

CONWAY PLANNING BOARD

MINUTES

AUGUST 19, 1999

A meeting of the Conway Planning Board was held on Thursday, August 19, 1999, beginning at 7:00 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chair, Catherine Woodall; Selectmen's Representative, Gary Webster; Vice Chair, Sheila Duane; Robert deFeyter; John Waterman; Town Planner, Dawn Emerson; and Recording Secretary, Holly Meserve.

**REVIEW AND ACCEPTANCE OF MINUTES**

The Minutes of August 5, 1999, should be amended as follows: page 4, paragraph 3, line 1, should read, "Mr. deFeyter stated that we are concerned about Town roads, but this...."; and page 8, paragraph 2, line 1, should read, "...retain and asked if there had been a site plan...". Mr. deFeyter made a motion, seconded by Ms. Duane, to approve the Minutes of August 5, 1999, as amended. Motion unanimously carried.

**ZODIAC, INC. - FULL SITE PLAN REVIEW (MAP 15, PARCEL 21) FILE #FR99-12**

Mr. Webster made a motion, seconded by Mr. deFeyter, to take the application for Zodiac, Inc. out of order. Motion unanimously carried. Roger Williams, Project Manager; Mark Lucy, White Mountain Survey Co., Inc.; and Peter Hastings, Town Counsel, appeared before the Board. Ms. Woodall stated that a previous application was denied without prejudice and went to the Zoning Board of Adjustment (ZBA). Ms. Woodall stated that the Planning Board has appealed the ZBA's decision.

Mr. Hastings asked if this plan is identical to the first application. Mr. Lucy answered in the negative. Mr. Hastings asked if the applicant changed the use in the residential district. Mr. Lucy answered in the negative. Mr. Hastings asked if the applicant had changed the use or the green space in the residential district. Mr. Lucy answered in the negative. Mr. Hastings stated that the Board has already voted and denied a previous application. Mr. Hastings stated that the decision is still binding until the appeal goes through the ZBA or the court acts on it. Mr. Hastings stated that the Board is still looking at the same elements that was reviewed previously and denied. Mr. Hastings stated that the Board can let the application present the applicant and deny it on the same basis as the first application or the applicant can withdraw the application without prejudice.

Mr. Hastings stated that if the Board accepts the application then you have a certain time frame to make a decision. Mr. Hastings stated that it is somewhat moot to act on it at this time. Mr. Hastings stated that the Board's opinion is that you don't feel they have a right to do this. Mr. Hastings stated that the Board can refuse to accept this application because there has been no substantial changes from the first application or the applicant can withdraw the application. Ms. Woodall stated that the Board has received a letter regarding a boundary line dispute from Joe Sullivan.

Mr. Hastings stated that this is an issue between the applicant and Mr. Sullivan. Mr. Hastings stated that he does not think that we have to get involved with this until it gets into litigation. Mr. Hastings stated that if the Board accepts the application they are accepting a surveyed plan. Mr. Lucy stated that this is a civil matter. Mr. Lucy stated that Mr. Sullivan believes that he has some rights to property owned by Zodiac, Inc. Mr. Lucy stated that any rights that he may have will not have any effect on any action by this Board. Mr. Lucy stated that it is a civil matter and this is not the proper forum for a civil matter to be discussed.

Mr. Lucy stated that the ZBA hearing last evening was canceled and asked if it has been rescheduled. Ms. Emerson answered not at this time. Mr. Lucy read RSA 677:9 and stated that the Board must proceed in good faith. Mr. Hastings stated that he respectfully disagrees. Mr. Hastings stated that it was the decision of this Board to appeal the ZBA's decision. Mr. Hastings stated that the issue is whether or not to proceed

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with the appeal or review the application. Mr. Hastings stated that it is improper at this time to accept the application because the Board would be running against their own decision.

