.2 Motorized Dirt Bike and/or Motor Cross tracks.

**A.4.d Steep Slopes and Clear Cutting Exceptions for Trails**

*Notwithstanding any other provision of this Ordinance, the Planning Board may grant approval of clear cutting for maintenance, development of new trails, or widening of existing trails and installation of lift structures and snow-making equipment on steep slopes if the applicant demonstrates to the satisfaction of the Planning Board through the Site Plan Review process that: (a) the slope shall be stabilized both in the short term during construction and for the long term after construction to minimize soil erosion and thereby minimize the potential negative impact on downstream water resources; (b) new or expanded trails will not damage old growth forests; and (c) erosion and sedimentation control plan shall be prepared and designed in accordance with the standards and specifications outlined in the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire.*

**A.4.e Scenic Ridgeline and Hillside Overlay Provision**

*Chairlifts, Towers, and equipment required for their operation are exempt from Section III M Scenic Ridgeline and Hillside Overlay Provision of the Goshen ordinance.*

Chair O'Clair explained that two years ago there was a joint meeting of the Zoning Board and Planning Board for the proposal of a zip line at Mt. Sunapee. Since Mt. Sunapee is a unique use by itself, recreational in nature, it should be treated differently because it would never be used as the other districts in town. e.g. Residential, Agricultural, Business. If there is a day that Mt. Sunapee gets approval to build trails in their five-year masterplan, then all of the pieces of land that Mt. Sunapee owns that abut state owned land would then become part of the Recreation District. All of the pieces of land that Mt. Sunapee owns that abuts the State land would be affected in order to accommodate trails and associated elements such as a lodge, parking, septic, conservation buffer, etc. Residential use is NOT allowed in the recreation district. Therefore, if condominiums are to be proposed, that proposal would fall under the existing regulations and not fall under the Recreation District. This whole Recreation District is strictly based on trail expansion and the facilities related operation thereof.

Mr. Greenhalgh asked if the land is in current use and if this transition would result in an increase in the tax rate.

Chair O'Clair commented that there would be no impact on property taxes until the property comes out of current use at the time of development.

Mr. Greenhalgh asked who came up with the idea of a Recreation District.

Chair O'Clair explained that as a way to maintain continuity, the Town of Goshen approached the Mountain. The Town of Newbury already has a Recreation District to deal with regulation of Mt. Sunapee, and it has been working well for several years.

Dan Peterson asked if section A.4.c. Uses Not Permitted includes no car/truck racing of any sort.

Chair O'Clair confirmed that no car/truck racing of any sort will be permitted in the Recreation District.

Peta Brennan asked if the Recreation District will also apply to the area along Route 10.

Chair O'Clair clarified that the area along Route 10 is the Tourist District which is different from the Recreation District. The uses permitted in the Recreation District are not allowed in the Tourist District.

Shaun Carroll, Jr. asked if the Board feels comfortable moving forward with this amendment.

Chair O'Clair stated it seems that way, the Board will vote at the end of the public input whether or not to bring it to the voters as is, amend it, or delete it.

Mr. Carroll commented that he sees a lot of positives with this amendment. He asked if this amendment mirrors what is in effect in Newbury.

Chair O'Clair confirmed that this amendment mirrors what is already in effect in Newbury and takes into consideration the differences within the towns.

Mr. Carroll commented that the right triggers are written into the regulation, so it would still be under Town review. He commented that when the zip line went in, everything happened just the way the applicant said it would, there were no issues or unexpected contingencies. History speaks for itself, whatever they bring forward will be done well and to plan.

Chair O'Clair emphasized there are no plans for condominiums.

Bea Jillette asked if the uses permitted could include real estate sales.

Jay Gamble, General Manager of Mt. Sunapee, explained that it is not uncommon for a real estate business to rent a small area of office space at a resort. Such a recreational resort is a prime location to market potential buyers for the area. The real estate business could be a privately owned business with real estate outside of the Mountain area, or it could potentially be a place to market sales and advertisement of condominiums owned by the Mountain; it doesn't prevent either scenario.

