

## CONWAY PLANNING BOARD

### MINUTES

AUGUST 10, 2000

A meeting of the Conway Planning Board was held on Thursday, August 10, 2000, beginning at 7:00 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Vice Chair (Acting Chair), Stacy Sand; Selectmen's Representative, Gary Webster; Secretary, Conrad Briggs; Robert deFeyter; John Waterman; Alternate, Martin Frank; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

#### APPOINTMENT OF ALTERNATE MEMBER

Mr. Frank was appointed a voting member for the evening.

#### REVIEW AND ACCEPTANCE OF MINUTES

The Minutes of July 20, 2000 should be amended as follows: page 1, under scale, should read, "...at least 1" = 40' or larger..."; page 2, under trailers, paragraph 3, should read, "...them up. Mr. deFeyter stated that the tax assessor has indicated if the trailer is registered..."; and page 3, Other Business, paragraph 1, line 4, should read, "...a circulator road." Mr. Briggs made a motion, seconded by Mr. deFeyter, to approve the Minutes of July 20, 2000 as amended. Motion unanimously carried.

The Minutes of July 27, 2000 should be amended as follows: page 4, paragraph 6, line 4, should read, "...Article 123-30.A.(2). Ms. Sand made a motion, seconded by Mr. Bergmann, to grant the waiver request for Article 123-30.A.(2). Motion..."; page 5, paragraph 4, line 1, should read, "...error. Mr. deFeyter made a motion, seconded by Mr. Briggs, that this is a scrivener's error and it should be changed from 24-lounge seats to 29-lounge seats. Motion...". Mr. Briggs made a motion, seconded by Mr. Waterman, to approve the Minutes of July 27, 2000 as amended. Motion unanimously carried.

#### POOPSY INVESTMENTS – MINOR SITE PLAN REVIEW (1999 TAX MAP 235, PARCEL 19/OLD TAX MAP 64, PARCEL 1-2) FILE #MR00-13

Will Haskell of H.E.B. Civil Engineers; and Bud Fraumeni, of the 99 Restaurant appeared before the Board. Ms. Sand stated that there were a number of items pending. Ms. Sand asked if the applicant has received a NHDOT driveway permit. Mr. Irving answered in the negative and read a memorandum from Roger Dionne dated August 8, 2000. Mr. Irving stated that the memorandum indicates that the State will be closing the Route 16 access.

Ms. Sand asked what does the applicant wish to do. Mr. Irving stated that town staff has had discussions with the applicant. Mr. Irving stated that the plans indicate the NHDOT's plans to close that access. Mr. Irving stated if the driveway were not closed, the Town would require it to have a 25-foot radius. Mr. Irving stated that there are three options: the applicant could close the Route 16 access now; put in the 25 foot radius now; or have the plan indicate that the access will be closed and if NHDOT does not close it, the applicant will and bond it until it is done. Mr. Irving stated that option three is the least preferred by Town staff.

Ms. Sand asked if the State is closing the driveway is it still possible they will issue a driveway permit. Mr. Irving stated if they close it this will not be an issue, but the State may issue a temporary driveway permit until they do close it. Mr. Haskell stated that they have not received the memorandum from Roger Dionne. Mr. Haskell stated in his discussion with the State they indicated that they are in the process of appraising the properties and starting this whole process. Mr. Haskell stated that Don Lyford from Concord stated that the construction is to begin in April of 2002. Mr. Haskell stated that the State is closing driveways where the properties have another access onto a Town road. Mr. Haskell stated if the State is going to close the Route 16 entrance than it seems wasteful to put in the 25' curb radius or close it when it is going to be done

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in a few years. Ms. Sand asked if the applicant has resubmitted for the 25' curb radius waiver. Mr. Haskell stated that we have changed the Echo Acre Road access to have a 25' curb radius. Mr. Briggs asked what does the applicant want to do. Mr. Haskell answered leave it as it is until the NHDOT closes it. Mr. deFeyter asked if they want to go with option 3. Mr. Haskell answered in the affirmative. Mr. Irving stated that the NHDOT has been lobbied in the past and has been convinced not to close curb cuts. Mr. Irving stated that there is no guarantee from the State that it will be closed.

