

CONWAY PLANNING BOARD

MINUTES

MAY 6, 1999

A meeting of the Conway Planning Board was held on May 6, 1999, beginning at 7:02 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chairman, Catherine Woodall; Selectmen's Representative, Gary Webster; Vice Chairman, Sheila Duane; Secretary, Arthur Bergmann; Robert deFeyer; John Waterman; Stacy Sand; Town Planner, Dawn Emerson; and Recording Secretary, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

The Minutes of April 8, 1999, should be amended as follows: page 1, paragraph 2, add to the end, "Ms. Woodall stated that there is a two (2) year limit set for grandfathering and change-of-use. Mr. Bergeron stated that he did not know where that came from. Mr. deFeyer asked if it was the taxes that determined that. Mr. Bergeron answered in the affirmative."; page 1, paragraph 5, line 1, should read, "Ms. Woodall stated that when Chelsea's..."; page 1, paragraph 5, line 6, should read, "...happen is we are going ..."; page 2, paragraph 1, line 4, should read, "...would agree, that it is a good idea to consider, but...";

page 2, paragraph 2, line 2, should read, "Mr. deFeyer stated that most of the problems are with the staff application that we have..."; page 2, paragraph 3, line 1, should read, "...use before a new permit is..."; page 2, paragraph 6, line 4, should read, "...good idea to look at this issue and it is...";

page 3, paragraph 4, line 1, should read, "...have a designee, but the law changed in August last year [~~they have taken that away~~], and the only..."; page 3, paragraph 5, line 2, should read, "...that [your] the public is suppose to..."; page 3, paragraph 5, line 6, should read, "Ms. Woodall stated that the application sits for fifteen (15) days as it was submitted and staff notes are provided."; page 3, paragraph 6, line 2, should read, "...Planner, have the application noticed by the Town Planner, have the Town Planner provide staff notes, if it..."; page 3, paragraph 6, line 4, should read, "...that should be ready to be accepted..."; page 3, paragraph 7, line 1, should read, "Mr. deFeyer stated that the Town has a definition of what specifies...";

page 4, paragraph 1, line 5, should read, "...submitted a draft to the Board...". Mr. deFeyer made a motion, seconded by Mr. Bergmann, to approve the Minutes of April 8, 1999, as amended. Motion unanimously carried.

The Minutes of April 15, 1999, should be amended as follows: page 2, paragraph 1, line 5, should read, "Mr. deFeyer stated that Town standards require that all light..."; page 3, paragraph 1, line 3, should be added, "...should be fine. Ms. Woodall stated asked for the material to be put on the architectural plans. Mr. Risley answered in the affirmative. Ms. Woodall asked for public..."; page 7, paragraph 3, line 5, should read, "...the Board had requested them in..."; page 7, paragraph 6, line 3, should be added, "...items. Ms. Woodall stated that if they were brought back to the Board they could be brought into compliance as much as possible. Ms. Woodall stated that she spoke to John Krebs and he would have required a full site plan review. Mr. Bergmann stated that it seems...".

Mr. Bergmann made a motion, seconded by Mr. deFeyer, to approve the Minutes of April 15, 1999, as amended. Motion unanimously carried.

HALES HIGHLAND DEVELOPMENT CORP. - PUBLIC HEARING ON NOTICE OF REVOCATION CONTINUED (Map 11, Parcel 17) FILE #88-05

Peter Hastings, Town Counsel; Jim Shannon, Attorney for Developer; Richard Sager, Attorney for Home Owner's Association; Robert Quint, Developer; and Phil Rogers, Investor, appeared before the Board. Ms.

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Woodall stated that this applicant was continued and asked if there are any outstanding items. Ms. Emerson stated that the bond has not been submitted. Mr. Shannon stated that the developer has brought in a new investor, Mr. Rogers, who is from the Town of Hudson. Mr. Shannon stated that Mr. Quint has not been able to post the bond because the original investor is not able to proceed. Mr. Shannon stated that Mr. Quint has found another developer and Mr. Rogers has agreed to invest in the project. Mr. Shannon stated that Mr. Rogers is willing to get a letter of credit to complete the construction.

Mr. Shannon stated that the applicant was suppose to have a bond, but he doesn't. Mr. Shannon stated that Mr. Quint and Mr. Rogers will be speaking to the Board regarding the bond. Mr. Shannon stated that Mr. Rogers is a developer, former State Representative, and former Hudson Planning Board member. Mr. Shannon stated that Mr. Rogers is willing to proceed and speak to the Board and continue in good faith. Mr. Shannon stated that he wished he had better news and that the applicant had a bond, but he does not. Mr. Shannon stated that Mr. Rogers wants to proceed without posting a bond and we can discuss that with the Board.

Ms. Woodall stated that the Town does not accept letters of credit under the regulations. Mr. Shannon stated that Town Counsel had told them that, but they could not get a bond on such short notice. Mr. Shannon stated that the applicant is here tonight to do whatever is necessary. Mr. deFeyter stated that this review started under the old Planning Board and there are some new members. Mr. Sand stated that she is fine with reviewing this application. Mr. Webster stated that he is comfortable with reviewing this application. Ms. Sand asked how long it would take to obtain a bond. Mr. Rogers answered thirty (30) days. Mr. Rogers stated that he could complete the project without a bond within ninety (90) days.

