

**DEVELOPMENTAL REVIEW BOARD  
MINUTES**

*November 14, 2011*

**MEMBERS PRESENT:**

Phil Carter	Richard Harrison	Linda Petty
John Boehrer	Julie Nicoll	

**MEMBERS ABSENT:**

Linda Petty

**STAFF PRESENT:**

Rose Goings

**OTHERS PRESENT:**

Ned Bowen	Kathy Hart	Linda Thomson
Rory Cardinal	Lon McClintock	Hilarie Tolstoi
Jason Delmetsch	Brian McGrail	Claudio Veliz
Mike Doran	Mary Jane O'Hara	Richard Walsh
Phil Dunwoody	Ted Reeves	Darren Williams
Jim Fuller	Joseph Rolka	Laura Williams
Peter Girouard	Andrew Snyder	Keith Young
Frank Greiner	George Thomson	Lisha Klaiber, Recorder
Frederick Hart		

1. **CALL TO ORDER**

A. Meeting opened at 6:01 p.m. by Phil Carter. All members present, except Linda Petty.

2. **RE-OPEN THE RECESSED PUBLIC HEARING FOR GEORGE AND LINDA THOMSON**

- A. Phil Carter advised that this is a Flood Hazard Review – the applicants wish to lift the existing house above the base flood elevation after it was damaged by Hurricane Irene. The property is located at 131 Thomson Drive in the Special Flood Area of the Lakes District. He advised that this hearing was recessed from the meeting of October 24, 2011
- B. Rose Goings advised that this is application 347-11-FHR. It was posted on the Town Hall Bulletin Boards on October 3, 2011, advertised in THE VERMONT JOURNAL on October 5, 2011 and abutting property owners were notified on October 3, 2011. She advised that new drawings were received tonight.
- C. Phil Carter administered the oath to all wishing to speak at this hearing. He asked Claudio Veliz if the drawings received by the board tonight supersede the previous drawings.
- D. Claudio Veliz said they do. He advised that the original intent was to lift the structure above the Base Flood Elevation, however when they inspected the structure, they found that the floor joists were not sufficient to risk the lift. The structure was originally a camp. They are now proposing to raze the section of the house and rebuild making the living space on the upper level. It will be held up by pillars and have FEMA approved breakaway panels. He referred to

drawing DD03 which shows the lower level just above grade, 2<sup>nd</sup> level above Base Flood Elevation and elevations from the north, south and west. The existing 2-level garage was only minimally impacted and will stay. It has 2 guest rooms and a washroom. The rest of the house was totaled. The new structure will be a rectangle - about 60' by 24' and will be added to the garage. There will be concrete columns and on top of them will be the living floor. He said that the intent is to make a minimal impact and the new structure will be about 50 square feet smaller than the original. The previous structure had appendages. This will be a single space. The building will be lifted to allow any future water flow underneath. There will be 2 kinds of panels, solid and screened. The screen panels at the west end will be so they can sit down there in the summer. They want to maintain the continuity of the area architecturally. It will be functional and echo the vernacular of Vermont architecture. The siding, eaves and roof angles will be maintained and the windows will be in the same proportion as the existing.

