

CONWAY PLANNING BOARD

MINUTES

AUGUST 11, 2005

A meeting of the Conway Planning Board was held on Thursday, August 11, 2005 beginning at 7:00 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chair, Robert Drinkhall; Vice Chair, Conrad Briggs; Sheila Duane; Steven Porter; Russell Henderson; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

**REVIEW AND ACCEPTANCE OF MINUTES**

**Mr. Briggs made a motion, seconded by Mr. Porter, to approve the Minutes of July 28, 2005 as written. Motion carried with Ms. Duane abstaining from voting.**

**BEN RIZZA (PID 203-129) - §123-4.A.5. - FILE #NA05-13)**

Mr. Irving stated that the applicant would like to construct a 140 square foot shed on his 3-unit multi-family site. **Ms. Duane made a motion, seconded by Mr. Porter, that the Planning Board determined that based on the provisions of §123-4. A. 5., regarding applicability, that a 140 square foot shed is not subject to a Minor or Full Site Plan Review because it has been demonstrated that the change of use and/or physical changes to the site are insignificant relative to the existing development. Motion unanimously carried.**

**LOT 5 GENERAL PARTNERSHIP/LUPINE (PID 253-73, 84 & 85) – REQUEST FOR CONCURRENT SITE PLAN AND SUBDIVISION REVIEW**

**Ms. Duane made a motion, seconded by Mr. Porter, to allow a Concurrent Site Plan and Subdivision Review for PID 253-73, 84 & 85. Motion unanimously carried.**

**ACORN ASSOCIATES LXVI, LTD/BARRY HILL – FULL SITE PLAN REVIEW (PID 252-20) FILE #FR05-15**

Ron Briggs of Briggs Land Surveying appeared before the Board. This is an application to demolish existing multi-family home and construct an 11,200 square foot recreational vehicle sale and service facility at 738 Eastman Road. **Ms. Duane made a motion, seconded by Mr. Porter, to accept the application of Acorn Associates LXVI, LTD/Barry Hill for a Full Site Plan review as complete. Motion unanimously carried.**

The Board was concerned with not having the dumpster screened. Barry Hill stated that the dumpster would not be seen from the road or from the abutters property. Mr. Hill stated that at their existing facility the dumpsters are screened and stuff gets caught all

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around the screening. Mr. Hill stated it would be easier to maintain without the screening. Mr. Henderson stated that the dumpster would be visible from the back parking lot, plus the screening catches the items that fall out of the dumpster. Ms. Duane stated that when the other properties are developed they could try to make the argument that we didn't make them screen it. Mr. Hill withdrew the request for a waiver for §123-32.

Mr. Drinkhall read the requirements to grant a waiver. Mr. Drinkhall read the waiver requests for Articles 123-21.A.; 123-29.D.8; and 123-41.B. & 41.C. Mr. Drinkhall asked for public comment; there was none. **Ms. Duane made a motion, seconded by Mr. Porter, to grant the waiver requests for Articles 123-21.A.; 123-29.D.8; and 123-41.B. & 41.C. Motion unanimously carried.**

Mr. Drinkhall asked for public comment; there was none. Ms. Duane reviewed the architectural drawings and questioned the lack of windows in the back of the building. The Board and the applicant discussed the material of the building. Mr. Porter stated that this Board granted a waiver for another RV sales building for metal. Mr. Drinkhall stated that each decision is not precedent setting. Ms. Duane stated that only concern is if the southerly property develops they would be looking at an industrial type building. The Board agreed to entertain a waiver regarding building material.

Mr. Drinkhall read the waiver request for §123-30.A.2. **Mr. Briggs made a motion, seconded by Ms. Duane, to grant the waiver for §123-30.A.2. Motion carried with Mr. Henderson voting in the negative.** Mr. Drinkhall asked for public comment; there was none. Mr. Henderson asked if the lighting meets the requirements. Mr. Briggs answered in the affirmative.