Ms. Sand asked if the developer has done any work on this project so far. Mr. Quint stated that it took so long with the engineering that the original investor put the money into another project. Jim Kelly, homeowner, asked how long it would take for a bond to be secure. Ms. Emerson stated that up until Tuesday of this week, the applicant stated that the bond would be in place. Ms. Emerson stated that a memo from the Town Engineer, Paul DegliAngeli, dated March 19, 1999 regarding revisions needed to the plan that has not been addressed. Mr. Quint stated that they were curbing issues and he met with Mr. DegliAngeli on site after the snow melted. Ms. Emerson stated that the amendment was approved, but the plans need to be corrected.

Mr. Bergmann asked if it is permissible for the applicant to carry on now with the way things sit right now. Mr. Bergmann stated that the project hasn't been revoked and asked if the applicant can continue without a bond. Mr. Hastings stated that technically right now the applicant can continue to sell lots. Mr. Hastings stated that the applicant is in violation of what the Board has imposed. Mr. Hastings stated that the applicant should not be able to sell any lots. Mr. Bergmann stated that the applicant has agreed not to sell, but would like to have work done in ninety (90) days. Mr. Bergmann asked if it was permissible without a bond to the Town. Mr. Hastings stated that the Town wants money for the inspections/monitoring to make sure it is done in accordance with the plans.

Mr. Hastings stated that until the applicant has their construction plans, they cannot start because you do not know what your monitoring fees will be. Mr. Hastings stated that the Town needs money on hand for monitoring to make sure they comply with the plans. Mr. Quint stated that he met with Mr. DegliAngeli and he would have to post \$8,000 for the engineer. Mr. Quint stated that the plans will be available on Tuesday [May 11, 1999]. Mr. Hastings stated that the danger in allowing the applicant to go forward is that there are lots already sold. Mr. Hastings stated that the applicant could dig the roads up and go away with no money to complete.

Mr. deFeyter stated that when the Board originally started reviewing this project, the bond was suppose to be in place with no risk to the Town or the home owners, but now there would be a risk without a bond. Mr. Hastings agreed. Ralph Simeone, home owner, stated that the homeowner's are in this position because the Town allowed the applicant to work without a bond. Mr. Quint stated that he did have a letter of credit, but the bank went under. Mr. Simeone stated that the Town still allowed the applicant to

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continue. Mr. Shannon stated that there is a cease and desist order from an outside body that prevents the applicant from selling any lots.

Russ Seybold of the Conway Scenic Railroad stated that a letter was sent to the Town regarding contractual stipulations to Hales that have never been complied with. Mr. Seybold stated that there is no insurance and the only action is to go back to the State and have the State close that crossing. Mr. Seybold stated that this needs to be complied with. Mr. Waterman asked why hasn't this issue come before the Board before now. Mr. Seybold stated that the Planning Board has not been the vehicle necessary to go through. Mr. Seybold stated that he went through the home owner's association, Robert Quint, and Danny Quint. Mr. Seybold stated that he doesn't know who else to go through. Mr. Seybold stated that he can only turn it over to the Town.

Mr. Kelly stated that the Association does not own the roads and they recommended that Mr. Seybold go to the developer. Mr. Seybold stated that he has done that. Mr. Webster stated that federal requirements require that maintenance fees to be paid and there has not been any money. Mr. Kelly stated that this is documented in the Town records that there is suppose to be a maintenance agreement. Mr. Kelly stated that he is concerned if this is allowed to continue without a safety net. Mr. Kelly stated that the home owners will be in the same situation that they are now. Mr. Kelly stated that this has been approved for eleven (11) years and the home owners need some protection. Mr. deFeyter asked if the Board wanted to go forward without a bond and issues resolved.

Mr. Quint stated that this development project has a long history, but the time now is economically at its best it has been since the project started. Mr. Quint stated that the development is one that the developer has not walked away from and he has not walked away. Mr. Quint stated that he continued with the family businesses and expenses out of his family's pocket. Mr. Quint stated that his family has a substantial investment there and they are not walking away from it. Mr. Quint stated that there needed to be a time to put money into it and it is not going to do anyone any good if the approval is revoked. Mr. Quint stated that the Association will not be able to do work for a year or two. Mr. Quint stated that there are housekeeping issues that need to be taken care of which is what he is trying to do.

Ms. Woodall asked how long would it take to obtain a bond. Mr. Rogers stated he would think thirty (30) days, but it is never guaranteed. Mr. Rogers stated that we are discussing over \$200,000 in improvements. Mr. Rogers stated that he would prefer to see the Board allow them to go ahead without a bond. Mr. Rogers stated that the land has a value and asked why the applicant would walk away from it. Mr. Bergmann asked what will happen to the project and the land owners if the Board does revoke this approval. Mr. Hastings stated that the home owners would be left with their own litigation between the developer and the mortgagee. Mr. Simeone stated that we're willing to accept that as the homeowner's have other options. Mr. Simeone stated that they want the approval revoked.

Mr. Bergmann asked if it is permissible for this Board to continue this consideration for thirty (30) days in hopes of the applicant obtaining a bond in the form of a letter of credit. Mr. Hastings stated that a letter of credit is not acceptable. Mr. Bergmann asked if the Board can consider letter of credit as good faith. Mr. Hastings stated that a letter of credit is not satisfactory as it is not the same as a bond. Mr. Hastings stated that he does not know what the Town would be gaining by accepting a letter of credit. Mr. Hastings stated that the Board can continue the consideration to give the new investor a chance to obtain a bond. Mr. Hastings stated that the Board can vote that the subdivision will be revoked automatically if a bond is not in place, but it is a dangerous proceeding.