- E. Phil Carter asked how high the water was in the house.
- F. George Thomson said 4 ½ to 5 feet.
- G. Phil Carter asked how high is the building going to be raised from ground level.
- H. Claudio Veliz said the second level would be 9 ½ feet.
- I. Phil Carter asked how much higher the new roof would be over the existing garage.
- J. Claudio Veliz said about 2 ½ feet for a total of about 24 to 26 feet.
- K. Rose Goings said that they would need to make sure that they build a minimum of 1 foot above Base Flood Elevation – not from Irene. She asked about an elevation certificate. She asked if they had changed the house since the original certificate.
- L. Linda Thomson said the elevation was still greater than 1 foot above Base Flood Elevation.
- M. George Thomson said it was actually more.
- N. Claudio Veliz said that the Base Flood Elevation is 1047.6 and the house is 1051.5. He said the living space is about 4 feet above Base Flood Elevation.
- O. Rose Goings asked about the decks.
- P. Claudio Veliz said they would be laterally suspended with iron tension elements and no structure underneath. There would be a lower level deck on the ground.
- Q. Julie Nicoll asked about gas tanks.
- R. Claudio Veliz said they would be within a concrete box at the safest end of the structure.
- S. Phil Carter explained that the board is concerned that all gas tanks be secured. He said the board would require that tanks be strapped down.
- T. Rose Goings said that what they dig out from the ground must go back.
- U. Claudio Veliz said exactly. It will be restored to pristine grade.
- V. John Boehrer asked about steps down to the lake.
- W. Claudio Veliz said they would be against the structure with an overhang to protect against the weather.
- X. Phil Carter said that for hearings that involve the flood hazard review and people trying to repair their properties, he would ask the board for an up or down vote instead of the 45-day process.
- Y. **MOTION by Julie Nicoll and seconded by Richard Harrison to use an up or down vote for this hearing. Motion passed unanimously.**
- Z. **Phil Carter polled the board members and there was unanimous approval for this hearing.**
- AA. Phil Carter advised that the decision come and there would still be the 15-day appeal period that would start right now.

3. **OPEN THE PUBLIC HEARING FOR SHAW'S**

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- A. Phil Carter advised that this is an application for Flood Hazard Review and an amendment to the Conditional Use permit to add 2,000 square feet to the existing store and repair the flood damage. The property is located at 213 Main Street in the Village Residential Commercial District and in the Special Flood Hazard Area.
  - B. Rose Goings advised that this is application 88-221-CU/FHR, Amendment #10. It was posted on the Town Hall Bulletin Boards on October 26, 2011, advertised in THE VERMONT JOURNAL on October 26, 2011 and abutting property owners were notified on October 26, 2011.
  - C. Phil Carter administered the oath to all wishing to speak at this hearing.
  - D. Brian McGrail said that the store had been damaged by Irene and they wish to rehabilitate it. They also would like to take over the space previously occupied by the Laundromat. They need 2 permits: design and flood. There will be no significant changes to the exterior and no additional signs.
  - E. Jason Delmetsch said that they are working with Rebecca Pfeiffer from ANS Water Quality and finalizing plans.
  - F. Phil Carter verified that there would be no changes to the outside footprint.
  - G. Lon McClintock said that they would remove the door to the Laundromat space and they would be raising the back electrical panel with a small platform to bring to code.
  - H. Phil Carter asked about the propane tanks.
  - I. Jason Delmetsch said they serve the entire facility.
  - J. Richard Harrison said they were secured after the 1973 flood.
  - K. Lon McClintock said that they have spoken to Pam Cruickshank regarding the water allocation. The allocation for the Laundromat was large and the town would be reducing the allocation.
  - L. Phil Carter asked how deep the water was in the store.
  - M. Lon McClintock said about 3 feet.
  - N. Richard Harrison asked where the mechanical equipment would be.
  - O. Jason Delmetsch said the mezzanine level or the roof. There is good access.
  - P. Lon McClintock said there would be steel stairs.
  - Q. Brian McGrail said they would do the required code upgrades.
  - R. Lon McClintock said they are trying to piece out the flood and codes costs to determine the 50% rule. He asked if the board could approve this without state approval.
  - S. Phil Carter said the board could approve it pending state approvals.
  - T. Lon McClintock asked if the state imposes conditions, can we amend the town permit or do we have to start over.
  - U. Rose Goings said she does not think it would hold up this board.
  - V. Phil Carter said that we can do it as a condition. We don't want this process to hold up anyone with Irene damages. This board wants to expedite as much as possible. We will figure it out and work with you.
  - W. Lon McClintock said he had received a lot of positive feedback.
  - X. **MOTION by John Bohrer and seconded by Julie Nicoll to use an up or down vote on this hearing. Motion passed unanimously.**
  - Y. **Phil Carter polled the board and there was unanimous approval of this application.**

