

CONWAY PLANNING BOARD

MINUTES

NOVEMBER 4, 1999

A meeting of the Conway Planning Board was held on Thursday, November 4, 1999, beginning at 7:04 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; Stacy Sand; John Waterman; Interim Town Planner, Paul King; and Recording Secretary, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

The Minutes of October 7, 1999, should be amended as follows: page 6, paragraph 3, line 2, should read, "...affirmative. Ms. Woodall..."; page 6, paragraph 5, line 1, should read, "...Table II as submitted by the applicant. Ms. Sand..."; page 6, paragraph 5, line 3, should read, "...correct. Ms. Sand..."; page 9, paragraph 5, line 1, should read, "...access. Mr. deFeyter asked if there was a proposal..."; and page 12, paragraph 1, line 2, should read, "...Chick's Lumber sign is not grand fathered.". Ms. Duane made a motion, seconded by Mr. deFeyter, to approve the Minutes of October 7, 1999, as amended. Motion unanimously carried.

The Minutes of October 14, 1999, should be amended as follows: page 1, paragraph 1, line 3, should read, "...Board was to put a warrant...". Mr. deFeyter made a motion, seconded by Mr. Webster, to approve the Minutes of October 14, 1999, as amended. Motion unanimously carried.

The Minutes of October 21, 1999, should be amended as follows: page 1, paragraph 5, line 2, should read, "...Atty. Hastings. Stacy Sand noted..."; page 1, paragraph 6, line 1, should read, "...made by Stacy Sand..."; and page 2, paragraph 7, line 3 should read, "...circumventing the ZBA and zoning thus...". Ms. Sand made a motion, seconded by Ms. Duane, to approve the Minutes of October 21, 1999, as amended. Motion unanimously carried.

HAROLD WHITAKER/THOMAS FADDEN – 4-LOT SUBDIVISION CONTINUED (MAP 5, PARCEL 5) FILE #S99-16

Ms. Woodall stated that the applicant has asked for this application to be continued until November 18, 1999. Ms. Duane made a motion, seconded by Ms. Sand, to continue the subdivision application for Harold Whitaker and Thomas Fadden until November 18, 1999. Motion unanimously carried.

ROMAN CATHOLIC BISHOP OF MANCHESTER/H.E.B. CIVIL ENGINEERS – MINOR SITE PLAN REVIEW CONTINUED (MAP 68, PARCEL 32A) FILE #MR99-20

Doug Burnell of H.E.B. Civil Engineers appeared before the Board. Mr. Burnell stated that the plans were revised to include a 20-foot wide access to the Gibson Center to conform to the Gibson Center's site plan. Mr. Burnell stated that the same was added to the plans to the Bellini's site. Mr. Burnell stated that a note regarding restrooms has been added to the plans. Mr. Burnell stated that they have received a driveway permit from the State of New Hampshire.

Ms. Woodall asked about the granite curbing. Mr. Burnell stated that they have requested a waiver from granite curbing. Ms. Sand stated that the waiver was denied, but the Board agreed to review it again after a site visit. Mr. deFeyter stated that he visited the site again and on the north side of the property, by Pinkham Real Estate, there is granite curbing on the street and as you go into the parking lot. Mr. deFeyter stated that it makes sense to have granite curbing all the way around it. Mr. deFeyter stated that on the southerly side he doesn't see any logical way to add granite curbing. Mr. deFeyter stated that he would like to see granite curbing on the north end and not on the south side. Mr. deFeyter stated that there are some large rocks already there that the Board could allow in lieu of granite curbing.

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Mr. King referenced a memo from Town Engineer, Paul DegliAngeli and himself. Mr. King stated that they felt that granite curbing is a real important item control access. Mr. King stated that in this case the street has curbing and there are sidewalks. Mr. King stated that they both felt that this delineated the driveway. Mr. King stated that they both recommend that curbing is not necessary. Ms. Sand stated that she also visited the site and she has to agree with Mr. deFeyter. Ms. Sand stated that it should not be a big deal to extend the granite curbing approximately twelve (12) feet. Ms. Woodall stated that curbing on the north side is necessary and not on the south side.