Mr. deFeyter stated under option #3 this could go on forever and we should be going with option #1. Mr. deFeyter stated with option #2 the Town has some risk here if you are not bringing them into compliance and there is an accident there the Town could be liable. Mr. Frank stated between options 1 and 2 does the applicant have a preference. Mr. Haskell stated that option #2 would be very expensive since there is a utility pole to the South side of the entrance. Mr. Haskell stated that the NHDOT going through this process may relocate these poles. Mr. Haskell stated to move one pole is going to be a real chore.

Mr. deFeyter asked if the current plans show the 25' radius on the Route 16 entrance. Mr. Haskell answered in the negative. Ms. Sand stated that this entrance has been used for a number of years and she would like the Board to consider option 3 if it is bonded. Mr. Fraumeni asked if this bond would be above the other bond required. Mr. Irving answered in the affirmative. Mr. Fraumeni stated that they are willing to bond for 100% of the site improvements instead of the usual 50% of site improvements to show good faith on our part. Mr. Fraumeni stated that the State is planning on closing that entrance within 24 months.

Mr. Irving asked if they wanted to phase the driveway with the wording within 24 months. Mr. Fraumeni stated if the driveway is not removed within 24 months than the applicant would upgrade the entrance. Mr. deFeyter stated that that would present a problem, as the cost to put in the 25' radius is more than the cost to close the driveway. Mr. deFeyter stated that it would have to be bonded for the higher cost. Mr. Fraumeni stated that the applicant is willing to do that. Mr. Irving stated that there would have to be a plat note.

Ms. Sand polled the Board to either consider a waiver for the 25' curb cut or see them present bonding for the 25' curb radius to be completed within two years if the NHDOT does not close the curb cut. Mr. Waterman stated option #3. Mr. deFeyter answered option #3. Mr. Frank asked what if the State is going to close it in 25 months. Mr. Irving stated that the applicant would have to gamble on the time, but the bond is extended one year beyond the 24-month period. Mr. Irving stated that the applicant does not have to act immediately in 24 months. Mr. Briggs stated option #3. Mr. Webster answered option #3. Ms. Sand stated that there needs to be a note put on the plan with a time limit of two years to either close the Route 16 entrance or construct the 25' radius. The Board agreed the deadline to be November 2000.

Mr. Irving stated that we do not need bonding for 100% of the site improvements. Mr. Irving stated that a bond of 50% of the site improvements would be held until the project is complete. Mr. Irving stated that we should check with the North Conway Fire Chief and asked if the Board minded if he just called him. The Board agreed that Mr. Irving could contact the North Conway Fire Chief via telephone for confirmation. Ms. Sand stated that the next item is the bushes around the utility box. Mr. Irving stated that this has been done and it is on the landscaping plan. Mr. Haskell stated that shrubs have also been added to the planter behind the cooler.

Ms. Sand asked what is the determination with the signs. Mr. Fraumeni stated that Ron Johnson is working with the landlord and our company. Mr. Haskell stated that both internally lit signs are grand fathered. Mr. Irving stated if they legally existed at the time of adoption of the ordinance. Mr. Irving stated that it is up to the owner to represent that they are grand fathered signs. Mr. Fraumeni stated that they are trying to utilize anything that exists. Mr. Frank stated that internally lit signs do not fit into what we are trying to do with the Town.

Mr. Waterman asked if they intend to have a liquor license. Mr. Fraumeni answered in the affirmative. Mr. Waterman stated that the State would not allow illuminated signs. Ms. Sand stated that she has not seen that before, but would have to check with the State. Ms. Sand stated that Mr. Johnson is speaking

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with the landlord because once the sign is changed it loses its grand fathered status. Ms. Sand stated that it is up to the landlord and the applicant and she hopes the applicant tries to have a conforming sign.

Mr. deFeyter stated that we want to work with the applicant and this is one area we have concerns with. Mr. deFeyter stated if we could help you in some of these things than maybe you can help us on something that is a concern to us. Mr. deFeyter stated that internally lit signs are not part of the image we are trying to portray for this Town. Ms. Sand stated that it is up to the landlord and we can suggest it, but we cannot force it. Mr. Fraumeni stated that negotiations are still on going.