Mr. Hastings stated that the Board should deny the application because they do not meet the requirements of this Board by a decision made a month ago. Mr. Hastings stated that the applicant is using property in the residential district to meet the commercial regulations on the lot they wish to build on. Mr. deFeyter stated that RSA 677:9 seems to be enforcement which this is not. Mr. Hastings agreed. Mr. deFeyter stated that everything is on hold until there is a ZBA decision which they have thirty (30) days to decide if there will be another hearing. Mr. Hastings stated that based on the ZBA decision it does not give them the authority to go forward.

Ms. Duane asked if the ZBA stands behind their original decision what happens from there. Mr. Hastings stated that it then can go to court. Mr. Lucy stated that there was a ZBA hearing scheduled for last evening which was canceled. Mr. Lucy stated that the applicant has the right to know why it was canceled. Ms. Emerson stated that it was a clerical error on her part as she did not inform Town Counsel of the meeting. Mr. Lucy stated that it was suppose to be an inter-board deliberation. Mr. Hastings stated that it was to reconsider opening to new evidence. Mr. Hastings stated that he was not aware of the meeting last night. Mr. Lucy stated that it was not a hearing. Mr. Hastings stated that it was a deliberation of that board to determine if they wish to open it to new evidence.

Mr. Lucy asked if there was any new evidence. Mr. Hastings stated that we feel there is. Mr. Lucy stated that you did not need to be there because no new information could be presented last evening. Mr. Hastings disagreed and stated that the ZBA could have voted to have another hearing and then that hearing would be scheduled. Ms. Woodall asked if another meeting has been scheduled. Ms. Emerson answered in the negative. Mr. deFeyter stated that the ZBA has thirty (30) days to act on it. Mr. Hastings stated that if there is a civil litigation it may be held up by that. Mr. deFeyter stated that once the ZBA issue is resolved and whether the decision is appealed for not appealed, if we have a signed plat plan the applicant can proceed as it is up to Mr. Sullivan to appeal to the court.

Mr. Hastings stated that in the event the applicant gets into litigation, the Board should back off because you don't know what the outcome will be, but we don't have to worry about that now. **Mr. deFeyter made a motion, seconded by Mr. Waterman, to deny the application of Zodiac, Inc. because the commercial property incorporates residential property in order to meet the requirements of the commercial project.** Mr. Lucy asked if the Board would specify what commercial uses are being used in the residential district. Ms. Woodall answered the loading dock. Mr. Lucy disagreed and stated that the loading dock is within the commercial zone. Ms. Woodall asked what is the difference between this plan and the first plan. Mr. Lucy stated that there is no lot line.

Mr. Hastings stated that the propane tanks are on the residential lot, there is parking in the rear, service lines and green space on the residential lot. Mr. Lucy stated that they are not using green space in the residential zone to meet the commercial requirements. Mr. Lucy stated that 25% of the commercial side of this lot is green space. Mr. Hastings asked about the setbacks. Mr. Lucy stated that there are no setbacks from a district boundary. Mr. Hastings stated that there is no green space at the back of the building. Mr. Lucy stated that the zoning district boundary is not a lot line. Mr. Hastings stated that you cannot go beyond the commercial zone. Mr. Hastings stated that the building is extended too close allowing yourself to increase commercial into residential. Mr. Lucy stated that that is exactly what the ZBA agreed to.

**Motion carried with Ms. Duane voting in the negative.** Mr. deFeyter stated that there was an affidavit a part of the ZBA application and asked if Mr. Hastings would explain what an affidavit is. Mr. Hastings stated that it is a statement by a person. Mr. deFeyter stated that there is an affidavit by the property owner that a structure was used for commercial which was improperly enforced. Mr. Hastings stated that it will become an issue at the ZBA meeting as they relied on that information. Mr. deFeyter asked if the Town could enforce the issue. Mr. Hastings stated that it does not look like the building is being used now and doesn't think you can enforce it.

**EDWARD AND KATHLEEN GARLAND - MINOR SITE PLAN REVIEW CONTINUED (MAP 55, PARCEL 3-1) FILE #MR99-09**

Ed Garland, applicant; and Gene O'Brien of E.R. O'Brien Land Surveyors appeared before the Board. Ms. Woodall stated that there were issues that needed to be resolved. Mr. O'Brien stated that there is a note on the plan regarding granite curbing; four additional plantings of ornamental street trees have been added to the plans; paving of the parking lot is marked on the plans; drainage plans have been submitted and approved; note regarding solid waste disposal to be placed inside or removed from the property has been added to the plan; snow storage area has been added to the plans; and wheelchair access was on the plan before.