4. **OPEN THE PUBLIC HEARING FOR FREDERICK AND KATHY HART**

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- A. Phil Carter advised that this is an application for Flood Hazard Review to lift the existing house above the base flood elevation in the Special Flood Hazard Area. The property is located at 510 Route 103 South in the Town Residential Commercial District.
  - B. Rose Goings advised that this is application 351-12-FHR. Posted on the Town Hall bulletin boards on October 26, 2011, advertised in THE VERMONT JOURNAL on October 26, 2011 and abutting property owners were notified on October 26, 2011. She said that they do have an elevation certificate.
  - C. Phil Carter administered the oath to all wishing to speak at this hearing.
  - D. Kathy Hart advised that they would like to raise the existing home and dig out the old foundation. They would raise the structure about 3 feet and have a new basement. The first floor would be out of the floodway. They would replace the pantry.
  - E. Phil Carter asked how high the water was in the house.
  - F. Kathy Hart said about 22 inches.
  - G. Phil Carter asked if they would be changing the size of the house.
  - H. Kathy Hart said it would be the exact footprint.
  - I. John Boehrer asked about the pantry. He said the drawings show a 9' x 16' pantry to be replaced and a 9' x 9' new room over the bulkhead.
  - J. Kathy Hart said they want to put up a wall and trap door.
  - K. Rose Goings said that the new structure should be built at least 1 foot above Base Flood Elevation.
  - L. **MOTION by Richard Harrison and seconded by John Boehrer to use an up or down vote for this hearing. Motion passed unanimously.**
  - M. **Phil Carter polled the board and there was unanimous approval of the application.**

5. **OPEN THE PUBLIC HEARING FOR FRANK GREINER.**

- A. Phil Carter advised that this is an application for Flood Hazard Review and to amend a Conditional Use permit to allow the repair work to be done after Hurricane Irene and to clear up the existing permits. Property is located at The Mill, Unit 106 in the Village Residential Commercial District and Special Flood Hazard Area.
- B. Rose Goings advised that this is application 80-50-CU, Amendment #1/FRH. Posted on the town hall bulletin boards on October 3, 2011, advertised in THE VERMONT JOURNAL on October 5, 2011 and abutting property owners were notified on October 3, 2011. She said that ambulance, fire and police letters are in.
- C. Phil Carter administered the oath to all wishing to speak at this hearing.
- D. Frank Greiner advised that he opened a tavern at the Mill. There was 8 ½ feet of water and 4 feet of silt from Irene. The demolition work is complete and he would like to prepare to reopen. There are conditions from Bruce Martin (Fire Marshall) and the ceiling must be approved by Mr. Martin. The drywall, bar, floors and bathroom are okay. The heat and hot water have been repaired.
- E. Phil Carter asked about the business.
- F. Frank Greiner said it is a tavern/restaurant/bar with a family atmosphere. There are video games, pizza and burgers and may be free food to children on Sundays. He wants to create a nice atmosphere and he never had any issues at his previous location.
- G. Phil Carter asked if he is going to expand the building.
- H. Frank Greiner said no, just lights for safety and he is taking out some office space as he is working within a strict budget.
- I. Richard Harrison asked about the back section.

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- J. Frank Greiner said that he spent a lot of time back there and will use it for storage. The shed will be moved back and the area will just be an emergency exit. He has to remove a lot of wood, some equipment and scrap metal.
  - K. Richard Harrison asked Frank Greiner to have Labor and Industry keep sending update letters to Rose Goings.
  - L. **MOTION by John Boehrer and seconded by Richard Harrison to use an up or down vote for this hearing. Motion passed unanimously.**
  - M. **Phil Carter polled the board and there was unanimous approval for this application.**
  - N. Phil Carter advised that the decision is always contingent upon Labor and Industry and the Fire Marshall and anything else from the state.
  - O. Frank Greiner said that he wants to be compliant.
  - P. **Phil Carter polled the board and there was unanimous approval for this application.**