Mr. Peckham stated that even if the use is permitted, the authority still lies with the Planning Board to grant or deny a request.

Jim Carrick asked if in the future the State Park boundaries expand due to the donation of land, would this proposed district expand to accommodate the boundaries of the donated land, or are the district boundaries set as written in the amendment.

Chair O'Clair commented that it his understanding that Mt. Sunapee has a definite lease period and if the owners decide they are not going to lease anymore, the intent is to keep the Mountain whole, and that the State will want Mt Sunapee to donate/sell the trail system and that additional land that is donated/sold would turn into State property. In order for this to expand beyond what is written, it would have to go before the voters again because the parcels are listed in the regulation, and the voters of the Town would have to approve an expansion of the district.

Mr. Carrick proposed that the amendment should reference the boundary as of a date certain in order to protect the Town from a misinterpretation. It could be arguable in court if the State boundaries expand.

Chair O'Clair commented that the Town is protected from misinterpretation by the way the proposed district is written by listing specific parcels.

Gary Stanfield commented that the changes in the Recreation District from last meeting are not what is presented this evening. Mr. Stanfield read from the meeting minutes of December 12, 2013.

Chair O'Clair commented that Mr. Howe's comment indicated that Attorney Waugh should create the legal language, and that is what is presented this evening.

Mr. Howe commented that he is in favor of creating a Recreation District, and the creation of a Recreation District is also supported by the Town of Goshen's Masterplan. He commented that the draft being reviewed this evening is an improvement over what the original was. The boundaries are not what he expected them to be, but what is here is a good start and an improvement on the way to get it to where we want it to be. He felt he could go forward with it if there could be another hearing to modify the district boundaries. He commented that he would like to see some more modification before it is brought to vote.

Mr. Stanfield commented that his concern is procedural. Last meeting there was a good discussion and it was agreed that the boundary should be able to expand based on certain criteria. But, what was approved is not what was written for this amendment, even though that may not have been intentional. It could be very discerning if what is approved is not what is brought to ballot. Amendments should be able to live to the next meeting. He commented that he is in favor of the existing ski area being in a Recreation District.

Chair O'Clair commented that four of the Board members strongly feel that what tonight's proposal says is what was proposed at the December 12 meeting. The recorder malfunctioned and did not capture the whole meeting, so unfortunately there is no audio recording, so the amendment was crafted with legal counsel based upon the notes of the members present at that meeting and the meeting minutes. Mr. Howe had proposed changes and then instructed to let Attorney Waugh write the amendment. This presentation tonight is the result.

Mr. Howe commented that when he saw the new draft, it was not what he expected, but he is willing to let the will of the Board prevail. He stated that it is not constructive to argue about a misinterpretation of the past. He suggested the current discussion move ahead and work with

what is written. He stated that so there is no misunderstanding, he has written what he would like to propose and the reasons for those proposals. Since there is dissatisfaction on this version of the amendment, he would like to go ahead, make some agreeable changes, and have another public hearing.

Mr. Stanfield commented that he was agreeable to the changes that were made at the last hearing and did not feel that the new draft represented those changes.

Chair O'Clair commented that what is written is what the members of the Board believe was intended and approved. Mr. Howe agreed that a contingency for other land was needed and suggested Attorney Waugh should write it.

Mr. Howe commented that there was nothing in writing between Attorney Waugh and Chair O'Clair, so it would have been difficult for him (Mr. Howe) to provide his comments.

Mr. Howe commented that he would rather move ahead and revise this proposal rather than argue about the past; then we could have a third and final hearing prior to sending this to vote.

**Deb Fife** asked for clarification regarding the Recreation District uses. Since there are specific itemized uses in the Recreation District listed, does that mean the Mountain cannot do anything unless the State approves the Masterplan? She asked if there could be a water park or other recreation uses if the State does not approve the five year Masterplan.