Ms. Emerson stated that the Board has received a letter of approval from the Redstone Fire Chief. Ms. Emerson stated that the Board decided a letter from the State regarding the driveway would be required and we have not received that yet. Mr. O'Brien stated that they have sent a letter to the NHDOT. Mr. O'Brien stated that he has spoken to them on two separate occasions and the best way to handle it is through an amended driveway permit. Mr. O'Brien stated that most of the department is on vacation, but they did do an office review. Mr. O'Brien stated that a site visit is still necessary and should be done next week. Mr. O'Brien stated that the applicant would like a conditional approval based on the amended driveway permit. Ms. Emerson stated that a part of the conditional approval should be a performance guarantee for 50% of all site improvements.

Ms. Woodall stated that the curbing will be bonded until the State finishes the upgrade. Mr. O'Brien stated that there is a note on the plan to that effect. Ms. Woodall asked if the State was taking any land. Mr. O'Brien answered in the negative and stated that there is a difference in the drainage. Mr. deFeyter stated that in the file there is some details on lighting and asked if there has been any change in the lighting. Mr. O'Brien answered in the negative and stated that there is a note on the plan that all lighting will be shielded and remain on the property. Ms. Woodall asked for public comment; there was none.

Mr. deFeyter made a motion, seconded by Ms. Duane, to conditionally approve the Minor Site Plan for Edward and Kathleen Garland conditionally upon a NHDOT Driveway permit and a performance guarantee for 50% of all site improvements. Motion unanimously carried. Mr. deFeyter made a motion, seconded by Ms. Duane, to the conditional approval will expire within 30 days. Motion unanimously carried.

**MT. WASHINGTON LODGE OF FREE MASONS/SMOKE AND MIRRORS - MINOR SITE PLAN REVIEW CONTINUED (MAP 68, PARCEL 31) FILE #MR99-10**

Rick and Laurie Joslin, applicant, appeared before the Board. Mr. Joslin explained the new plan. Ms. Woodall stated that under the outdoor display section in the site plan review regulations it specifically states tables. Ms. Woodall stated that the applicant can have up to 5% based upon floor space. Ms. Woodall stated that the tables out front exceed the 5%. Ms. Emerson stated that the Board can consider a waiver for greater than 5% of display. Ms. Woodall stated that change-of-use is an issue.

Ms. Joslin stated that they are only looking to serve coffee and sodas outdoors. Ms. Joslin stated that the beer and wine license was for interior only. Ms. Woodall asked if the State issues liquor licenses for outside. Ms. Joslin answered in the affirmative, but it is a whole other issue. Mr. deFeyter asked if they have looked at the regulations. Ms. Joslin answered some of it. Mr. deFeyter stated that Chapter 123-40.1 addresses this issue quite specifically. Mr. deFeyter stated that 50 s.f. is what the applicant is allowed to use and only one sales area is to be allowed. Mr. Joslin stated that this just kind of came up between now and the last meeting. Mr. deFeyter answered in the negative.

Mr. Joslin asked how Elvio's was permitted. Ms. Emerson stated that that would require some research. Mr. deFeyter stated that we are bounded by a maximum size. Ms. Joslin stated that it would be one area as we have approached the Board as one. Mr. deFeyter stated that it would be two separate areas divided by a walkway. Ms. Joslin stated that they have permission to use it and the area is considered a driveway. Ms.

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Joslin stated that they are looking at beautifying the area and they would start maintaining the area. Ms. Joslin stated that it will be an attractive place to sit down. Mr. Joslin stated that they would like to make it an attractive place to sit.