6. **OPEN THE PUBLIC HEARING FOR HILARIE TOLSTOI**

- A. Phil Carter advised that this is an application for Flood Hazard Review and an amendment to a Conditional Use Permit to remove the apartment and relocate Scoops Ice Cream. The property is located at 29 Main Street in the Village Residential Commercial and Special Flood Hazard Area.
- B. Rose Goings advised that this is application 85-122-CU, Amendment #2/FRH. Posted on the town hall bulletin boards on October 3, 2011, advertised in THE VERMONT JOURNAL on October 5, 2011 and abutting property owners were notified on October 3, 2011.
- C. Phil Carter administered the oath to all wishing to speak at this hearing.
- D. Hilarie Tolstoi advised that she wants to serve ice cream and lunch all day. She will move the game room from the previous Scoops location. There is a letter from the owner about insurance and foundation work. She will remove the apartment.
- E. Phil Carter asked if there would be any changes to the outside.
- F. Hilarie Tolstoi said not yet, but ultimately, she would like to put a roof over the deck and screen it in. She said the window to the porch would be changed to a door.
- G. Phil Carter asked about the walk-up window.
- H. Hilarie Tolstoi said that would be gone. She is changing from Cota & Cota to Irving and will have horseshoes and volleyball and put up a picket fence.
- I. Rose Goings said that the containers at Mr. Upton's property will be removed.
- J. Hilarie Tolstoi said that she may ask local artists to make up holes for a mini-golf. She said that the tank is 10 feet from the building, but Irving said they could use 4 small tanks and they could go against the building.
- K. Phil Carter advised Hilarie Tolstoi that she should tell Irving that they must strap down the tanks. It will be a condition of the permit. In the future anyone in the flood area must strap down the tanks.
- L. Rose Goings asked how many seats she would have.
- M. Hilarie Tolstoi said 16 serving and some at the games, but they do not count. She would be open 10 a.m. to 10 p.m. She added that Bob Manfredi looked at it and said they would come again on Wednesday and she may get her license on Wednesday.
- N. **MOTION by Julie Nicoll and seconded by Richard Harrison for an up or down vote on this hearing. Motion passed unanimously.**
- O. **Phil Carter polled the board and there was unanimous approval of this application.**
- P. Hilarie Tolstoi asked if they had received the town department letters.
- Q. Rose Goings said not yet, but that she had received that Water department letter today.

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7. **OPEN THE PUBLIC HEARING FOR BALLARD HOBART AMERICAN LEGION**

- A. Phil Carter advised that this is an application to consider a Variance to extend the elevator shaft through the back roof of the American Legion building. The property is located at 135 Main Street in the Village Residential Commercial District.
- B. Rose Goings advised that this is application 350-12-VA. Posted on the town hall bulletin boards on October 26, 2011, advertised on THE VERMONT JOURNAL on October 26, 2011 and abutting property owners were notified on October 26, 2011.
- C. Phil Carter administered that oath to all wishing to speak at this hearing.
- D. Ned Bowen said they started renovating that would like to use the 2<sup>nd</sup> and 3<sup>rd</sup> floors. The 2<sup>nd</sup> floor is 22 steps. There would be a meeting room there and the 3<sup>rd</sup> floor would be storage/office space and be used by the Auxiliary, Sons of the American Legion and Color Guard. They need 12 feet to clear the top of the shaft. The building would not exceed the ridge height of the main building.
- E. Phil Carter asked how much height they would add.
- F. Ned Bowen said 2 ½ feet and 2 feet on the uphill over the shed roof.
- G. Phil Carter asked if the elevator would be within the building.
- H. Ned Bowen said yes.
- I. Phil Carter advised that by State Statute, requests for a variance must comply with 5 criteria. He said that a letter was submitted dated 11/14/11 and it had 5 things. He asked if that letter responded to the 5 criteria.
- J. Ned Bowen said he was not quite sure how to respond because it was really circumstantial.
- K. Phil Carter asked if there was another place where the building is higher and they could put the elevator there so you would not have to go through the roof.
- L. Ned Bowen said no.
- M. Phil Carter said for the record then to be clear– the front part of the Legion building is a regular roof with the ridgeline running from Main Street to the Black River and the highest point is the ridge. The front part of the even if you put it forward or center there would still be a variance because of the pitch of the roof.
- N. Phil Carter asked if this would affect the character of the neighborhood.
- O. Ned Bowen said no. You would be able to see it from High Street at this time of year because there is no foliage. You would not be able to see it from NAPA, Cumberland Farm or Main Street because it is in the back of the building. It will have a rubber roof, same as the existing only flatter because of the shaft.
- P. Phil Carter asked if you were to put an AC unit on the roof, would the AC unit be bigger and more imposing.
- Q. Ned Bowen said yes, more obtrusive.
- R. Richard Harrison said it is a good location, better than the Shell side.
- S. Ned Bowen said it also gives more room inside than if they put it on the Shell side.
- T. Phil Carter asked if they are using that space now.
- U. Ned Bowen said yes, but it is cold as they don't have heat yet.
- V. Phil Carter asked where the ballroom is.
- W. Ned Bowen said on the 3<sup>rd</sup> floor and they will use the space for storage. They have already started the sprinkler system.
- X. Phil Carter asked how they get the elevator in.