Mr. Gamble explained that if the State does not approve the five year Masterplan, the owners of the property could still propose a water park, it would just have to satisfy the existing regulations. If the land is not used for a ski area, the owners are not sure what it could be used for. The owners and operators are very clear that the intent is one specific use - as a ski area. This recreation district assumes it is all part of the ski area, if the ski area never increases its boundaries, the owners may need to rethink its intended use for the abutting land. The owners could come before the Town with any other permitted use for a special exception if this district is not approved.

Question from the public was if there are still plans to give private land to Mount Sunapee State Park.

Mr. Gamble commented that the State is not subject to local zoning. As a leasee, the operators have honored local zoning and plan to continue to do that. Donation of land to the State is still under consideration and negotiable in the future. The next Masterplan will be prepared for June 1, 2014.

Ms. Brennan asked if there could be condominiums built on the land.

Mr. Gamble commented that it is possible.

Ms. Brennan asked why condominiums are not under the Uses Not Permitted section.



Chair O'Clair commented that there is no allowance in the Recreation District right now for residential uses such as condominiums. Future Boards and/or meetings may change

Mr. Gamble commented that at the last meeting there was a conditional use regulation in there that would keep any proposal in front of the two Boards, Zoning Board and Planning Board. That conditional use has been removed.

Chair O'Clair commented that if any residential is desired, they would have to go to the Zoning Board first, then the Planning Board. All of these uses listed in the amendment are permitted by Planning Board approval. Any plans to construct real estate would have to go through existing channels - the Zoning Board of Adjustment and then the Planning Board. There is no residential use in the Recreation District. If the owner wanted to have a residential use in the Recreation District, they would have to go to the Zoning Board first.

Fred Smith commended the Board for all of their word. He commented that as the amendment is written, he sees nothing wrong with it, and he would highly encourage the Board to move forward to vote it on to a ballot vote in March. Suggested not risking the time element and missing the legal requirement for public vote.

Mr. Carroll commented that he agrees with Mr. Smith. Through personal experience he stated that regulations are hard and tough to get through, especially when dealing with more than one town. Continuity between towns is helpful for the applicant and the towns. Land that comes out of current use means revenue for the town, which will benefit the Town. Such a use is not doing anything to erode the town. The Mountain has been here for a long time and it is a valuable asset. It would be a good thing for the town to embrace what is there. The recreational uses in this area are huge for sources of income to the towns in this area. He emphasized that whatever the Mountain does, they have to go to the Town for approval first. Newbury has had these regulations since the year 2000, it is a tried and true measure and should work in Goshen as well.

Mr. Smith commented that the Mountain has grown and is well known as a great place to ski. They should get a return on their investment. No business would propose an expansion of magnitude unless there was a need. That need creates jobs and retail sales for local residents. In 1998 the salaries at Mt. Sunapee were approximately \$960,000. Last year they were \$3,700,000. That increase in money stays in our local communities.

Dan Peterson commented that every year the town votes on modifying zoning regulations. It will take alot more time for anything to happen in regard to an expansion, and that is plenty of time to fine tune it however you see fit. He suggested that the Planning Board approve the amendment tonight, let the voters vote.

By majority voice vote of the body of the meeting, Nancy Marashio, non-taxpayer was allowed to speak.

Nancy Marashio, representative from the Society for the Protection of New Hampshire Forests (SPNF) and a member of the Mount Sunapee Advisory Committee commented that SPNF is concerned regarding the changes in Article A.4 pertaining to the leasehold boundaries. She

commented that SPNF would be supportive of the amendment if Section A.4.a District Boundaries ended after the words '....and effective on July 1, 1998.' There is a difference between the leasehold area, which is what Mt. Sunapee Resort controls, and Mt. Sunapee State Park. The new draft talks about boundaries all the land the State own within the town of Goshen. I would recommend to go back to the leasehold because right now there is a court case regarding a boundary dispute boundaries of lease are. This amendment could get messed up by a court decision. The Newbury regulation does not say what the paragraph 4A says this time. The question then becomes do you want the Recreation area to be the leasehold or do you want what Mt. Sunapee controls or what the State owns, which is more than what Mt. Sunapee controls.