Ms. Woodall suggested escrowing the money and doing the work in phases. Mr. Quint stated that he is doing the construction in phases. Mr. Quint stated that he can do two (2) weeks of work while Mr. Rogers is moving his money around. Mr. Shannon stated that there is a difference between \$50,000 expenditure compared to \$200,000. Janice Sullivan stated that the home owners have been hearing a lot of empty promises and if the bond does not materialize in thirty (30) days then the subdivision should be revoked. Tom Murphy, home owner, stated that he does not want to see this fail. Mr. Murphy asked if there was any

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mechanism for Bobby Quint to give the Association ownership of his equipment and when the job is complete the Association will give it back to him.

Mr. Hastings stated that no work should be done until money is escrowed with the Town. Mr. Hastings stated that once the money is posted the applicant can start work. Mr. Hastings stated that \$100,000 can be drawn on but not until the work is done. Mr. Hastings stated that there will still be money to correct whatever has not been done and there will be money in the Town to do that. Ms. Woodall asked what is the break even point. Mr. Hastings stated that it could be done in phases again and according to construction plans. Mr. Hastings stated that the applicant would have to have one phase done before the applicant moves to the next phase.

Mr. Hastings stated that there is money to complete a portion of the project that they may not finish. Mr. Hastings stated that it requires substantial payment of the cost paid in escrow to the Town in a phase manner. Ms. Woodall asked if the applicant has the cash. Mr. Shannon stated that the developer has a certificate of deposit with the Bank of New Hampshire. Mr. Shannon stated that they would have to work out whatever is acceptable to the Town. Ms. Woodall asked Mr. Hastings if that would satisfy the requirement. Mr. Hastings stated that the Town would want to hold onto it and the Town would want to have complete control over it. Mr. Shannon agreed.

Mr. Kelly asked how would you determine the importance of what needs to be completed. Mr. Hastings stated that the Town would have to make that decision. Mr. Kelly stated that the priority is the water system. Ms. Sand stated that before the Board gets caught up with segments she recalls the homeowners wanted this to be the last day to discuss this issue. Ms. Sand stated that this is a whole new concept and asked how the Board can go in if the Board does not know if the homeowners are satisfied. Ms. Sand stated that the Board promised the homeowners that this was it. Ms. Sand stated that she does not know if the Board can come up with any alternatives until the homeowners tell the Board how they feel.

Hank LaTardem stated that the history of this project over the past couple of months have been trying with Holden Engineering which are the best and most expensive. Mr. LaTardem stated that they told him what they needed. Mr. LaTardem stated that it was a big deal and the applicant stayed with it. Mr. LaTardem stated that even though you give them a drop dead date the developer wants to make this go. Mr. LaTardem stated that if the Board ends this project it would be a mistake.

Mr. Kelly stated that the Association has had to run the place and contribute \$60,000 to make the area livable. Mr. Kelly stated that if this application does fall apart the Association would do exactly as they are doing now. Mr. deFeyter stated that the Board has two (2) options. Mr. deFeyter stated that why doesn't the Board approach from the point of view of continuing the application for thirty (30) days for a bond or another way that it acceptable. Mr. deFeyter stated that he shares the same frustration as Ms. Sand and he would be inclined to give thirty (30) days. Ms. Sand stated that she needs more input from the homeowners, but she would like to see it go through.

Bob York stated that part of the problem is that there is not a full quorum of the homeowners. Mr. York stated that many do not know what is going on and they are having their annual meeting next month. Ms. Woodall asked about phasing and asked if it would be one (1) phase at a time with a certain amount of money put up. Ms. Woodall stated that the money would always remain with the Town. Mr. Kelly stated that the first priority is the water system. Mr. Hastings answered in the affirmative. Ms. Emerson asked who would enforce it. Mr. Hastings stated that a cease and desist order would have to be issued if the applicant does not follow the agreement.

Steve Brydon asked how long it would take to set up \$100,000 in an escrow account. Mr. Rogers answered one (1) week and stated that he needed to convert assets into liquid cash. Mr. Rogers stated that he has stocks and bonds. Ms. Woodall asked how many home owners are in favor of the water system being the first priority and continuing this application. Eight homeowners were in favor. Ms. Woodall

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asked how many homeowners were not in favor of continuing this application. No homeowners raised their hands.

Mr. Bergmann stated that the homeowners have to live with this situation so he would go with them. Ms. Duane stated that she would like to see it continued for thirty (30) days with this being the final continuation. Mr. Hastings stated that a bond surety of \$100,000 in the satisfaction of the Town Engineer prior to May 20, 1999. Mr. Quint stated that the Town will have \$100,000 bond or certificate of deposit and satisfactory agreement with phasing starting with the water system. Mr. Hastings stated that once these items are supplied to the Town the applicant can start working and if the applicant does not submit these items to the Town the Board would have to vote to revoke the application. Mr. Kelly asked if the Board can make the revocation automatically if these items are not submitted. Mr. Hastings answered in the negative and stated that the Board would have to vote on it again.

Mr. deFeyter made a motion, seconded by Mr. Bergmann, to continue the application for Hale Highland Development Corp. until May 20, 1999, with a bond of \$100,000 being submitted and an agreement satisfactory to the Town Engineer and Town Counsel before construction. Motion carried with Ms. Woodall, Mr. Webster, and Ms. Sand abstaining from voting. Ms. Emerson asked Mr. Quint if the revised plans will be in her office on Tuesday [May 11, 1999]. Mr. Quint answered in the affirmative. Mr. Rogers stated that this was acceptable.