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- Y. Ned Bowen said it would be assembled in place. It is hydraulic and there is no shaft going down. They will not have to cut a hole in the side of the building. They will lose windows on the 2<sup>nd</sup> and 3<sup>rd</sup> floors.
- Z. **MOTION by John Boehrer and seconded by Richard Harrison to close this hearing. Motion passed unanimously.**

**NOTE: Phil Carter suggested that the following 2 hearings be opened and addressed at the same time and Ted Reeves agreed that this was the way it had been done in similar situations and agreed with Phil Carter.**

8. **OPEN THE PUBLIC HEARING FOR OKEMO LIMITED LIABILITY COMPANY**

9. **OPEN THE PUBLIC HEARING FOR OKEMO LIMITED LIABILITY COMPANY**

- A. Phil Carter advised that these hearings are an application to amend a Planned Unit Development (PUD) and Local Act 250 Review to allow the creation of a 10-lot subdivision. The subdivision is to facilitate the transfer of ownership of developed facilities to CNL and for a permit to allow a subdivision creating 10 lots. Property is located in the Mountain Recreation District.
- B. Rose Goings advised that these are applications 094-95-PUD, Amendment #4, 352-12-Act 250 and SUB12-002. They were posted on the town hall bulletin boards on October 26, 2011, advertised in THE VERMONT JOURNAL on October 26, 2011 and abutting property owners were notified on October 26, 2011.
- C. Phil Carter administered the oath to all wishing to speak at this hearing
- D. John Boehrer recused himself from this hearing due to conflict of interest.
- E. Ted Reeves said this is an application to amend the PUD and the intent is similar to the Golf Club and Jackson Gore properties for which we have had previous hearings. IN 2008, CNL purchased the resort and we are transferring the resort asset to CNL. He referred to the drawing and indicated the 140 acres, showing white parcels that were previously transferred to 3<sup>rd</sup> party owners, yellow parcels to be transferred to CNL and blue/green parcels being retained by Okemo. There will be no new development, it is understood that permit conditions will be transferred with the trade. This is a paperwork exercise. CNL is getting 105.81± acres. Okemo is retained the following parcels
- i. R1 – 11.81 acres
  - ii. R2 – 3.03
  - iii. R3 – 1.45
  - iv. R4 – 4.97
  - v. R5 – 5.24
  - vi. R6 – 2.24
  - vii. R7 – 2.57
  - viii. R8 – 1.97
  - ix. Area C1B – 1.84

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- x. The area colored Blue is the property being retained to accommodate the Solitude water system
- F. Ted Reeves continued, saying that all properties have either direct or easements for road frontage.
- G. Phil Carter asked if all of the properties colored white have been developed.
- H. Ted Reeves said most of them are town houses or single family homes. There are 2 or 3 vacant lots.
- I. Phil Carter verified that there will be not new roads or storm water development.
- J. Ted Reeves said not at this time. If there is to be any development, he would come back to this board. He said that he would be sending the application for Act 250 to the state in about 2-3 weeks.
- K. Mike Doran advised the following in response to the 3 criteria for Local Act 250 review:
- i. Unreasonable Burden to Educational Services – there will be no new development or jobs created and no new student enrolment.
  - ii. Impact on Municipal Services – there are no conditions on the site to cause a change in town services. All roads are in place.
  - iii. Conformance to the Municipal Plan – the town plan designates this area as the Mountain Recreation District and by definition large scale outdoor recreation area. The primary purpose is tourism and related housing and services and outdoor recreation. This application is to facilitate continued operation by the new owner. There is no new development and there are no changes to land use.
- L. Ted Reeves said this is the end of the 3<sup>rd</sup> year of a 40-year long term lease. The Muellers and operational staff are the same.
- M. **MOTION by Richard Harrison and seconded by Julie Nicoll to close this hearing. Motion passed unanimously.**