Chair O'Clair explained that these specific delineations of lots came about after direction from town counsel, who said he wanted specific lots written in to the regulations.

Ms. Marashio commented that understands that, however A.4 contradicts A.4.a. because one paragraph indicates the leasehold and the other delineates specific lots. Newbury is very clear that it only indicates the leasehold in order to honor the Mt. Sunapee operation only.

Mr. Gamble pointed out that there is only one parcel of land in Newbury, yet multiple parcels in Goshen. This proposed amendment models the Newbury ordinance within the Goshen boundaries. While the intent is to model Newbury, the two Towns have different circumstances. This defines the land as the land exists in Goshen appropriately.

Ms. Marashio commented that there is a boundary that shows what the leasehold consists of. There is a big question as to whether or not the State land is contiguous to the leasehold or if there is a buffer between. She commented that she is only trying to point that out so that the Goshen regulations are not negatively affected by a court decision. Recommended to stay within the leasehold area on specific lots.

Mr. Gamble commented that the leasehold operates on both parcels in Goshen already. He did not see it as an issue.

Ms. Marashio commented that at the previous meeting indicated different language.

Chair O'Clair commented that once again, this is based on legal counsel advice.

Mr. Carrick suggested that this amendment be postponed to next year's voting cycle. There seems to be some disagreement and difference of opinion as to what happened and what did not happen. This is going to be a crucial instrument at will affect the Town for many years to come. Rushing into it would be making a mistake. Since their Masterplan is due for induction again on June 1, 2014. Perhaps the Town should wait until that is released to better know what direction the Town of Goshen should take. He suggested a subcommittee be formed to study the issue and come forward with a complete proposal.

Chair O'Clair commented that the Board has been working on this amendment a long time and does not feel it is being rushed.

Jolyon Johnson commented that after many years of litigation there is a trial scheduled in April that will either enforce or make nonexistent the leasehold area. So perhaps this amendment should wait until those proceedings are over.

Mr. Gamble explained generally that at the 20,000 ft. level, the basis of the claim is that the representations that the State made to us on what the boundaries are versus the way they ended up being created were not the same, so there will be a discussion about that.

Louise Stevens asked the Board to accept the district and move it forward to the voters.

Bea Jillette if you look at the map of Goshen, the park abuts on two little The lease area is delineated on the park area and where it touches is where Mountain Reach wanted to develop. All other areas in Goshen do not touch the lease area. People do not agree on what DRED had originally promised regarding whether or not it will touch Goshen boundaries. She believes that right now the litigation is Mt. Sunapee Resort is suing the State for denying them what they believed was the original agreement.

Ms. Brennan asked Mr. Gamble if it would make a big difference to Mt. Sunapee if this issue was tabled for another year until some of these other issues are settled.

Mr. Gamble stated that he would appreciate a vote on it this evening. He stated that throughout the process things have changed to the detriment of the business and feels that if it is not voted on now, it may never happen. He commented that he has been listening to the language that has been discussed by the Board. He pointed out that Mt. Sunapee is a taxpayer also. He shared with the Board that there have been other communities that have asked Mt. Sunapee owners to invest in their town with the promise that Mt. Sunapee will be guaranteed every permit they apply for. He stated that they are invested in Mt. Sunapee and want to stay here.

Bea suggested that the vote be put off until the next meeting because the process of creating the draft is too convoluted.

Chair O'Clair commented that he feels badly that there was a misunderstanding, but he felt another meeting is not necessary to verify that this is what the majority of the Board feels is accurate.

Mr. Nadeau commented that this is his first meeting being introduced to this amendment and he understands it very well and does not see the need for another meeting on this amendment. He advised that we move forward to put this in place to at least protect the Town. He commented that condominiums may not be such a bad thing - at least they will bring revenue into the Town which will help keep the tax rate down.

Bernie Cutter commented that the voters vote for the Planning Board members to do this kind of a job. The Board has obviously been working on this for a long time, even if it is only a start in the right direction, it should be voted on and let the voters vote.