Ms. Sand stated that the Board denied the waiver for to exempt granite curbing and it is on the plans now. Ms. Sand stated where the applicant is replacing curbing they are putting in granite curbing. Ms. Sand asked if the number of seats have been updated. Mr. Irving stated that the plans have been updated to indicate 29-lounge seats and the parking calculations have been updated accordingly. **Mr. deFeyter made a motion to continue the minor site plan review for Poopsy Investments. There was no second.**

**Mr. Briggs made a motion, seconded by Mr. Webster, to conditionally approve the minor site plan for Poopsy Investments conditionally upon adding a note to the plan that states by November 2002 the applicant shall modify the Route 16 driveway entrance by either constructing 25' curb radii or closing the entrance, if the NHDOT does not close the entrance prior to this date; correct the waiver granted on the plans from Article 147-17.A.(2) to 123-30.A.(2); a performance guarantee for 50% of all site improvements; the plans can be signed out-of-session when the conditions have been met; and this conditional approval will expire in thirty days [September 9, 2000].**

Mr. deFeyter stated that he doesn't think you can give conditional approval comprising a note, as it does not meet State statute. Ms. Sand asked if there were any comments by the Board; there was none. Ms. Sand asked if there was any public comment; there was none. **The Motion carried with Mr. deFeyter voting in the negative.**

**CHAD HILL – TWO-LOT SUBDIVISION (1999 TAX MAP 268, PARCEL 86.2) FILE #S00-06**

Chad Hill appeared before the Board. Mr. Hill stated that he would like to subdivide approximately 8 acres into 2-four acre lots. Mr. Hill stated that his intention is to not put in any roads so he has requested a waiver from drainage. Mr. Hill stated that he has also requested a waiver from the two-foot contours as he has used 5-foot contours. **Mr. deFeyter made a motion, seconded by Mr. Briggs, to accept the application of Chad Hill for subdivision review. Motion unanimously carried.**

Mr. Irving reviewed his staff report and stated that all the pending items have been satisfied. Ms. Sand read the requirements to grant a waiver. Ms. Sand read a waiver request for Article 131-24.N. Ms. Sand asked if there was any public comment on the waiver; there was none. **Mr. Briggs made a motion, seconded by Mr. Frank, to grant the waiver for Article 131-24.N. Motion unanimously carried.** Ms. Sand read a waiver request for Articles 131-24.O and 131-26.A. Ms. Sand asked if there was any public comment on the waiver; there was none. **Mr. Briggs made a motion, seconded by Mr. deFeyter, to grant the waiver for Articles 131-24.O. and 131-26.A. Motion unanimously carried.**

Ms. Sand asked if there was any further discussion from the Board; there was none. Ms. Sand asked if there was any public comment; there was none. **Mr. deFeyter made a motion, seconded by Mr. Webster, to conditionally approve the subdivision application for Chad Hill conditionally upon adding approved waivers to the plans; add note that the monumentations have been set; the plans can be signed out-of-session when the conditions have been met; and this conditional approval will expire on September 10, 2000. Motion unanimously carried.**

**ROGER JONES – FULL SITE PLAN REVIEW (1999 TAX MAP 252, PARCEL 12/OLD TAX MAP 57, PARCEL 5) FILE #FR00-10**

David Douglass of Thaddeus Thorne Surveys appeared before the Board. Mr. Frank stepped down at this time. Mr. Douglass stated that there was a house previously located on this property and the garage is to

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remain. Mr. Douglass stated that the applicant wishes to construct a building to house J & J Flooring. Mr. Irving reviewed his staff report and stated that he would amend his recommendation. Mr. Irving stated that the Board should accept this application as complete and continue it until such time that all the outstanding items have been addressed.

Mr. Irving stated that there is a two-bedroom apartment needs to be added to the existing plan and then on the site plan it needs to show the two-bedroom apartment being removed. Mr. Irving stated that the applicant owes \$35 because the applicant's agent failed to satisfy specific corrections clearly presented by Town staff and the correct fire precinct is not shown on the plans. Mr. Irving read a memorandum to Thaddeus Thorne from himself dated August 8, 2000. Mr. deFeyter stated that he reviewed the site and there is a second structure on the property located behind the garage that also should be on the existing features plan.