Ms. Woodall asked if there would be another issue with the State regarding the driveway. Ms. Emerson stated that it does not need to be used as a driveway. Mr. deFeyter asked if we know if it is a driveway. Ms. Emerson answered in the negative. Mr. deFeyter stated that if it is a driveway it is another reason why the Board cannot allow it. Ms. Duane stated lets come up with a solution. Ms. Duane stated that the applicant is going to maintain what is currently not being maintained and it is a nice place to have tables. Ms. Emerson stated that technically the Board would have to grant a waiver. Mr. deFeyter stated that technically you would have to grant several waivers. Ms. Woodall stated that if a waiver is granted to use the space for tables what happens if it becomes a full restaurant. Ms. Emerson asked if they can serve food outside now. Ms. Joslin answered that she did not know. Mr. Joslin stated that that is not in their immediate plans.

Mr. Joslin stated that the tables are so people can read the paper and have a cup of coffee outside. Mr. deFeyter asked what happens if the waiver is granted and it changes hands. Ms. Emerson stated that you can grant with a condition that the waiver is for this site plan only. Mr. Waterman stated that he would like to see this go through with a stipulation that if it changes hands it needs to be reviewed. Mr. deFeyter stated that we need to know how it will be used and maintained. Mr. deFeyter stated that we need to be specific about what is to be done. Ms. Emerson stated that it is outdoor seating for the purpose of food and beverages for five tables.

Mr. deFeyter stated that there are two issues; you are also going to have to determine how there going to beautify the area and the submittal of waivers. Mr. deFeyter stated that three waivers are necessary; seating in the front based on size, size for the five tables and for the display area. Mr. deFeyter made a motion, seconded by Ms. Duane, to continue the minor site plan review for Mt. Washington Lodge of Free Masons/ Smoke and Mirrors until September 2, 1999. Motion unanimously carried.

**ROY KNIGHT AND SHARON KEITH-2-LOT SUBDIVISION (MAP 5,PARCEL 17E) FILE #S99-11**

Edgar Allen of Thaddeus Thorne Surveys appeared before the Board. Mr. Allen stated that the two lot will be accessed by one driveway. Mr. Allen stated that there will be a platted right-of-way to meet the frontage requirements and a waiver request has been submitted from the road standards. Ms. Emerson stated that this needs a variance from the Zoning Board of Adjustment. Ms. Emerson stated that there is no road as it is a driveway. Ms. Emerson stated that it does not meet the road frontage requirement.

Ms. Woodall asked if there was any public comment; there was none. Mr. deFeyter made a motion, seconded by Ms. Duane to deny the subdivision application for Roy Knight and Sharon Keith without prejudice. Motion unanimously carried.

**VARSITY BEVERAGE AND SEAN AND MARY BILLERT - BOUNDARY LINE ADJUSTMENT (MAP 8, PARCEL 54 & 53-17) FILE #S99-12**

Doug Burnell of H.E.B. Civil Engineers and Sean Billert, applicant, appeared before the Board. Ms. Duane made a motion, seconded by Mr. Webster, to accept the application of Varsity Beverage and Sean Billert for Subdivision/Boundary Line Adjustment review. Motion unanimously carried. Mr. deFeyter asked if the house lot was on Town water and sewer. Mr. Burnell answered in the negative. Mr. deFeyter asked if the house lot needs one acre. Ms. Emerson stated that the boundary line adjustment makes the house lot more conforming and the Board cannot require the lot to become conforming. Ms. Emerson stated that what the applicant is doing is permissible.

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Ms. Woodall asked for public comment; there was none. Mr. deFeyter made a motion, seconded by Ms. Duane, to approve the Boundary Line Adjustment for Varsity Beverage and Sean and Mary Billert. Motion unanimously carried. The plans were signed.