Mr. Greenhalgh commented that he supports the Board 100% and it should move forward and let this be voted on.

Mr. Johnson commented that the Board has a secretary for a reason, and therefore the meeting minutes prepared by the secretary are the official minutes. Consequently, those are voted on as official record.

Chair O'Clair commented that there was some confusion at the end of the meeting and the secretary called him for clarification. The content of the meeting is accurately represented in the meeting minutes; however Mr. Howe's suggestion to have Attorney Waugh create the language for the regulation should have come after Mr. Howe's list of suggested changes. The whole conversation was based on the contingency

Mr. Howe commented that he agreed that there should be a contingency, but the contingency that was written into the amendment is not the one he described at the meeting and it was not captured because these are meeting minutes and not a transcript. It can be discussed later.

Mr. Carroll commented that he has a lot of respect for everyone in the Town and their opinions. There have been times when the minutes are lost and/or late. Board members are there for the residents to call upon, and the Board members then bring issues to the meetings. The communication link is the Chair, and issues need to be brought forward to the Chair in a timely manner. Scheduling is an item that needs to be addressed. Every meeting costs money. This issue has been on the table since July. It is time to bring the amendments to the voters for vote.

Being no further comments, Chair O'Clair closed the public input portion of the meeting.

Chair O'Clair appointed Bob Bell as a voting member.

Mr. Howe commented that he fully understands how difficult it could be for a Board to write and cover all legal basis of an amendment. Creating the substance is up to the Board, however covering the legal bases is where the legal counsel comes in. All the issues that seem to be problems are all within the district boundaries. He provided his comments to the Board members in writing. The first problem involves an ambiguity regarding the reference to Map 412, parcel 32, which is included in the first paragraph, then the remainder added in the second paragraph.

Chair O'Clair agreed with that problem and stated that would not require a subsequent hearing since it is just a clerical error. He clarified that the intent was for that is because the upper area mentions the leasehold area and if the Masterplan is approved, that area now becomes part of the boundary.

Mr. Howe commented that it was his understanding that the initial boundaries were essentially only going to be the ski area and so there are two parcels in the first paragraph. Only the current Mt. Sunapee Resort ski area leased land should be included in the new district at passage of the ordinance. Map 411 parcel 11 is outside of the current lease area and should not be included. That was not his intent originally, but if it is the majority of the Board's intent, then so be it. My

understanding was that the public wanted only parcel 32 to be included in the boundary definition.

Mr. Howe commented that his third item gets into the second paragraph. Because we are talking about a future Masterplan might not include one of the parcels listed. Therefore if the parcel isn't included in the approved Masterplan of the future, the parcel is still part of the Recreation District.

Mr. Howe commented that a fourth item of concern is how the land ownership is referenced. The parcels in the proposed amendment state the parcels are owned by Mount Sunapee Resort. All of the land ownership is under Sunapee Land Holdings.

Mr. Howe commented that a fifth item of concern for him is that if only a portion of a parcel is included in the approved expansion the only that portion should be included in the Recreation District. As worded, the whole parcel would be included. As we described previously, if an expansion is approved within the Masterplan of the ski area, those appropriate lots and parcels would be deeded to the State.

Chair O'Clair commented that Attorney Waugh said there needs to be specific boundaries and the lot lines of the lots define the boundaries.

Mr. Howe commented that it could create a legal issue in the future and should be looked at again. He stated a sixth item of concern is the automatic inclusion in the Recreation District should follow the transfer of the land to the State, not simply upon approval of the Masterplan.

Mr. Howe shared a draft of the above issues in one modification and submitted them in writing as follows:

A.4.a District Boundaries

*The initial boundaries of the Mt. Sunapee Recreation District are the land owned by the State of New Hampshire within the Town of Goshen as Tax Map 412, Parcel 32.*

*If a Mount Sunapee Resort 5 year Master Development plan is approved by the New Hampshire Department of Resources and Economic Development ("DRED") for expanding the recreational facilities of Mount Sunapee Resort in Goshen, those portions of lots Tax Map 411, Parcels 010, 013, 015, 024, and 025, owned by Sunapee Land Holdings, LLC and approved by DRED for the west bowl expansion and Tax Map 411 Parcel 011 owned by the State of New Hampshire and approved by DRED for the west bowl expansion, shall automatically be added to the Recreation District once said land is deeded to the State of New Hampshire.*

Mr. Howe suggested giving Attorney Waugh the suggested changes in writing.