Mr. Sager stated that in regard to the phasing plan, the homeowners would like to give some input to Mr. DegliAngeli. Mr. Sager stated that there are some items that may take priority over other items. Mr. Sager stated that the homeowners would like the opportunity to give their opinion. Ms. Woodall agreed Mr. Hastings stated that he did not see a problem with that. Mr. Quint requested Don Martin to represent the homeowners with working with the Town and himself. Ms. Woodall stated that they can work that out amongst themselves.

EASTERN SLOPE INN ASSOCIATES - FULL SITE PLAN REVIEW CONTINUED (MAP 69, PARCEL 15) FILE #FR98-12

Joe Berry appeared before the Board. Ms. Woodall read a letter from Joe Berry dated May 4, 1999. Ms. Woodall asked if the bond includes the cost of the tunnel. Ms. Emerson answered in the affirmative. Mr. Bergmann made a motion, seconded by Ms. Duane, to continue the application for Eastern Slope Inn Associates for a Full Site Plan review until May 20, 1999. Motion unanimously carried. Mr. deFeyter asked if we have an elevation. Ms. Emerson answered in the negative. Mr. Berry stated that he would provide another copy for the file.

JAMES GORE REVOCABLE TRUST - FULL SITE PLAN REVIEW CONTINUED (MAP 66, PARCEL 42-2) FILE #FR99-02

Ward Walker, applicant; and Diane Smith of Thaddeus Thorne Surveys appeared before the Board. Ms. Smith stated that she added snow storage areas to the plans and revised the building elevation. Ms. Woodall asked if the clapboard was horizontal or vertical. Ms. Smith answered horizontal. Mr. Bergmann stated that in the Board's informational packet it states that the drainage is not approvable. Ms. Emerson stated that the drainage calculations have been revised and approved. Ms. Woodall asked for public comment; there was none.

Ms. Sand stated that she does not think this is what the Board had in mind in regard to the building elevation. Mr. deFeyter stated that he would agree that it does not look like a barn. Mr. Walker asked why they are the only one who has been asked to make their building look like a barn. Mr. Walker stated that every time he comes back before the Board there is something different and this serves its function. Ms. Duane stated that it does not look like a barn. David Wooster, abutter, complimented the applicant on their flexibility. Mr. Wooster stated that if it doesn't look exactly like a barn it is not a big deal. Mr. Wooster

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stated that it is ridiculous to put a barn door facing the woods. Mr. Wooster stated that this is not going to be a ugly building. Mr. Wooster stated that if this is pressure treated clapboard then it will blend.

Ms. Woodall asked if this was a real or fake barn door. Ms. Smith answered fake. Ms. Woodall asked if Mr. Wooster was satisfied with this building elevation. Mr. Wooster answered in the affirmative, but stated that you won't be able to see the door below the elevation of Locust Lane. Ms. Sand stated that there is a regulation for windows, but not doors. Ms. Sand stated that she can be flexible if the abutter is all set. Ms. Sand asked why bother if you cannot see it. Ms. Woodall stated that this is for the future and in case the trees are cleared. Mr. Waterman asked about the abutters on Artist Falls Road. Mr. Waterman stated that it is a waste of money if there is no use, you cannot see them and the abutters are happy.

Mr. Smith stated that the man on Artist Falls Road was concerned with the distance and the applicant moved the building ten (10) feet to the South. Mr. deFeyter stated that the problem is that the property is in the commercial district and the architectural guidelines apply. Mr. deFeyter stated that this is a tricky situation, but the architectural guidelines do apply. Mr. deFeyter stated that they want to avoid large running buildings with nothing to break them up. Mr. deFeyter stated that the Board needs to consider what they want to do. Mr. deFeyter stated that it does not look like a barn. Mr. deFeyter stated that the direction is directed to a cupola to give it a barn effect.

Ms. Duane stated that the building needs something to break it up so it doesn't look so long and like a warehouse. Ms. Duane stated that the Board is trying not to dictate, but give the applicant some ideas. Ms. Woodall asked if there will be a fake door toward Artist Falls Road. Mr. Walker stated that he has bent over backwards for this Board and there is always something else the Board is looking for. David Fitch stated that the building is a warehouse and the Board hasn't given the applicant any direction. Mr. Fitch stated that the Board should give the applicant some direction so he can get his project approved before the building season is over.

Mr. Bergmann asked if you can see the building from Artist Falls Road. Ms. Smith stated that you cannot see the building from the road, but the abutter on Artist Falls Road can see the building. Ms. Woodall asked if the applicant will put a barn door on each end of the building. Mr. Walker answered in the affirmative. Mr. Wooster stated that there are so many trees there now that they will help. Ms. Sand stated that we do have architectural guidelines that the Board does have to follow them. Ms. Emerson stated that this is the sixtieth day of the allowed sixty-five day review. Ms. Emerson stated that surety needs to be provided for the drainage.

Mr. Bergmann made a motion, seconded by Mr. deFeyter, to conditionally approve the Full Site Plan for the James Gore Revocable Trust conditionally upon a Performance Guarantee for 50% of all site improvements; and add an additional barn door to the North side of the building. Motion unanimously carried.

JUNIPER POINT REALTY TRUST - MINOR SITE PLAN REVIEW CONTINUED (MAP 70, PARCEL 8 & 9) FILE #MR99-03

Ms. Emerson stated that the applicant has withdrawn his application. Mr. Bergmann made a motion, seconded by Ms. Sand, to accept the withdrawal of the minor site plan review for Juniper Point Realty Trust without prejudice. Motion carried with Ms. Duane abstaining from voting.