**PAUL WHETTON - MINOR SITE PLAN REVIEW (MAP 33, PARCEL 78) FILE #MR99-11**

Paul Whetton, applicant, appeared before the Board. Mr. Whetton stated that he would like to take a space that was once used as a classroom, political office, retail office and a supply store and use it as a yarn shop. Mr. Whetton asked if he needs to be before the Board. Ms. Woodall asked the square footage. Mr. Whetton answered 288 square feet. Ms. Woodall stated that anything over 100 square feet needs to have site plan review. Ms. Emerson stated that that requirement is for a new building footprint, this is an interior change-of-use. Mr. Waterman asked Ms. Emerson's opinion. Ms. Emerson stated that it was retail before, but its last known use was an office. Mr. deFeyter stated that it is a change of intensity in the use. Mr. Whetton asked if that is true if the space has been used for retail before. Mr. deFeyter answered in the affirmative.

**Mr. Webster made a motion, seconded by Mr. Waterman, to accept the application of Paul Whetton for a minor site plan review.** Mr. deFeyter asked if we have everything we need. Ms. Emerson stated that she has met with Mr. Whetton and has received additional information on the parking and waiver requests. **Motion unanimously carried.** Ms. Woodall asked if there were any questions regarding the driveways. Mr. deFeyter stated that the State wants the access broken up. Mr. Whetton stated that for 23 years there was a utility pole on the site which was a fender magnet, it was finally removed. Mr. Whetton stated that the State will allow two (2) fifty foot openings with the barrier where the utility pole was.

Mr. Whetton stated that the State has said that he will have to assume the responsibility if there is any damage. Mr. Whetton stated that the State will allow him to remove the barrier in the winter and put it back in the summer. Ms. Emerson stated that the barrier would have to be large enough so each driveway is thirty-six (36) feet wide. Mr. Whetton stated that he would need an eight (8) foot barrier then. Mr. Whetton stated that there is a right-of-way down the side of the property that must be maintained. Mr. deFeyter asked if the right-of-way is being dealt with under a separate driveway permit. Mr. Whetton stated that there are three separate driveway permits.

Ms. Woodall asked if there were any questions regarding the parking. Ms. Emerson stated that the number on the waiver request should be seven. Ms. Woodall read a waiver request for Article 123-22.A in regard to parking. Mr. deFeyter asked Mr. Whetton how he feels about the parking situation and stated that it is a busy section. Mr. Whetton stated that parking spaces 6, 7, 8 and 9 are usually doubled up. Mr. deFeyter stated that he sees parking as a real problem. Ms. Duane asked Mr. deFeyter where he would suggest creating some parking. Mr. deFeyter stated that changing office space to retail is going to increase the traffic in that area. Mr. Whetton stated that limiting the space would be considered a taking.

Mr. Whetton asked what the parking requirements were for office space and retail space. Ms. Emerson stated that retail is required to have 1 space per 200 square feet and office is required to have 1 space per 250 square feet. Mr. Whetton stated that he would need two parking spaces for either uses. Mr. deFeyter stated point well taken. Ms. Woodall read the requirements to grant a waiver. Ms. Duane made a motion, seconded by Mr. Webster, to grant the waiver request for Article 123-22.A. Motion unanimously carried. Ms. Woodall stated that the applicant needs a paving waiver and a curbing waiver.

Mr. Waterman asked Mr. Whetton about curbing. Mr. Whetton stated he wasn't under the impression that curbing was needed. Mr. Whetton stated that the State stated that curbing wasn't practical. Mr. deFeyter stated that curbing does not serve any purpose, but it should be dealt with under a waiver. Mr. Whetton submitted a waiver request for Article 123-23.B. Ms. Woodall read the waiver request for Article 123-23.B. Ms. Woodall asked what utility is under the ground. Mr. Whetton answered water. Mr. Whetton showed the Board pictures of the site paved and of the site with rotten rock. Mr. deFeyter stated that in almost every case the Board has required paving except in the Industrial District where there has been heavy equipment.

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Mr. Whetton explained the proposed barrier. Mr. deFeyter stated that he thought the barrier would be higher. Mr. Whetton stated that the State will not allow the barrier to be higher than 39". Ms. Emerson stated that the permit does not allow the barrier to be higher than 3 feet 9 inches. Mr. deFeyter submitted a proposal for the barrier (see attached). Mr. deFeyter stated that a parking space would have to be removed, but you can add plantings. Mr. Whetton stated that by eliminating a parking space you are eliminating a space for a particular unit. Mr. deFeyter asked if the barrier can go on State property. Ms. Emerson stated that the letter from the State states that it has to be on the applicant's property.