Ms. Sand stated it needs to be determined if the application is complete or not. Mr. Irving stated that the applicant has satisfied the items for a complete application, but they are incorrect. Mr. deFeyter stated that we would have to start the review immediately if accepted as complete. Ms. Sand stated that essentially it is complete with errors. Mr. deFeyter stated that the plans do not reflect what is actually on the ground. Mr. Briggs stated that we need to discuss the errors, but we need to continue it. **Mr. deFeyter made a motion, seconded by Mr. Briggs, to accept the application of Roger Jones as complete for a Full Site Plan Review. Motion was defeated with Mr. Briggs voting in the affirmative and Ms. Sand, Mr. Webster, Mr. deFeyter, Mr. Waterman and Mr. Frank voting in the negative.**

Ms. Sand stated that that the application has not been accepted as complete. Ms. Sand stated our recommendation would be to submit the necessary items to Mr. Irving so that he can review the plans. Mr. Douglass stated that he is at a loss. Mr. Irving stated that the process would have to start over. Mr. Douglass stated that he would talk to Mr. Irving later. Mr. Webster stated that our time is just as important as your time. Mr. Douglass stated that it was impossible to have everything requested for this evening as it has to come in as a complete deck and the drainage was not yet complete. Ms. Sand stated that there are items that exist items that are not on the plans.

**OHLSON PROPERTIES, INC. – CONCURRENT FULL SITE PLAN AND SUBDIVISION REVIEW (1999 TAX MAP 276, PARCEL 294/ OLD TAX MAP 33, PARCEL 34) FILE #FR00-13**

Mr. Frank rejoined the Board at this time. Mark Ohlson, owner; and David Douglass of Thaddeus Thorne Surveys appeared before the Board. Mr. Irving reviewed his staff report. Mr. Waterman asked Mr. Ohlson if he has a contractual agreement with the Post Office. Mr. Ohlson stated that he has a signed lease. **Mr. Briggs made a motion, seconded by Mr. Webster, to accept the application of Ohlson Properties, Inc. as complete for a concurrent full site plan and subdivision review. Motion unanimously carried.**

Mr. deFeyter asked if Mr. Irving has had any response from the post office regarding satellite boxes. Mr. Irving answered in the affirmative and read the attached phone message from Chris Madden. Mr. deFeyter asked if Mr. Madden said anything about home delivery. Mr. Irving stated that there was nothing in the message regarding home delivery. Mr. Waterman submitted copies of Planning Board Minutes to the Board where satellite boxes were discussed (attached).

Ms. Sand stated that there is the possibility of the Board requesting an impact study. Ms. Sand stated that the Board might want to consider an impact study until we get something in writing from the postal service that satellite will be done. Mr. Irving stated that town staff has concerns with traffic loading on Lake Street. Mr. Irving stated that town staff would not be inclined to issue a driveway permit on Lake Street until those concerns were addressed. Mr. Irving stated that we would suggest an engineer be contracted for the town and paid for by the applicant.

Mr. deFeyter stated that the Board was desirous to that study and asked if we want to resolve some of the other issues that might resolve some or go with the plans. Mr. Irving stated that the Town engineer needs more information. Mr. deFeyter stated that we just accepted this application as complete and the clock is ticking. Mr. deFeyter stated that we have 65-days to review this application. Ms. Sand stated that we can

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deal with the other issues, but we still need a traffic study. Mr. deFeyter stated that the big issue here is the traffic and congestion. Mr. deFeyter asked if we want to go into the rest, such as roads, before we obtain the traffic study.

Ms. Sand stated that these other issues are just as important. Mr. Webster stated that there is a good chance if these things do not materialize this will not go anywhere. Mr. Webster stated that people don't want to go to Conway to get their mail. Mr. Webster stated that you couldn't move in Conway Village. Ms. Sand stated that we have accepted the plan as complete and there is no resolution tonight on the traffic issue. Ms. Sand stated that we need from the applicant or the postal service some good faith effort to reduce that, but that does not mean we cannot deal with this application.

Mr. deFeyter stated once you've accepted an application you have to go forward with the application, but in this situation he thinks it would be a waste of the Board's time. Mr. deFeyter stated that we have already done a conceptual review on this project and he thinks the Board needs to go forward with the traffic study. Ms. Sand stated that they have met the basic requirements for a complete application. Mr. Irving stated that the Board should be polled.

Mr. Webster stated that the Board should continue this application until the next meeting in order to get the engineering cost and how long it is going to take. Mr. Webster stated that this is an issue. Mr. Briggs, Mr. Frank and Mr. deFeyter all agreed with Mr. Webster. Mr. Waterman stated that he agreed with Mr. Webster, but he thinks an issue as important as this a member of the postal service should be here. Ms. Sand stated that the Board has accepted this application as complete and the Board was willing to review it, but now your not willing to look at anything until the traffic issue is resolved. Ms. Sand stated that it couldn't be resolved tonight. Mr. Webster stated if we had not accepted the application we would not have been able to ask for the traffic study.