Ms. Woodall read the requirements to grant a waiver. Ms. Woodall read a waiver request for Article 123-21.I. Ms. Sand made a motion, seconded by Ms. Duane, to approve the waiver request for Article 123-21.I. to exempt granite curbing on the south side. Motion unanimously carried. Ms. Woodall asked for public comment; there was none.

Ms. Duane made a motion, seconded by Ms. Sand, to conditionally approve the minor site plan for the Roman Catholic Bishop of Manchester/H.E.B. Civil Engineers conditionally upon the revised plans showing the granite curbing; a cost estimate for all site improvements; a performance guarantee for all site improvements; and this conditional approval will expire November 18, 1999. Motion unanimously carried.

**WAL-MART REAL ESTATE BUSINESS TRUST/BELL ATLANTIC – MINOR SITE PLAN
REVIEW (MAP 61, PARCEL 60-1) FILE #MR99-21**

Sam Smith of Bell Atlantic appeared before the Board. Mr. Smith stated that they would like to construct a small concrete hut for terminal equipment. Mr. Smith stated that the State is requiring them to move their items and we need to do this as fast as we can. Ms. Duane made a motion, seconded by Mr. Webster, to accept the minor site plan review application for Wal-Mart Real Estate Business Trust/Bell Atlantic as complete. Motion unanimously carried.

Ms. Woodall asked if this is actually on the Wal-Mart property or in the easement for the Town. Mr. Smith answered it is on the Wal-Mart property. Ms. Woodall asked if there is an easement. Mr. Smith answered in the affirmative. Ms. Sand asked if there is any reason it has to be on the front of the property. Mr. Smith stated that you have to be able to get to it during a storm. Ms. Sand stated that she can understand the need for the structure, but she has a problem with placing it on the front of the property.

Ms. Woodall stated that the Planning Board has worked with Wal-Mart to have an aesthetically pleasing looking property. Mr. Smith stated that the hut would be made from the same material used on Wal-Mart. Ms. Woodall asked the height of the hut. Mr. Smith answered nine feet. Ms. Sand asked if it could be placed underground. Mr. Smith stated that they have done that in the past and they cannot keep them underground.

Mr. Webster stated that he is not fond of the location. Mr. deFeyter stated that he does not like the location. Mr. deFeyter stated that there are a lot of places where they have put them underground. Mr. deFeyter stated if the applicant is intent on the location then they need to look at putting it underground or change the location. Ms. Duane suggested locating it by the detention pond. Mr. Waterman stated that he does not like the looks of it in the front and suggested moving it toward Center Conway out of the view of Wal-Mart. Mr. Waterman stated that it would still be located on Route 302.

Ms. Woodall agreed and stated that it should be moved. Ms. Woodall stated that the Board has worked too hard for an attractive site for it to be marred. Ms. Sand stated that there needs to be some sort of electrical source outside and asked if that would be underground. Mr. Smith answered in the affirmative. Mr. deFeyter stated that depending on the location instead of a concrete structure the applicant stated that they were going to match the material as used on Wal-Mart. Mr. Smith stated that it would be the same material as Wal-Mart and installed by the same contractor.

Mr. Webster asked if it was safe to assume that you selected the location for the hut because it gave you the ability to drive up to it. Mr. Smith stated that if it goes someplace that has no pavement, pavement would need to be added. Mr. Webster stated that a driveway permit might need to be obtained if it moves toward

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the detention pond. The board agreed that the applicant would need to find a new location for the hut on the site. Ms. Duane made a motion, seconded by Ms. Sand, to continue the application for Wal-Mart Real Estate Business Trust/Bell Atlantic until November 18, 1999. Motion unanimously carried.

OTHER BUSINESS

Zoning Changes/Santa Maria Property (Map 7, Parcel 63): Ms. Woodall stated that the Board needs to review the overall impact on the Town before changing the zoning. Mr. King read from a Planners Input Sheet dated November 2, 1999. Ms. Duane stated that she cannot see anyone wanting to live on this property residentially. Ms. Duane stated that it would be a difficult sale selling residentially. Ms. Duane stated that the area grew up around it.