ED GARLAND/SEARS - FULL SITE PLAN REVIEW (MAP 55, PARCEL 3A) FILE #FR99-04

Ed Garland, applicant; and Gene O'Brien, surveyor, appeared before the Board. Ms. Emerson stated that she had made a note to the Board that the property line had to be eliminated, but that is incorrect. Ms. Emerson stated that the property was subdivided and this is a separate lot of record. Ms. Emerson stated that the Board needs to consider this application for acceptance. Ms. Sand made a motion, seconded by Ms. Duane, to accept the application of Ed Garland/Sears for a Full Site Plan Review. Mr. deFeyter stated

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that there are two (2) items missing at the last meeting and asked if the restroom issue was resolved. Ms. Sand stated that it is located on the plans. Motion unanimously carried.

Ms. Woodall asked if the applicant would explain the driveway permit. Mr. O'Brien read the letter from the district office dated April 5, 1999. Mr. O'Brien stated that to the west of the property there is One Wheel Drive, the former NAPA building and Motorsports. Mr. O'Brien stated that if the parcel was purchased after 1971 and had been part of original approvals then the District Highway Department has their hands tied with structure requirements and cannot allow approval on district level. Mr. O'Brien stated that the applicant has contacted the Commissioners Office in Concord. Mr. O'Brien stated that the applicant has sent a copy of the plan and the names of abutters to the State.

Mr. O'Brien stated that the applicant already has a permit for public service, but this is a change-of-use. Mr. O'Brien stated that the applicant does have a hearing in Concord within the next couple of weeks with all interested parties. Mr. O'Brien stated that the applicant would like to approach approval contingent upon the driveway permit. Ms. Woodall stated that since it has been denied and the State does not allow a driveway, the site plan would have to be redesigned. Mr. O'Brien stated that after his conversation with the State he does not think the permit will be denied.

Ms. Emerson asked if the applicant has a State septic approval. Mr. O'Brien gave a copy of the septic approval for the file. Ms. Emerson stated that the applicant will need to provide bonding. Ms. Woodall asked if the Board wanted to continue with the review of the application this evening or continue the review to another date. Ms. Duane asked in the event the State does not allow a driveway on this site what changes would have to be done. Mr. O'Brien stated that the second option would be to use the entry to Motorsports. Mr. O'Brien stated that an auto repair and retail use sharing the same access is not the best situation.

Ms. Duane asked if there would be major or minor changes to the plan. Mr. O'Brien stated that there would be minor changes to the plan. Mr. O'Brien stated that there would be some lighting changed and the relocation of two (2) parking spaces. Ms. Duane stated that the changes would be minimal if the driveway was eliminated. Mr. O'Brien answered in the affirmative. Ms. Woodall asked if the Board wished to proceed. The Board agreed to continue with the review of the application. Ms. Woodall asked if any of the Board members had a problem with the driveway. Mr. deFeyer stated that the State has a problem with the driveway. Ms. Woodall asked if anyone else had a problem with the driveway. No Board members had a problem with the driveway.

Ms. Woodall asked about parking and stated that thirty-three (33) parking spaces are needed and thirty-three (33) parking spaces are being provided. Ms. Woodall stated that the loading zone is marked on the plan. Ms. Woodall asked about snow removal. Mr. O'Brien stated that there is a statement on the plans. Ms. Emerson stated that that the standard plat notes are listed on the plans. Ms. Woodall stated that there are no snow storage areas depicted on the plans. Mr. deFeyer asked if an easement can be used for snow storage. Ms. Emerson answered in the affirmative and stated that a structure cannot be located within the easement.

Ms. Woodall stated that there is no pedestrian access or circulation. Ms. Woodall asked about lighting. Mr. deFeyer stated that there is a problem with lighting. Mr. deFeyer stated that the lighting standard states that all light must be contained on site and according to the materials provided, the system the applicant is using will wash out onto surrounding properties. Mr. O'Brien asked based on what. Mr. deFeyer reviewed lighting patterns. Ms. Woodall stated that there is a note on the plans that the lights will be shielded. Mr. O'Brien stated that the applicant is using the wall pack. Ms. Sand stated that the applicant stated that the lights will be shielded. Mr. deFeyer agreed that that will do it.

Ms. Woodall asked if the Town Engineer, Paul DegliAngeli, reviewed the drainage. Ms. Emerson answered in the affirmative and stated that the drainage has been approved. Ms. Sand stated that there is a telephone pole servicing a neighboring property and asked where that would be relocated to. Ms. Woodall

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stated that the pole is under the jurisdiction of the utility company. Mr. deFeyter stated that the pole is in the middle of the proposed parking and asked where the pole will be relocated to. Mr. Garland stated that it will go to another pole.

Ms. Woodall stated that under the landscaping requirements eleven (11) trees are needed and fifteen (15) are being provided. Ms. Woodall asked about the architectural design. Mr. deFeyter asked if vinyl siding is consider a man-made natural material. Mr. Bergmann stated that most vinyl siding looks like real clapboards. Ms. Duane stated that vinyl siding is man-made that looks like a natural material. Ms. Sand stated that if it looks natural than it will be fine. Ms. Woodall stated that Sears sells vinyl siding and it would be in their best interest to use a good quality. Mr. deFeyter asked if there have been other buildings approved with vinyl siding. Ms. Emerson answered Carroll County Development Corp. on the Fairway. Ms. Duane stated that the new construction at Settler's Green is vinyl sided.

Ms. Woodall asked if there are any other issues with the architectural guidelines. Mr. Bergmann stated that the loading entrance is in the middle of the elevation plan, but the loading entrance is on the end on the site plan. Ms. Woodall stated that the loading entrance should be off-set on the plans and not in the middle of the building. Mr. deFeyter asked if the North view was a concrete wall. Ms. Duane stated that there will be brick over it. Mr. O'Brien stated that there will be brick on the front and concrete on the sides. Mr. deFeyter asked if the sides can be done in brick. Mr. Garland answered in the negative because the brick will break with the ice build up and be knocked off.