**Mr. Duane made a motion, seconded by Mr. Porter, to conditionally approve the full site plan for Acorn Associates LXVI, LTD/Barry Hill conditionally upon removing §123-32 from the plan; adding §123-30.A.2. under Waivers granted on the plan; submitting revised architectural elevations; indicating screening around dumpster on plan; submitting dumpster screening detail; submitting a Mylar; a performance guarantee for all site improvements; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval expires on November 17, 2005. Motion unanimously carried.**

**ROGER, SR. AND JACQUELINE GARLAND – FULL SITE PLAN REVIEW  
(PID 253-10) FILE #FR05-13**

Ron Briggs of Briggs Land Surveying appeared before the Board. This is an application to convert a 1,195 square foot residential home into office space at 636 East Conway Road. This application was accepted as complete on July 28, 2005. Mr. Drinkhall asked for public comment; there was none.

**Ms. Duane made a motion, seconded by Mr. Porter, to conditionally approve the Full Site Plan for Roger, Sr. and Jacqueline Garland conditionally upon NHDOT**

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**driveway permit; submitting a Mylar; a performance guarantee for all site improvements; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on November 17, 2005. Motion unanimously carried.**

**HAROLD WHITAKER AND THOMAS FADDEN – 4-LOT SUBDIVISION (PID 266-160 & 275-18.17) FILE #S05-16**

Doug Burnell of H.E. Bergeron appeared before the Board. This is an application to subdivide two-lots with a total of 13.57 acres into four-lots on Nickelback Road. This application was accepted as complete on July 14, 2005. Mr. Drinkhall asked for public comment; there was none.

**Mr. Briggs made a motion, seconded by Mr. Porter, to conditionally approve the 4-lot subdivision for Harold Whitaker and Thomas Fadden conditionally upon indicating the book and page of revised deed restriction on plan; indicating State Subdivision approval number on plan; Conway Village Fire District Fire Chief Approval; submitting a Mylar; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on November 17, 2005. Motion unanimously carried.**

**RICK AND MARY BRILLARD – FULL SITE PLAN REVIEW (PID 215-20) FILE #FR05-14**

Shawn Bergeron of Shawn Bergeron Technical Services appeared before the Board. This is an application to add two multi-family residential structures for a total of 11 residential units and changes to the existing commercial site at 2888 White Mountain Highway. This application was accepted as complete on July 28, 2005.

Mr. Irving stated that the 3-unit building has moved three-feet to the north and has been approved by the Town Engineer. Mr. Bergeron stated that the applicant has addressed the Saunders concern by moving the building and has reviewed the run-off down the slope, which has been addressed specifically in the drainage report. Mr. Bergeron stated that the amount of run-off that drains to the back of the property has been significantly reduced.

Mr. Bergeron stated that the applicant has agreed to change the proposed arborvitaes and extend the stockade fence to the end of the 8-unit building per the Saunders' request. Ms. Duane stated there doesn't appear to be any recreational area. After a brief discussion, it was determined that only the 3-unit building could use an area and the Board agreed that the lawn between the existing building and the 3-unit building would suffice.

Robert Teagan stated that he is located at the bottom of the hill on the top of which this 8-unit building would be constructed. Mr. Teagan stated that he is concerned with this one building in regard to drainage. Mr. Teagan stated that he, his wife and Stephen Hartman have jointly agreed upon a memorandum with points they would like addressed prior

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approval. Mr. Hartman read a prepared statement. Mr. Drinkhall asked with the amount of rain this season what has been Mr. Hartman's observation. Mr. Hartman stated that there is already erosion on the slope and submitted pictures. Mr. Hartman showed the floodplain map.

Mr. Briggs stated he understands the abutters concerns, but he also has great respect for the Town Engineer. Mr. Bergeron asked if the erosion Mr. Hartman is referring to in the pictures is inside the dog pen on Mr. Hartman's property. Mr. Porter stated the applicant's Engineer is representing that there will be less water flow. Mr. Hartman stated that it is not the volume of water, but how it will land on the slope. Mr. Hartman stated that Mr. Henderson asked at the last meeting that the 8-unit building be brought forward as well, but that does not appear to have been done. Mr. Henderson stated he asked them to consider moving the 8-unit building forward. Mr. Bergeron stated that it was taken into consideration and if it was moved it would affect the parking.