Mr. deFeyter stated that he thinks it would be reasonable to obtain the study and then deal with the other issues. **Mr. deFeyter made a motion, seconded by Mr. Webster, to continue the application for Ohlson Properties, Inc. until the next meeting, to allow Mr. DegliAngeli, Mr. Irving and the applicant to agree on a consultant and report back to the Board at the next regular meeting [August 24, 2000]. Motion carried with Ms. Sand voting in the negative.**

Mr. Irving asked for a clarification and asked if the traffic study is contingent upon the engineering concerns or does the Board have other concerns. Ms. Sand stated that they are looking at how long a traffic study would take. Earl Sires, Conway Town Manager, asked what is the intent or scope of the traffic study as it can vary. Ms. Sand stated that what the Board has received from the engineer is that he is concerned with Lake Street and the Board's concern is if you have to go there to get your mail what is the impact. Mr. Sires stated that the Planning Board is looking village and the Town Engineer is looking Lake Street.

Mr. Irving asked if the Board was interested in the village impact. Mr. deFeyter stated that they want the impact on what this post office is going to be and a study based on that as it exists. Ms. Sand asked for public comment; Donna Rae Kendall, Conway Post Master, asked when the Board refers to satellite boxes what exactly do they mean. Ms. Sand referred to the mailboxes at Mountain Valley Mall. Ms. Kendall stated that those are remote boxes. Ms. Kendall stated that they have proposed those in the past and businesses have not been receptive. Ms. Kendall stated that they put in 16 units at Jerry Cote's building and only five businesses bought into it.

Ms. Kendall stated that they put 60 units in at Golden Oaks and only 23 private parties bought into them. Ms. Kendall stated that it is not a matter of whether or not they can be done, but none of them are used to capacity. Ms. Sand asked if that is based on the post offices present location. Ms. Kendall answered in the affirmative. Ms. Sand stated that the present location has two accesses onto different streets. Ms. Kendall stated that she understands that, but these units are expensive. Ms. Sand stated that it might make a difference with this location. Ms. Kendall stated that we have to deal with rural courier contracts. Ms. Kendall stated that it is called the mail moment as people want to be at the post office.

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Walter Henderson, Fire 21, stated that recently the fire department looked for a new location and it ended up in the same location. Mr. Henderson stated that there are a number of people walking to the post office. Mr. Henderson stated that they have considered other sites and this is the site they wanted. Mr. Henderson stated that this has to be done. Mr. Henderson stated at least as many people will walk to this site as the current site. Mr. Henderson stated that this site would pick up West Main Street. Mr. Henderson stated that the walking access is important and some of these analysis items have been done and needs to get to the Board.

Mr. Douglass stated that he thinks he has done this once before and it came up that this road is full. Mr. Douglass stated that we are not going to over come that, but we now won't be competing with the light. Mr. Douglass stated that it is a dreadful situation now. Mr. Douglass stated that we have a traffic problem and the traffic study is going to tell you the road is loaded. Mr. Irving stated that the primary concern is traffic impact on Lake Street. Mr. Ohlson asked what if we eliminate Lake Street. Mr. Irving stated there would be no issue with the Town regarding Lake Street. Mr. deFeyter stated that we could look to see if it would be better with or without Lake Street. Mr. Irving stated that he is hesitant to ask the applicant that as the staff is asking for what the impact will be on Lake Street. Mr. Irving stated that he completely agrees with Mr. Douglass that Route 16 is in failure. The Board determined that they would like to know the impact on the Village with or without the Lake Street entrance.

**OTHER BUSINESS**

Alvin Miller/Request for Concurrent Site Plan and Subdivision Review: Mr. Irving read a letter from Jon Howe of Ammonoosuc Survey requesting a concurrent site plan and subdivision review for Alvin Miller. Mr. deFeyter made a motion, seconded by Mr. Webster, to accept the request for a concurrent site plan and subdivision review for Alvin Miller. Motion unanimously carried.

Joint meeting with the Board of Selectmen/Work Session: The Planning Board and the Board of Selectmen may have a joint meeting on Thursday, August 31, 2000. The Board will also get an update on the Land Use Survey at that meeting.

Meeting adjourned at 9:20 p.m.

Respectfully Submitted,

Holly L. Meserve  
Recording Secretary