Mr. deFeyter asked why it would not be the same for the brick in the front. Mr. Garland stated that there is not going to be any build up there. Mr. deFeyter stated that the concrete area will be 2'x130'. Mr. O'Brien stated that is the standard protocol with this type of area with snow and ice build-up. Mr. deFeyter stated that again there is a standard and asked what the Board thinks. Ms. Woodall asked if there was any type of material that could cover the concrete. Mr. Garland answered stucco, but there is going to be shrubbery so you won't be able to see it. Mr. deFeyter asked if there is going to be shrubs all along the wall. Mr. Bergmann asked why the applicant just doesn't paint the concrete the same color as the vinyl siding instead of stucco. Ms. Woodall asked if that would be acceptable to the applicant. Mr. Garland answered in the affirmative.

Ms. Woodall stated that the patron restrooms are located on the plans. Ms. Woodall asked about the recycling location. Mr. O'Brien stated that the recycling facility is shown on the plans and screened. Ms. Woodall asked if there is an on-site water supply. Mr. O'Brien stated that there is a drilled well. Ms. Woodall asked about the sewer. Mr. O'Brien stated that the applicant has approval from N.H. Department of Environmental Services for a septic system. Ms. Woodall stated that this is ground level so no additional wheelchair access is necessary. Mr. O'Brien agreed. Ms. Woodall stated that this parcel is not within the floodplain. Ms. Woodall asked if the applicant has received fire approval. Ms. Emerson stated that the applicant has submitted a request to the fire chief for approval, but the applicant has not yet received a letter of approval. Mr. O'Brien submitted a letter of approval from the fire chief, Matthew Bryant.

Ms. Woodall asked the location of the propane tanks. Mr. Garland stated that the propane tanks will be outside. Ms. Woodall stated that they need to be shown on the plans. Mr. Garland stated that they will be underground. Mr. O'Brien asked if the Board wanted the underground tanks shown on the plans. Ms. Woodall answered in the affirmative and stated that it would be beneficial. Ms. Woodall asked about temporary outside display. Ms. Emerson stated that the applicant is interested in having an outside display. Ben Gutowski, owner and operator of Sears, stated that he sells gas powered equipment that he would like to demonstrate outside. Ms. Woodall stated that under the regulations the applicant is allowed to have a certain percentage of outside display based on floor space.

Ms. Emerson stated that the outside display has to be five (5) feet from the building. Ms. Emerson stated that anything different would have to be addressed by the Board. Ms. Emerson stated that there is a grassy area in front of the building. Mr. Bergmann asked if it would be the same as he displays the items now.

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Mr. Gutowski answered in the affirmative. Mr. O'Brien stated that the display area will be the area of the septic system and asked if the display area should be added to the plans. Ms. Woodall stated that she thinks the Board would have to grant a waiver. Ms. Sand asked if the area will be used for demonstration or for display. Mr. Gutowski answered both. Ms. Sand asked if items will be kept outside. Mr. Gutowski answered when the store is open. Mr. O'Brien asked if anything needs to be added to the plans. Ms. Woodall stated that the applicant needs to show the area for showing display and submit a waiver request.

Mr. Bergmann asked if the note on the plan regarding conditional approval be updated to read final approval. Ms. Emerson stated that the note should be updated on the plan. Mr. O'Brien asked if according to the Board the letter from the Fire Chief is sufficient. Ms. Emerson answered in the affirmative. Ms. Woodall stated that the plan note regarding tractor trailers need to be added to the plan. Mr. deFeyer asked if there will be any roof top mechanicals such as air conditioning units. Mr. Garland answered in the negative. Mr. O'Brien stated that it will be open vented. Mr. deFeyer asked if there would be any air conditioning units. Mr. Garland answered in the negative.

Ms. Sand made a motion, seconded by Mr. Bergmann, to continue the Full Site Plan application for Ed Garland/Sears until May 20, 1999. Motion unanimously carried.

CONWAY VILLAGE FIRE DISTRICT - BOUNDARY LINE ADJUSTMENT/LOT CONSOLIDATION (MAP 33, PARCEL 25, 26, 27 & 33) FILE #S99-06

Larry Wade, Fire Chief; and Thomas Steele, Superintendent, appeared before the Board. Ms. Duane made a motion, seconded by Mr. Webster, to accept the application from Conway Village Fire District for Boundary Line Adjustment/Lot Consolidation Review. Motion unanimously carried.

Mr. Wade stated that the Conway Village Fire District owns four (4) separate lots of record. Mr. Wade stated that they are consolidating four (4) lots into three (3) lots and modifying the boundary lines. Ms. Woodall asked if the Board had any questions; there were none. Ms. Woodall asked for public comment; there was none. Ms. Sand made a motion, seconded by Ms. Duane, to approve the Boundary Line Adjustment/Lot Consolidation for the Conway Village Fire District. Motion unanimously carried. The plans were signed.

CONWAY VILLAGE FIRE DISTRICT - CONCEPTUAL REVIEW (MAP , PARCEL)

Larry Wade, Fire Chief; and Thomas Steele, Superintendent, appeared before the Board. Mr. Wade gave an overview of the new fire station facility.