Mr. Waterman asked what Mr. Whetton thought about paving the parking area. Mr. Whetton stated that he would prefer to keep the rotten rock, but there are advantages to both. Mr. deFeyter asked about the sidewalk. Ms. Emerson stated that they are bituminous. Ms. Woodall read a waiver request for Article 123-23.B. Ms. Duane made a motion, seconded by Mr. Webster, to approve the waiver request for Article 123-23.B. Motion unanimously defeated. Mr. deFeyter asked if someone could speak to the State about any flexibility and see if anyone else has run into this problem. Mr. deFeyter stated that this is not a good situation.

Ms. Duane suggested landscaping timbers for a barrier with pavement right up to them with plantings. Mr. deFeyter stated that he would suggest granite. Mr. Whetton stated that he would agree if the Board let him design the barrier. Mr. deFeyter stated that he would suggest striping the sidewalk. Ms. Woodall read a waiver request for Article 123-23.I. Ms. Duane made a motion, seconded by Mr. deFeyter, to approve the waiver request for Article 123-23.I. Motion unanimously carried. Ms. Woodall read a waiver request for Article 123-21.C. Ms. Woodall read the requirements to grant a waiver. Ms. Duane made a motion, seconded by Mr. deFeyter, to approve the waiver request for Article 123-23.I. Motion unanimously carried.

Ms. Emerson stated that the note under loading is not relevant. Ms. Emerson stated that the upper door off the deck is the loading area and not the lower door. Ms. Duane asked if there is a sufficient loading area. Ms. Emerson answered in the affirmative. Ms. Woodall asked about snow removal. Ms. Duane stated that the required note is on the plan. Ms. Woodall asked if there were any questions regarding pedestrian access. Mr. deFeyter stated that the sidewalk should be marked. Mr. Whetton stated that he could add a white line to define sidewalk on his side of the property.

Ms. Woodall asked if there were any questions regarding lighting; there is no change. Ms. Woodall stated that drainage calculations need to be submitted. Ms. Woodall asked if there were any questions regarding utilities; there is no change. Ms. Woodall asked if there were any questions regarding landscaping. The Board discussed green space. Ms. Duane stated that the Board should act on the waiver and suggested that the applicant try to find some areas to add green space. Ms. Woodall read a waiver request for Article 123-30. Ms. Duane made a motion, seconded by Mr. Webster, to grant the waiver request for Article 123-30. Ms. Woodall read the requirements to grant a waiver. Motion unanimously carried.

Ms. Woodall stated that architectural requirement is not applicable and the patron restrooms are not applicable. Ms. Woodall asked about the dumpster. Mr. Whetton stated that the dumpster belongs to the property next door and has given them permission to store it on the park property, not this property. Mr. Whetton stated that the dumpster is up to the property line, but not on this property. Ms. Emerson stated that it is not applicable. Ms. Woodall stated that the historic value is not applicable. Ms. Woodall asked if there were any questions regarding water or sewer; there was none.

Ms. Woodall asked about wheelchair access. Mr. Whetton stated that the businesses are connected by a common hallway. Mr. Whetton stated that he also has a portable ADA ramp. Ms. Woodall stated that the floodplain is not applicable; site construction standards are not applicable; and nuisance is not applicable. Ms. Woodall asked about public health and safety and stated that there is a letter from Conway Village Fire District Fire Chief, Larry Wade, stating that he has no concerns. Ms. Woodall stated that the temporary outdoor display of goods is not applicable and the plat notes are not applicable.

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Ms. Duane made a motion, seconded by Mr. Webster, to conditionally approve the minor site plan for Paul Whetton conditionally upon modifying the plans to show eight (8) parking spaces and a 5 foot aisle for the handicap parking space; showing a barrier on the plans so that each driveway does not exceed thirty-six (36) feet; adding a stripe to the plans to show the sidewalk boundary; obtaining drainage approval by the Town Engineer; adding at least one new area of green space to the plans; showing that the parking area will be paved on the plans; a performance guarantee for 50% of all site improvements; and the plans can be signed out-of-session when all the conditions have been met. Motion unanimously carried.