Ms. Teagan stated that right now the run off is from a level lot, but the plans call for a roof that is over 2,000 square feet. Ms. Teagan stated if there is an impermeable surface where there was a permeable surface, and there is no drainage on the back, how, when you have the pitch of the roof and the steepness of slope does that water stop running down hill. Mr. Drinkhall stated that this was brought up at the last meeting. Mr. Bergeron stated that the water running down that slope pre-development would be less post-development.

Mr. Drinkhall asked if Mr. Saunders had any further comments. Glen Saunders stated that he has no additional comments. Joseph Rancourt stated that he is satisfied. Mr. Hartman stated that the applicant has worked out trees with the other two abutters and he asks that they do something with the slope.

Mr. Drinkhall read the waiver request for §123-21.A. **Ms. Duane made a motion, seconded by Mr. Porter, to grant the waiver for §123-21.A.** Mr. Drinkhall asked for public comment; there was none. Mr. Henderson stated that they are 20% deficient in parking and that indicates that the site is overdeveloped. Mr. Henderson stated that he would like to see less development and more parking. Ms. Duane stated this is a multi-use property and this is a shared parking situation. Ms. Duane stated that she would rather see more greenspace than parking. **Motion carried with Mr. Henderson voting in the negative.**

**Ms. Duane made a motion, seconded by Mr. Porter, to conditionally approve the full site plan for Rick and Mary Brillard conditionally upon adding a fence to the plan along PID 215-19; revising the revision notes on plan; submitting a copy of recorded restrictions and indicating book and page on plan; submitting a Mylar; a performance guarantee for all site improvements; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on November 17, 2005. Motion carried with Mr. Henderson voting in the negative.**

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**ROCK DEVELOPMENT, LLC – FULL SITE PLAN REVIEW CONTINUED (PID 235-78) FILE #FR05-11**

Roger Williams of OVP Management, Inc. was in attendance. This is an application to construct a 132,972 square foot home improvement center with associated parking, utilities and landscaping. This application was accepted as complete on June 9, 2005.

Mr. Irving stated that the applicant has requested a continuance. **Ms. Duane made a motion, seconded by Mr. Porter, to continue the full site plan review for Rock Development, LLC until August 25, 2005. Motion unanimously carried.**

**KGI MOUNTAIN VALLEY MALL, LLC – FULL SITE PLAN REVIEW (PID 246-38) FILE #FR05-10**

Randy Cooper of Cooper, Deans & Cargill and Andy Rocket of KGI Mountain Valley Mall, LLC appeared before the Board. Kevin Letch of KGI Mountain Valley Mall, LLC; and Ed Bergeron and Maureen McGlone of H.E. Bergeron Engineers were in the audience. This is an application for the redevelopment of the Mountain Valley Mall property resulting in five buildings on the site for a total of 272,000 square feet of commercial floor area at 32 Mountain Valley Boulevard and was accepted as sufficiently complete on May 12, 2005.

Derek Lick stated he has submitted a letter dated 07/14/05 correcting the number of ticket sales in 2004. Ms. Duane stated that this argument is a landlord-tenant issue. Mr. Briggs stated that it is their problem with their landlord.

After a lengthy discussion regarding parking, **Ms. Duane made a motion, seconded by Mr. Briggs, to grant the use of the alternative parking standard as represented in Exhibit 1, the 1987 ITE standard for a shopping center, being 3.97 parking spaces per 1,000 square feet of gross leasable area.**

Mr. Drinkhall asked for public comment; Rick Chellman stated that Lowe's needs 700 parking spaces and they are providing 400 parking spaces in the front of the building and 33 parking spaces on the side. Mr. Chellman stated that the first parking analysis indicated on the plans [1940] is correct and using the blanket shopping center number is not correct. Mr. Chellman stated that you don't design a parking lot for the average, but on 85% of the total.