CARROLL COUNTY REAL ESTATE DEVELOPMENT - CONCURRENT FULL SITE PLAN AND UNIT SUBDIVISION REVIEW (MAP 61, PARCEL 37-3A) FILE #ER99-05 AND #S99-07

Lloyd Sharp, owner; and Edgar Allen of Thaddeus Thorne Surveys appeared before the Board. Mr. Bergmann left at this time. Ms. Duane made a motion, seconded by Mr. Waterman, to accept the application of Carroll County Real Estate Development for Concurrent Full Site Plan and Unit Subdivision Review. Motion unanimously carried.

Mr. Allen stated that the applicant would like to construct a 24x48 garage and a 2-unit subdivision on the existing building. Mr. Allen stated that the applicant would like to create two (2) condominium units in the existing building. Mr. Allen stated that the applicant would like to change some of the back parking lot to gravel and change a walkway. Ms. Woodall stated that this parcel is located in the new Special Highway Corridor Overlay District and stated that the district needs to be added to the plans. Ms. Woodall stated that the parcel is not in the 100 foot buffer and is not effected.

Ms. Woodall asked if there were any concerns with the traffic flow; there was none. Ms. Woodall asked if there were any concerns with the parking. Mr. deFeyer stated the applicant is creating two (2)

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condominium units in the building, but the land remains in common. Mr. Allen answered in the affirmative. Mr. deFeyter stated that there is only one handicap parking space, which is what the applicant needs to meet the requirement, but should there be another on the other side of the building. Ms. Duane stated that if in the future the applicant sees this as a problem, he can add another handicap parking space. Mr. deFeyter stated that the applicant may want to think about it as it is only a suggestion.

Ms. Sand asked what type of storage is proposed for the gravel parking lot. Mr. Allen answered materials and trucks. Ms. Duane stated that this will be a gravel base and not paving. Mr. Allen stated that the applicant has submitted a waiver. Ms. Woodall stated that the Board needs to review the waiver request. The Board reviewed the previously approved site plan. Ms. Sand asked how much of the existing tree line will be removed. Mr. Sharp stated that no more than what was originally approved. Ms. Sand stated that the waiver regulations state that the Board has to have a reason to grant the waiver and finance cannot be considered.

Ms. Sand asked what is the justification for not paving the back parking lot. Mr. Sharp stated that it is not for public use and the parking for customers is paved. Ms. Sand stated that the applicant has to have justification. Mr. Sharp stated that it is not a parking area, but storage for trucks and material. Ms. Woodall asked what types of material will be stored and will the items eventually be stored inside. Mr. Sharp stated that eventually items will be inside, but this is an area for items that cannot be stored inside. Mr. deFeyter stated that the Board has considered this before, but that parcel was in the industrial district and this parcel is in the Highway Commercial District.

Mr. Sharp stated that they are a construction company. Ms. Duane stated that it is the same use as the application where the same waiver request was approved. Ms. Woodall read the waiver request for Article 123-23.(2). Ms. Woodall read the requirements to grant a waiver request. Ms. Duane made a motion, seconded by Mr. Waterman, to approve the waiver request for Article 123-23.(2). Motion was defeated with Ms. Woodall, Mr. deFeyter and Ms. Sand voting in the negative. Ms. Duane asked if the applicant could phase the paving so it is not dug up during construction of the garage. Mr. deFeyter stated that paving originally approved wasn't phased. Mr. deFeyter stated that the applicant should pave what was originally approved under the original approval and then continue.

Ms. Duane stated that the Board will not allow just to the parking area. Ms. Woodall answered in the negative and stated just as the applicant has been approved. Ms. Sand asked why the pavement cannot go up to the bays and eliminate around it. Ms. Sand stated that she can understand the applicant's concern with destroying the pavement. Mr. Sharp stated that the pavement will get destroyed as it is only two (2) inches of asphalt.

Ms. Woodall stated that the loading area needs to be labeled. Ms. Sand stated that the ordinance does not state that the loading area needs to be labeled. Ms. Woodall stated that snow removal is listed on the plans. Ms. Woodall asked if there were any concerns regarding lighting. Mr. deFeyter stated that this parcel is in the highway corridor and the lights on the garage project outward. Mr. Sharp stated that the light can come down. Mr. Waterman stated that it is the way it is worded and he doesn't think lighting will be a problem. Mr. Allen stated that the applicant is using 150 Watt flood lights and they can be turned down or sideways. Mr. Allen stated that the lights are for security reasons. Mr. deFeyter stated that he doesn't want the lights turned out.

Ms. Woodall stated that the applicant has requested a waiver regarding the drainage and the Town Engineer, Paul DegliAngeli, supports the waiver. Ms. Emerson agreed. Ms. Woodall stated that the plans should be amended as Mr. DegliAngeli suggested. Ms. Woodall read the waiver request for Article 123-28 and the requirements to grant a waiver. Ms. Sand made a motion, seconded by Ms. Duane, to approve the waiver request for Article 123-28. Motion unanimously carried.

Ms. Woodall asked how the applicant will get the utilities to the garage. Mr. Sharp answered under ground. Ms. Woodall asked if there were any concerns with the landscaping; there were none. Ms.

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Woodall asked if there were any concerns with the architectural design. Mr. deFeyter asked the material. Mr. Sharp answered vinyl siding. Mr. deFeyter stated that there is a requirement for a pitched roof and the building needs to have windows. Ms. Woodall stated that this parcel is in the district with the local North/South Road and the bypass. Ms. Duane stated that the portion with the bay doors faces the bypass and she cannot see putting windows on that side.