Chair O'Clair clarified that Mt. Sunapee is not going to turn the lands over until the Masterplan is approved, therefore this suggested land may be putting the cart before the horse.

Mr. Gamble clarified the offer that was made to the State. The offer that was made to the state was that the land would be donated to the State after the approve the Masterplan and after approval by Goshen and the expansion is built, approved and operating. He stated that Mt.

Sunapee Resort is not going to give away 400 acres of land and then have the same people against expansion turn out and vote it down then, then Mt. Sunapee Resort properties would be left with nothing.

Mr. Howe pointed out that this amendment pertains to the definition of the Recreation District boundary and has nothing to do with the agreement between the State and Mount Sunapee Resort.

Mr. Gamble reiterated that they are not giving away anything until everything is approved and operating. The project could be denied at several different levels. This project is going to cost over \$14 million when it is all built and running; and it would be given to the State. The land is not going to be given to the State just because they approve the Masterplan.

Mr. Howe commented that even though the creation of the Recreation District streamlines the approval process, a Site Plan Review approval would still be needed from the town of Goshen. He stated that he does not have the ability to legally analyze it, but in layman's terms, those were his concerns and wanted to point out some of the inaccuracies in the details.

Chair O'Clair explained that he had a telephone conversation with Attorney Waugh regarding the necessary changes after the last public hearing since Mr. Waugh was on vacation. Chair O'Clair took notes during conversation and wrote the regulation himself based on the legal advice given by Attorney Waugh.

Chair O'Clair stated that Mr. Howe is a very valuable member to the Planning Board and his opinions are valued. In this case however, there are four other board members with differing opinions from Mr. Howe's, and the Board will move forward based on the majority. The Board is just presenting something to the community for a vote, it is not implementing the regulation on its own.

Mr. Bell commented that he would like to see this amendment go forward. It seems like, with one exception, the changes are very minor and could be done in one day. The exception being Item 6. He stated that if Item 6 on Mr. Howe's list *Automatic inclusion in the Recreational District should follow transfer of land to the State, no simply upon approval of the Master Plan.* He agrees with Mr. Gamble that if Item 6 was implemented, would create a problem. All of the other issues could easily be made. He asked what harm would it do if the Board was to approve the amendment contingent upon specific changes in wording.

Chair O'Clair commented that we could have another hearing, but there needs to be a motion and take a vote on exactly what we are proposing.

Mr. Howe commented that a motion will still need legal review before it is worked into the wording of the regulation.

Mr. Gamble confirmed that Tax Map 411 Parcel 011 is State land. He asked the Board to not put Mt. Sunapee in the position of having this amendment defeated by the voters because the semantics have been overplayed. What was presented previously was fine. It is always the same

people that show up to speak against it. Coming from the Mountain's perspective, if the amendment is approved the way Mr. Howe is proposing, the Mountain would be better off not having a Recreation District in Goshen. He commented it is fine as written per the owners and their legal counsel representing Mt. Sunapee/Sunapee Land Holdings. Mt. Sunapee and Sunapee Land Holdings is under one person's ownership, but a separate company in case the Masterplan is never approved so that the land can still be used.

**Mr. Peckham made a motion to accept the proposed zoning amendment for the Recreation District as drafted.**

Being no second, further discussion followed.