**TOM & C REALTY LLC - FULL SITE PLAN REVIEW (1999 TAX MAP 244, PARCEL 7) FILE #FR99-11**

Tom and Curt Burke, applicants, and Doug Burnell and Ryan Burke of H.E.B. Civil Engineers appeared before the Board. Mr. Burnell explained the site plan and stated that this will have a shared driveway with the Burke's construction business. Ms. Woodall asked if the chain linked fence was allowed in the buffer. Ms. Emerson stated that there is no regulations for fences. Ms. Duane made a motion, seconded by Mr. Webster, to accept the application of Tom & C Realty LLC for a Full Site Plan Review. Motion unanimously carried.

Ms. Woodall asked if there were any concerns regarding the driveway; there was none. Ms. Woodall asked if there were any questions regarding the parking lot design. Mr. Burnell stated that it is next door to the contracting business and operation will be conducted out of the office next door. Mr. Burnell stated that there is no office shown on this particular layout. Mr. deFeyter asked if it is paved. Mr. Burnell answered in the affirmative. Mr. Curt Burke stated that it the operation of the business will actually be run on a cell phone by the person who manages it.

Ms. Woodall stated that she is concerned with the loading area. Mr. Waterman asked if there will be forklifts in this area. Mr. Curt Burke answered in the negative. Ms. Woodall asked if there were any questions regarding snow removal. Ms. Woodall stated that snow storage is labeled on the plans. Mr. deFeyter stated that the snow storage is on the other side of the fence. Mr. Curt Burke stated that they will use a bucket loader. Ms. Woodall stated that pedestrian access and circulation is not applicable. Ms. Woodall asked if there were any questions regarding lighting; there was none. Ms. Woodall asked if the lighting will not leave the property. Mr. Burke stated that that is correct.

Ms. Woodall asked about drainage. Ms. Emerson stated that the drainage calculations are approved. Ms. Woodall stated that the utilities will be underground. Ms. Woodall asked if there were any questions regarding the landscaping; there were none. Ms. Woodall stated that the architectural guidelines are not applicable. Ms. Woodall asked how someone accesses the property if they have rented a unit. Mr. Curt Burke stated that it will be a 24-hour access, but at night it will be locked and will need what looks like a credit card to open the gate.

Ms. Woodall stated that the patron restrooms were not applicable. Mr. deFeyter asked why are they not applicable. Ms. Emerson asked what are they selling. Mr. deFeyter answered retail. Ms. Woodall stated that she does not see a need for restrooms, but we can cover our basis by granting a waiver. Ms. Woodall reviewed the architectural design. Ms. Woodall asked if there were any questions regarding a dumpster; there were none. Ms. Woodall stated that there is a note on the plan in regard to the dumpster. Ms. Woodall stated that this is not a historic site as it is undeveloped. Ms. Woodall stated that this site is not serviced by water; wheelchair access is not applicable; floodplain is not applicable; the applicant meets the State's site construction standards; and nuisance is not applicable. Ms. Woodall asked about public health and safety. Ms. Emerson stated that we have received Fire Chief approval from the Redstone Fire Chief.

Ms. Woodall stated that the plat notes are on the plans. Ms. Woodall read a waiver request for Article 123-31. Ms. Woodall read the requirements to grant a waiver. Ms. Duane made a motion, seconded by Mr. Webster, to approve the waiver request for Article 123-31. Motion unanimously carried. Ms. Duane made a motion, seconded by Mr. deFeyter, to conditionally approve the Full Site plan for Tom & C Realty LLC conditionally upon a performance guarantee for 50% of all site improvements; the conditional approval

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will expire on September 16, 1999; and if the condition has been met the plans can be signed out-of-session. Motion unanimously carried.

Meeting adjourned at 11:15 p.m.

Respectfully Submitted,

Holly L. Meserve  
Recording Secretary