Mr. deFeyter stated that it is not an issue with the bypass, but the problem is if it is visible from the street or parking area then it needs to have windows. Ms. Duane stated that these buildings are being used for storage and it abuts heavy treed areas that won't be seen from the street. Ms. Duane stated that for security reasons she doesn't see a need for windows. Ms. Duane stated that the Board needs to review this for storage facilities that you don't have to put windows in for security reasons. Ms. Woodall stated that the applicant is talking about having stuff in the yard.

Mr. deFeyter stated that he would agree with the comment, but we're trying to have a positive visual experience for the community. Mr. deFeyter stated that that is why the Board suggested the barn because people need to have storage facilities. Mr. deFeyter stated that the Board should review the regulations, but we need to address under current regulations. Mr. deFeyter stated that the Board is trying to implement overall ambiance of the community. Mr. Sharp stated that he thought it was in the back of the building where you cannot see it except from the last parking spot. Mr. deFeyter stated that the Board should review other out buildings and historic buildings in regard to the architectural guidelines.

Mr. Sharp stated that the building will look the same as the building just built, it is just going to have garage doors on them. Mr. Waterman stated that regulations are too stringent. Ms. Duane agreed and stated that the applicant is not going to wrap his building in tyvek and leave it. Ms. Sand asked if it was possible for the applicant to submit a waiver since there are no abutters on this side of the building. Mr. Webster stated that it is visible from the driveway and asked if it could be screened. Ms. Emerson stated that there is a provision in the regulation that states if windows are not needed they can be waived. Mr. deFeyter stated that the Board can waive the whole thing.

Ms. Woodall stated that she would prefer to see a peaked roof and no windows. Mr. Sharp stated that they cannot construct a peaked roof on this building because water will go down in front of the bay doors. Mr. deFeyter suggested having a window face the other building and waive the peaked roof. Ms. Woodall polled the board on having a window face the other building and waive the peaked roof. All members agreed with Ms. Woodall abstaining from voting. Ms. Woodall asked about the water supply. Mr. Sharp stated that he is on Town water. Ms. Woodall asked if there were any concerns regarding nuisance. There was no comment by the Board or any public comment.

Ms. Woodall asked what type of material will be stored outside. Mr. Sharp stated that left over lumber will be stored outside, but it will not become a lumber yard. Ms. Woodall stated that she is concerned with the amount of material to be stored. Mr. Sharp stated that it is going to be neat. Ms. Duane stated that lumber is usually delivered to the site where the project is taking place. Mr. Sharp agreed. Mr. Webster asked if there will be a concrete apron in front of the bay doors. Mr. Sharp stated that it will be hot top. Mr. Webster asked if there will be any outdoor fuel tanks to fuel trucks or equipment. Mr. Sharp answered in the negative. Ms. Woodall asked for public comment; there was none.

Ms. Woodall read a waiver request for Article 123-7.B(2). Ms. Sand made a motion, seconded by Ms. Duane, to approve the waiver request for Article 123-7.B(2). Motion unanimously carried.

Ms. Sand made a motion, seconded by Ms. Duane, to approve the Concurrent Full Site Plan and 2-Unit Subdivision for Carroll County Real Estate Development. Motion unanimously carried. Ms. Meserve stated that the Board denied a waiver for gravel parking which will need to be changed on the plans. Ms. Duane made a motion, seconded by Ms. Sand, to withdraw her motion to approve the Concurrent Full Site Plan and 2-Unit Subdivision for Carroll County Real Estate Development. Motion unanimously carried.

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Ms. Duane made a motion, seconded by Mr. Webster, to conditionally approve the Concurrent Full Site Plan and 2-Unit Subdivision for Carroll County Real Estate Development conditionally upon adding a window to the south side of building elevation for the garage; remove the gravel parking area; add the Special Highway Corridor District to the plans; and all lighting must be contained on site. Motion unanimously carried.

Ms. Duane made a motion, seconded by Mr. deFeyter, that the plans for Carroll County Real Estate Development can be signed out of session when all the conditions have been met. Motion unanimously carried.

OTHER BUSINESS

C.N. Brown - Plan Signing: Ms. Sand made a motion, seconded by Ms. Duane, that all the conditions for C.N. Brown's Full Site Plan have been met. Motion unanimously carried. The plans were signed.

Tom Eastman/Mountain Ear question regarding reaction to Board of Selectmen: Mr. Eastman asked the Planning Board's reaction to the Board of Selectmen's letter. Mr. Eastman asked if an olive branch can be offered can the Planning Board work with the Board of Selectmen to resolve the issue. Ms. Woodall stated that she has no comment at this time. Ms. Woodall stated that most of the members have just received the letter this evening.

Ms. Sand stated that the Planning Board has a lot of work to do and the Planning Board should be concentrating on that work. Ms. Sand stated that an individual representing himself is fine, but an individual should not be representing the Board. Ms. Sand stated that she wishes Mr. Bergmann was present and she doesn't want to respond to the issue. Ms. Sand stated that personally she does not want to respond.

Mr. Webster stated that this has been the best meeting and he hopes that this is an indication of where things are going. Ms. Duane stated if a Planning Board member has a complaint then they should go through the proper channels and not play it out in the media. Ms. Duane stated that she would like to put it in the past. Ms. Sand thanked Selectmen, Mark Hounsell (who was in the audience), for not signing the letter. Ms. Duane stated that the Board of Selectmen had to respond and back up staff members. Ms. Sand stated that it was a mistake to bring up old issues. Ms. Sand stated that the Board of Selectmen definitely should have addressed Mr. Bergmann's letter, but they shouldn't have gone beyond his letter.

Meeting adjourned at 11:15 p.m.

Respectfully Submitted,


Holly L. Meserve
Recording Secretary