**Mr. Howe made a motion to change paragraph A.4.a District Boundaries of the proposed zoning amendment for the Recreation District as follows:**

*The initial boundaries of the Mt. Sunapee Recreation District are the land owned by the State of New Hampshire within the Town of Goshen Tax Map 412, Parcel 32.*

*If a Mount Sunapee Resort 5 year Master Development plan is approved by the New Hampshire Department of Resources and Economic Development ("DRED") for expanding the recreational facilities of Mount Sunapee Resort in Goshen, those portions of lots Tax Map 411, Parcels 010, 013, 015, 024, and 025 owned by Sunapee Land Holdings, LLC and approved by DRED for the West bowl Expansion and Tax map 411 Parcel 011 owned by the State of New Hampshire, and approved by DRED for the West Bowl Expansion, shall automatically be added to the Recreation District.*

Mr. Howe explained that his motion uses the terminology 'West Bowl Expansion' which is the language used in the 5 year master plan and identified as the only expansion. Correction is made in identifying the ownership, states the parcels and refers to only portions of the parcels will be added to the Recreation District once they are approved by DRED for the West Bowl Expansion.

Chair O'Clair asked Mr. Gamble what his opinion is of the amendment.

Mr. Gamble stated that in his opinion, the simplest clarification would be in paragraph A.4 to strike "the leasehold area" so there is no contradiction. It would then read *There shall be a Recreation District to accommodate the needs of year-round recreational and other uses within Mt. Sunapee Resort.* The other change would be to refer to Sunapee Land Holding as the owner in the second paragraph of A.4.a.

Being no second, further discussion followed.

**Ms. Bursey made a motion to change the wording of this amendment by using the term of 'leasehold area' consistently throughout where appropriate and use the official name 'Sunapee Land Holdings' when referring to the leasee, also known as Mt. Sunapee Resort . Mr. Peckham seconded the motion.**

Discussion followed.

Mr. Bell if the Board is approving the motion or approving the changes.

Chair O'Clair explained that the leasehold area will be used plus the other lots if the Masterplan is approved to clarify the property.

Mr. Howe asked for clarification regarding parcel 32.

Chair O'Clair stated that this motion would mean the Board would keep the Recreation District as the leasehold area. If the Masterplan gets approved, then lot 32 would go along with the rest of the lots in the Recreation District. The buffer zone will stay in the same zoning classification as it is now.

Mr. Howe commented that he has a problem that part of the parcel is included in one paragraph and the whole parcel is indicated in another.

Chair O'Clair felt the amendment is very clear as written.

Mr. Gamble commented that many ski areas have recreation districts in their town. Very few are as unique as Mt. Sunapee since it is a state park also. Many are US Forest Service land but a lot of land at the base is owned by the resort, higher up is leased from the State or Forest Service, all considered a recreation district. He recommended that the Board strike 'within the leasehold area', thereby creating a year round district of recreational uses.

Ms. Bursey commented that she prefers to keep the leasehold language in her motion.

**VOTE on Ms. Bursey's motion as made: Majority in favor. Motion passed.**

Mr. Howe abstained from voting. He commented he supports the idea of a Recreation District but feels changes need to be made to this version. Since there are enough votes to move it along, he chooses to abstain.

Amendment 3:

Mr. Peckham commented he agrees with Mr. Howe that there should be a stipulation in the deed. He acknowledged that it is an extra expense to amend a deed, but if there is going to be a building expense, a deed addendum won't be that much more.

Mr. Howe commented he feels the deed stipulation is an important factor to the amendment.

**Mr. Peckham made a motion that the Board include the stipulation that an addendum to the property deed identifying the accessory apartment be recorded at the registry of deeds. Ms. Bursey seconded the motion. All in favor.**

Ms. Marashio asked if there is going to be a subsequent hearing to vote on the changes agreed upon this evening.



Chair O'Clair clarified that there will be a subsequent zoning amendment hearing to review the changes made to Proposed Amendment 3 re: In-Law Apartments. That meeting will be Thursday, January 30, 2014 at 7:00 p.m. There will be no subsequent hearing for amending Proposed Amendment 2 - Recreation District since the change agreed upon was not sustentative.

**Mr. Peckham made a motion to adjourn. Ms. Bursey seconded the motion.** All in favor.  
Meeting adjourned at 9:45 p.m.

Respectfully submitted,

Linda Plunkett