

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Carroll Superior Court
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Ossipee NH 03864

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<http://www.courts.state.nh.us>

NOTICE OF DECISION

File Copy

Case Name: **Town of Freedom v Town of Ossipee and Ossipee Planning Board**
Case Number: **212-2016-CV-00165 212-2017-CV-00014**

Enclosed please find a copy of the court's order of July 31, 2017 relative to:

Settlement Stipulation and Proposed Order

August 01, 2017

Abigail Albee
Clerk of Court

(406)

C: John J. Ratigan, ESQ; Richard Dean Sager, ESQ; Peter J. Malia, ESQ

THE STATE OF NEW HAMPSHIRE

CARROLL, SS.

SUPERIOR COURT

Town of Freedom

V.

Town of Ossipee and the Ossipee Planning Board

And

Northgate Ossipee, LLC,
Intervenor

Docket No. 212-2016-CV-00165

Town of Freedom

V.

Town of Ossipee

And

Northgate Ossipee, LLC,
Intervenor

Docket No. 212-2017-CV-00014

SETTLEMENT STIPULATION AND PROPOSED ORDER

NOW COMES the Town of Freedom (hereinafter "Freedom") and Northgate Ossipee, LLC (hereinafter "Northgate") and state as follows:

WHEREAS, Freedom has filed appeals from decisions by the Ossipee Planning Board (Docket No. 212-2016-CV-00165) and the Ossipee ZBA (Docket No. 212-2017-CV-00014) arising out of decisions by the Boards relating to Northgate's application for the proposed

expansion of the Westward Shores Lakeside Camping Resort situated on Northgate's property in Ossipec;

WHEREAS, Freedom and Northgate desire to resolve the issues that have been raised in Freedom's appeal, and the said parties agree as follows:

1. The pavilion identified on the plan shall be constructed without walls, and accordingly will not qualify as a "structure" as that term is defined in section 4.10.1 of the Ossipec Zoning Ordinance.

2. Prior to the installation and construction of the proposed Presby septic system, which serves the Peninsula area of the campground, in septic area #3 as shown on the approved site plan, Freedom shall be authorized to have its own soils consultant inspect the proposed septic area #3 soils. If they are consistent as Northgate has represented them to be per Northgate's earlier soils test pits, or are otherwise permitted soils per Table 3 of the Ossipec Zoning Ordinance, Freedom shall have no objection to the use of the Presby system as proposed by Northgate. Freedom shall make such soils inspection and analysis at its own expense, and shall do so within two weeks of the date that Freedom signs this agreement, or this paragraph is waived by Freedom.

3. Northgate is not opposed to Freedom's soil testing as described in paragraph 2 above. However, Northgate's position is that the Presby system proposed by Northgate's engineers is appropriate and acceptable to NHDES because the soils table in the Ossipec Zoning Ordinance is superseded by §6.3.2 of the Ossipec Zoning Ordinance, first due to the fact that the system is for a commercial use, and second due to the use of an IAT system.

4. The parties acknowledge that the most recent Flood Insurance Rate Map (FIRM) for Carroll County, New Hampshire (Map 33003C0491D), as published by FEMA, has an effective date of March 19, 2013. The approved plan calls for new sites on the property to be located in areas classified as 100-year Flood Zone AE according to the FIRM map.

5. As to the other 246 proposed campground expansion sites, located outside of the so-called Peninsula area, Northgate shall comply with 44 CFR part 60.3, (c), 14, which specifies that the community, in this case Ossipee, shall:

“Require that recreational vehicles placed on sites within Zones A1—30, AH, and AE on the community’s FIRM either:

- (i) Be on the site for fewer than 180 consecutive days;
- (ii) Be fully licensed and ready for highway use; or
- (iii) Meet the permit requirements of paragraph (b)(1) of this section and the elevation and anchoring requirements for “manufactured homes” in paragraph (c)(6) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnection type utilities and security devices, and has no permanently attached additions.”

6. That a note shall be added to the approved site plan setting forth the text of paragraphs 1 and 5 above.

7. Northgate and Freedom shall execute a mutual release drafted by Freedom that releases all claims, actions or matters, whether known or unknown, relating to Freedom’s appeal of Northgate’s application, and including any claims or causes of action arising from or relating to the financial support of lakeside property owners and other private persons in Freedom who have contributed to the expense of Freedom’s appeal.

8. That upon the approval of this Settlement Stipulation as an Order of the Court, and, 1) upon Northgate having revised the plan to add the notes referenced in Section 6, and the

Ossipee Planning Board having signed the plan; and 2) upon Northgate having executed and delivered the releases acceptable to Freedom and its legal counsel, Freedom shall nonsuit with prejudice its pending appeals and shall take no further appeal or actions with respect to this application, with the exception of reserving the right to seek relief to enforce this Settlement Stipulation and Order in the event of a future violation.

**TOWN OF FREEDOM
BOARD OF SELECTMEN**

Date

Leslie Babb, Chair

Date


Neal Boyle, Member

Date

Ernest Day, Jr., Member


NORTHGATE OSSIPEE, LLC

7-26-17
Date


Zachary J. Bossembroek
Authorized Agent

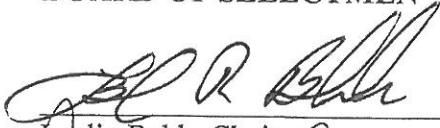
SO ORDERED.


Date: 7/31/2017

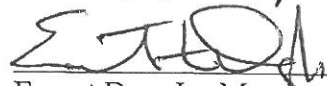

PRESIDING JUSTICE

Ossipee Planning Board having signed the plan; and 2) upon Northgate having executed and delivered the releases acceptable to Freedom and its legal counsel, Freedom shall nonsuit with prejudice its pending appeals and shall take no further appeal or actions with respect to this application, with the exception of reserving the right to seek relief to enforce this Settlement Stipulation and Order in the event of a future violation.

**TOWN OF FREEDOM
BOARD OF SELECTMEN**



Leslie Babb, Chair


Neal Boyle, Member


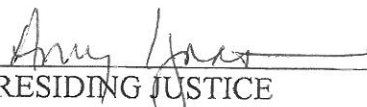
Ernest Day, Jr., Member

Date
7/17/17

Date
7/17/17

Date

NORTHGATE OSSIPEE, LLC



PRESIDING JUSTICE

Date

SO ORDERED.

Date: 7/31/2017