Doug Kellog asked that the Board grant the alternative standard and that this is a tenant landlord issue and should stay that way. Mr. Kellog thanked the Board for their work. Mr. Henderson stated Exhibit 1 misstates the Conway ordinance. Mr. Henderson stated that the number is significantly low. Mr. Cooper stated a mall definition, which includes cinemas and restaurants, are in both the 2004 ITE handbook and in the Urban Land Institute handbook. Mr. Henderson stated that he does not think it is an adequate or correct way to judge it. Mr. Henderson stated that the restaurant pads are on the plan separate from the mall. Mr. Henderson stated that the proposed standard is not

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acceptable as there are conflicting numbers and he is not sure it is the right way to go. Mr. Irving asked if the motion would be applied to the whole site. A majority of the Board agreed. **Motion carried with Mr. Henderson voting in the negative.**

Mr. Cooper asked to discuss trees. Ms. Duane stated that there is a restaurant site proposed in a treed area along the North-South Road. Mr. Porter stated that it is also a noise buffer. Mr. Briggs stated he loathed to give up greenspace as he see less greenspace and more pavement and he wants to see some of the existing trees to remain. Mr. Drinkhall stated we don't know what will end up on that corner due to the traffic studies. Mr. Henderson stated that both restaurant pads are excessive for this site.

Mr. Rocket stated that the he is willing to keep the trees on the North-South Road, but the other restaurant pad [by Wendy's] is a million dollars in value. Mr. Briggs stated the proposed round about by the Town may preclude the restaurant pad on that corner anyway. Mr. Irving stated in the past, relative to tree and landscaping waivers, the Board has granted waivers based on acceptable landscaping plans, i.e. Dunkin Donuts. Mr. Irving asked if the Board would agree with a landscaping plan that works and then worry about the numbers later. Mr. Henderson and Mr. Briggs stated they were not ready to vote on trees. Mr. Porter, Ms. Duane and Mr. Drinkhall agreed with the plan.

**Ms. Duane made a motion, seconded by Mr. Porter, to approve the landscaped plan as submitted with the area to the northeast of Mountain Valley Boulevard to remain vegetative and not developed as part of this site and the Board reserves the right to revisit this if there are any significant changes due to road improvements.** Mr. Drinkhall asked for public comment; there was none. **Motion carried with Mr. Briggs and Mr. Henderson voting in the negative.**

The Board next discussed Architectural drawings. Mr. Henderson stated that the north elevation has improved, but the west and south elevation need work. Mr. Henderson stated that the Hannaford's side needs some attention as well. Mr. Drinkhall asked for public comment; Mr. Lick stated that his client is still concerned with the loading dock behind JC Penney. Mr. Rocket stated that they gave the tenant five options on a location for the loading dock and there being no response, we went with what we thought was best. Mr. Lick stated that it is not just the movie theaters, but others as well.

Mr. Irving read the waiver request for architectural design, §123-30. Mr. Cooper stated the applicant is asking for a waiver for what has been presented. Ms. Duane stated that they have done the best that they can as this is the redevelopment of a site. Mr. Porter agreed. Mr. Henderson stated that they have made significant process, but not done the best that they can. Mr. Henderson stated that he doesn't agree with a blanket waiver and he would like to address each item separately. Mr. Henderson stated that a full staff report has not been done for this site and it is premature to grant a waiver.

Mr. Cooper stated that this is a waiver for the existing buildings. **Ms. Duane made a motion, seconded by Mr. Porter, to grant the waiver for §123-30 for the existing**

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**buildings.** Mr. Drinkhall asked for public; there was none. **Motion carried with Mr. Henderson voting in the negative and Mr. Drinkhall abstaining.**

Mr. Cooper read a letter waiving the 65-day requirement. **Ms. Duane made a motion, seconded by Mr. Porter, to continue the full site plan for KGI Mountain Valley Mall, LLC until September 22, 2005. Motion unanimously carried.**

**OTHER BUSINESS**

**North Conway Village:** The Board discussed the underground utility project in North Conway Village.

Meeting adjourned at 10:33 p.m.

Respectfully Submitted,

Holly L. Meserve  
Recording Secretary