Tom Dewhurst stated that we are looking at growth and a business district. Mr. Dewhurst stated that when the business district was being developed in that area there was a concern for the residents. Mr. Dewhurst stated that they also looked if there was a need for expansion there was room for expansion. Ms. Sand stated that there are many curves coming off that hill and there needs to be something that does not generate a lot of traffic. Mr. King suggested a transition commercial zone.

Mr. King stated that it is not appropriate to look at the property to the South of the Santa Maria property as part of the transition zone. Mr. King stated that the Board should start with this property and move to the north. Mr. King stated that after review the Board could determine to end it at the Santa Maria property. Mr. deFeyter stated that if the commercial zone keeps moving to the north where do we stop it. Mr. deFeyter stated that there is no assurance that with a transition zone the use would have a low impact.

Mr. Webster stated that the road needs a lower speed limit. Mr. Webster stated that the in the States long range plan they have no interest in that road and anyone along that road gets penalized. Mr. Webster stated that he is a little leery of creating a transition zone. Mr. Webster stated that someone will probably challenge it and we will be in court. Mr. Webster stated that he does support going to the voters again. Mr. Webster stated that we have a landowner who has been penalized repeatedly and everyone else around them has been able to develop.

Mr. Waterman stated that both Ms. Duane and Mr. Webster have made good points. Mr. Waterman stated that the Town is holding them captive, but at the same time the road is a hazard. Mr. Waterman stated that the road needs to be widened and that is up to the State and not the Town nor the Planning Board. Ms. Woodall stated that everything she has heard so far is that the zoning change is good for the applicant. Ms. Woodall stated that it is detrimental to the Town and what does the town gain with this change. Ms. Woodall stated that the Town gains a traffic situation and a safety issue. Ms. Woodall stated that we have empty space all up Route 16.

Mr. King stated that site safety can be addressed during site plan and can work with the State. Mr. King stated that as far as the benefit to the Town, what is good for one citizen in town is good for all citizens. Mr. King stated that this site is surrounded by commercial uses. Ms. Duane asked Ms. Woodall to give a few examples of those buildings empty on Route 16. Ms. Woodall answered the Levi's complex and Timberland. Ms. Woodall stated that as you drive up Route 16 there are a lot of empty retail spaces. Ms. Woodall stated that most people are going shopping on the Internet. Ms. Woodall stated that we have a changing market. Ms. Woodall stated that we have nothing in place for the revitalization of Route 16.

Mr. deFeyter stated that we should be taking a look at our land use all over Town and where we should be going commercially. Mr. Dewhurst stated that the Santa Maria property is entirely surrounded by commercial use. Mr. Dewhurst stated that this is an unfortunate situation. Ms. Sand stated that commercial property collects more taxes. Ms. Woodall stated that it still impacts the Town because the Town needs a larger Police Department. Ms. Sand stated that this is a single piece of property and voters should have another look at it. Mr. Dewhurst stated that the vote last year was 798 yes to 858 no.

Ms. Duane made a motion, seconded by Ms. Sand, to send the Liberty Santa Maria forward to a public hearing. Motion carried with Ms. Woodall voting in the negative. Ms. Duane made a motion, seconded by

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Ms. Sand, to set the public hearing for the Santa Maria property for December 2, 1999. Motion unanimously carried.

Zoning Change/Bradford Oil Co. – Beep Beep Deli: Mr. Webster stated that the Town cannot do anything until it goes to the voters. Ms. Woodall stated that we do not know if they will be the owners because she thought it had to go to auction. Mr. Webster stated that the property also needs an appraisal. Mr. Webster stated that the problem is that the property is located on both sides of the railroad track. Ms. Woodall stated that there needs to be more research done on this property because it is the entry way to Conway. Mr. deFeyter stated that satellite mailboxes have also been discussed for this property. The board agreed they could not do anything on this property at this time. Mr. Dewhurst stated that he would keep them updated.