10. **OPEN THE PUBLIC HEARING FOR JOSEPH ROLKA**

- A. Phil Carter advised that this hearing is an application for a Flood Hazard Review to replace an existing two (2) family house and garage. The property is located at 20 Main Street in the Village Residential District and Special Flood Hazard Area.
- B. Rose Goings advised that this is application 349-12-FHR. Posted on the town hall bulletin boards on October 26, 2011, advertised in THE VERMONT JOURNAL on October 26, 2011 and abutting property owners were notified on October 26, 2011.
- C. Phil Carter administered the oath to all wishing to speak at this hearing.
- D. Richard Walsh advised that he submitted letters from the light department, the fire department and the schools. He referred to the drawing and showed the house and garage that is attached at the 2<sup>nd</sup> floor. He said that will not be attached in the future. They plan to replace the buildings with a new 2-family house with 2 stories and storage space above. The first floor of the house will be above Base Flood Elevation by at least 1 foot.
- E. Phil Carter asked if the footprint would be the same.
- F. Richard Walsh said it would be the same footprint.

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- G. Phil Carter asked how high the water was in the house.
  - H. Ralph Michael said about 16 inches above floor level.
  - I. Richard Walsh said the new house would be built on a slab.
  - J. Richard Harrison asked if there was water in the house.
  - K. Joseph Rolka said the water was only in the basement. He has always had water in the basement and would like to eliminate it.
  - L. Julie Nicoll asked about the apartment area above the garage.
  - M. Richard Walsh said that would be open storage space.
  - N. Phil Carter asked if the footprint would be the same.
  - O. Richard Walsh said yes, except for a part of the basement where there is a 6' tall access that sticks out in the back.
  - P. Phil Carter asked if there would be propane tanks.
  - Q. Joseph Rolka said he did not know, but probably yes.
  - R. Phil Carter said the permit would have the condition that any propane tanks must be secured.
  - S. Phil Dunwoody asked if this property is in the Preservation District.
  - T. Phil Carter said no. It is below the district.
  - U. Julie Nicoll said the house is between Village Pizza and Chef Mei.
  - V. Rose Goings asked how many bedrooms the existing house has.
  - W. Joseph Rolka said 5, 3 on the bottom level and 2 on the top level.
  - X. Rose Goings said the tax card says there are 5 bedrooms and they are putting in 3 and 3 in the new drawings. They will have to increase the sewer allocation.
  - Y. Richard Walsh said they can get the additional allocation.
  - Z. Phil Carter said he would entertain a motion for an up or down vote.
  - AA. MOTION by John Bohrer and seconded by Julie Nicoll for an up or down vote. Motion passed unanimously.
  - BB. Phil Carter polled the board and there was unanimous approval of this application.
  - CC. Phil Carter advised that the permit would be pending allocations and L&I conditions and approvals.

11. **OTHER BUSINESS**

- A. Edgar Appeal
  - i. Phil Carter said that Mrs. Edgar is appealing their decision.
  - ii. Rose Goings said that she is just working on it now and has started the process/. She said that she has spoken to Chris Callahan about enforcing the fines and he will check on it and advise her how far back the town can go.
  - iii. Phil Carter said it is the applicant's right to appeal.

12. **APPROVE MINUTES**

- A. Phil Carter advised that the minutes to be reviewed are from October 24, 2011. He said that he had not had the chance to check them and would like to review them at the next meeting.
- B. The board agreed.

13. **ADJOURN**

- A. **MOTION by John Boehrer and seconded by Julie Nicoll to adjourn. Motion passed unanimously.**
- B. Meeting adjourned at 7:28 p.m.

Respectfully submitted,

Lisha Klaiber

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Phil Carter, Chairman

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Julie Nicoll

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John Boehrer

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Linda Petty

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Richard Harrison