Zoning Change/Cluster Development: Mr. King stated that Randy Cooper as a volunteer prepared the proposed amendment. Ms. Duane asked if this could be sent to Peter Hastings, Town Counsel, for review. Ms. Woodall stated that the Board needs to review based on intent while Mr. Hastings only reviews it for clarity.

Mr. deFeyter stated that he is concerned with item E. Mr. deFeyter stated that you could interpret that no frontage is required. Mr. King stated that originally he had it worded that the perimeter of the parcel had to meet the frontage requirement, but he thought it should be removed because most developments don't have more than 50 feet for a access to back land. Ms. Woodall stated that the Zoning Board of Adjustment cannot waive the frontage requirements nor can the Planning Board. Mr. King agreed and stated that by not having frontage requirements there is nothing to override. Mr. deFeyter stated that if there is no frontage then there is no 3:1 ratio.

Mr. King stated that in order to have a cluster development you have to have the frontage on the perimeter. Mr. deFeyter agreed. Mr. King stated that no frontage requirements means for the units themselves. Mr. deFeyter referred to Article 147-17.1.D. Mr. deFeyter stated that if you remove frontage the only thing you have left is setback. Mr. King stated that he would remove it except for perimeter. Ms. Woodall stated that it was written that they do not apply anywhere else. Ms. Woodall stated that she thinks the way it is written currently is fine.

Mr. deFeyter stated that Article 147-17.1.D. should actually be Article 147-17.F. Ms. Woodall agreed. Mr. King stated that basically Mr. Cooper is saying it is exempt except you have to have unoccupied common area. Ms. Woodall stated that Article 147-17.1.D exempts them from frontage requirements. Ms. Sand stated that we need a definition for Cluster Development. Mr. King stated that it would need to meet all the perimeter setbacks and not the internal setbacks. Ms. Sand stated that they also need to meet the wetlands setback. Ms. Woodall stated that she thinks it needs more work.

Mr. deFeyter stated that the setbacks need to be dealt with, not just the perimeter setbacks, but the wetlands and special highway corridor district setbacks as well. Mr. deFeyter stated that we need to deal with frontage and ask if this is one lot. Ms. Woodall stated that Article 147-17.1.D. needs to move over to Article 147-17.F. Mr. King asked what type of frontage requirements should there be for a master lot. Mr. deFeyter stated that Article 147-17.1. already addresses that issue. It was a consensus of the Board to remain with the same frontage requirements that are already existing.

Mr. King asked if the density requirement should be the same for a traditional lot and a cluster lot. The Board agreed. Mr. King asked if this should be a separate section or intergraded into the existing ordinance. Ms. Duane stated that it should be a separate section. Mr. Webster stated that either way is fine, but does not want to see it left to interpretation. Ms. Sand stated that it should be a separate section. Ms. Woodall stated that Article 147-17.1.D should be changed to Article 147-17.F. and add setbacks. Mr. deFeyter stated either way. Mr. Waterman stated that he agrees with Mr. King. It was agreed that Mr. King would work on it and present it to the Board again.

Zoning Change/Zodiac, Inc. district change (Map 15, Parcel 21): Ms. Sand stated that this is what the Board told the applicant they should do and the Board should agree with it. Mr. deFeyter stated that the

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Board should review the entire area and not just one lot. Ms. Sand made a motion, seconded by Ms. Duane, to have a public hearing to change the highway commercial district. Motion was defeated with Ms. Woodall, Mr. deFeyter and Mr. Webster voting in the negative.

Lighting Policy: The Board agreed to discuss the lighting policy at the November 18, 1999 meeting.

C.I.P.: The Board agreed to discuss the C.I.P. at the November 18, 1999 meeting.

Roy Knight and Sharon Keith – 2 Lot Subdivision/Plan Signing (Map 5, Parcel 17E) File #S99-17: The Board agreed that the conditions had been met and signed the plans.

Pirates Cove North Conway, Inc. (Map 64, Parcel 31) – Extension of Conditional approval for File #FR99-14 and #S99-15: Ms. Duane made a motion, seconded by Ms. Sand, to extend the conditional approval for Pirates Cove North Conway, Inc. until January 6, 2000. Motion unanimously carried.

Meeting adjourned at 11:12 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary