

CONWAY PLANNING BOARD

MINUTES

DECEMBER 8, 2005

A meeting of the Conway Planning Board was held on December 8, 2005 beginning at 7:00 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chair, Robert Drinkhall; Selectmen's Representative, Larry Martin; Secretary, Martha Tobin; Sheila Duane; Steven Porter; Russell Henderson; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Porter made a motion, seconded by Ms. Duane, to approve the Minutes of October 27, 2005 as written. Motion carried with Ms. Tobin abstaining from voting.

Mr. Porter made a motion, seconded by Ms. Duane, to approve the Minutes of November 17, 2005 as written. Motion carried with Ms. Duane, Ms. Tobin and Mr. Martin abstaining from voting.

JEANNE AND ANTHONY FRANCHI/PHILIP MCDONNELL/PATRICIA FRANCHI – MEADOW GREEN REALTY TRUST II – 30-UNIT SUBDIVISION CONTINUED (PID 219-303) FILE #S05-11

This is an application for a 30-unit subdivision. This application was accepted as substantially complete on April 28, 2005. Mr. Irving stated that the applicant has requested a continuance. **Mr. Martin made a motion, seconded by Ms. Duane, to continue the subdivision review for Jeanne and Anthony Franchi/Philip McDonnell/Patricia Franchi – Meadow Green Realty Trust II until January 12, 2006. Motion unanimously carried.**

ANITA COLBY – SUBDIVISION REVIEW (PID 215-23) FILE #S05-25

Anita Colby appeared before the Board. This is an application to convert a single-family dwelling into a duplex with both units being in one structure and this duplex will share a driveway with two other single-family dwellings with one on PID 215-22 and one on PID 215-21 at 2906 White Mountain Highway (PID 215-23). **Ms. Duane made a motion, seconded by Mr. Porter, to accept the application of Anita Colby for a Subdivision Review as complete. Motion unanimously carried.**

Mr. Martin asked if this is an existing situation. Mr. Irving answered in the affirmative. Mr. Drinkhall read the requirements to grant a waiver. Mr. Drinkhall read the waiver request for Articles 131 – Subdivision Review Regulations and 131-66 – definition of a driveway. **Mr. Martin made a motion, seconded by Ms. Duane, to grant the waiver request for Articles 131 – Subdivision Review Regulations and 131-66 – definition of**

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a driveway. Mr. Drinkhall asked for public comment; there was none. **Motion unanimously carried.**

Mr. Martin stated where this is an existing driveway and their constructing affordable housing, he does not have a problem. Mr. Drinkhall asked for public comment; there was none. **Ms. Duane made a motion, seconded by Mr. Porter, to approve the subdivision review for Anita Colby. Motion unanimously carried.** There were no plans to be signed.

**ARLISS HILL AND FAIRWAY NOMINEE TRUST – SUBDIVISION/
BOUNDARY LINE ADJUSTMENT REVIEW (PID 246-25.2, 49, 50, 51, 55, 56, 57
& 58) – FILE #S05-26**

Mark Lucy of White Mountain Survey Company appeared before the Board. This is an application to merge 8 lots containing a total of 16.8 acres into two lots with one lot having 10.37 acres and the second lot having 6.43 acres. **Ms. Duane made a motion, seconded by Mr. Henderson, to accept the application for Arliss Hill and Fairway Nominee Trust for a subdivision/boundary line adjustment review as complete. Motion unanimously carried.**

Mr. Lucy stated that this application was approved by the Board on October 5, 2005, however, Area E on the plan should have remained under Ms. Hill's ownership and not transferred to Fairway Nominee Trust. Mr. Lucy stated that this occurred due to a miscommunication between White Mountain Survey and the applicants. Mr. Henderson asked if there are currently two existing lots. Mr. Irving stated that the previous approval was not formerly recorded and, therefore, superseded.

Mr. Drinkhall read the waiver requests for Articles 131-24.N., O & 26.A.; 131-24.J., K., T., U., V. & 29; and 131-37.1.A. **Ms. Duane made a motion, seconded by Mr. Martin, to grant the waiver requests for Articles 131-24.N., O & 26.A.; 131-24.J., K., T., U., V. & 29; and 131-37.1.A. Motion unanimously carried.** Mr. Drinkhall asked for public comment; there was none.

Ms. Duane made a motion, seconded by Mr. Porter, to approve the subdivision/boundary line adjustment for Arliss Hill and Fairway Nominee Trust. Motion unanimously carried. The plans were signed.

**KATHERINE BRASSILL/ADVENTURE SUITES – FULL SITE PLAN REVIEW
CONTINUED (PID 202-14) FILE #FR05-19**

This is an application to renovate façade of existing 16-unit motel and construct a 28'x32' garage and a 12'x16' shed. This application was accepted as complete on October 13, 2005. The board reviewed the proposed building elevations. Mr. Drinkhall asked for public comment; there was none.

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Ms. Duane made a motion, seconded by Mr. Porter, to conditionally approve the Full Site Plan for Katherine Brassill/Adventure Suites conditionally upon 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 March 9, 2006. Motion unanimously carried.

DAVID AND DIANE SMITH – 2-LOT SUBDIVISION (PID 272-34) FILE #S05-27

Shawn Bergeron of Shawn Bergeron Technical Services LLC appeared before the Board. This is an application to subdivide 4.85 acres into two-lots. **Ms. Duane made a motion, seconded by Mr. Martin, to accept the application of David and Diane Smith for a subdivision review as complete. Motion unanimously carried.**

Mr. Drinkhall asked for public comment; Emmanuel Silva, an abutter, stated when he purchased the property he did so because of the nature setting and he is concerned with cutting of trees. Mr. Silva asked if the setback requirement could be increased. Mr. Silva stated that he has no qualms with subdividing the land, but he doesn't want to see the trees cut.

Mr. Bergeron stated that he couldn't assure that the trees would not be cut, but the intent is to construct another home. Mr. Bergeron stated that at this time the lot is fully wooded and the applicant is not agreeable to setback restrictions. Mr. Drinkhall stated that this Board does not have the authority to increase the setback. Mr. Silva asked what he could do. Mr. Bergeron suggested speaking with the neighbors, as they are good people. Mr. Drinkhall asked for further comment; there was none.

Mr. Drinkhall asked for Board comment; Mr. Henderson stated that there are other avenues such as easements. Mr. Martin stated that they are good people and recommended that Mr. Silva contact the Smith's.

Ms. Duane made a motion, seconded by Mr. Martin, to conditionally approve the subdivision for David and Diane Smith conditionally upon NHDES Subdivision Approval; adding NHDES Subdivision Approval number to the plan; add a note of work required on existing streets to plan; add a note that lots have been adequately flagged on the plan; add the landscaping note to the plan; add a note that topsoil cannot be removed without Planning Board permission; submit four copies of revised plans; submit a Mylar; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on March 9, 2006. Motion unanimously carried.

**FRAM REAL ESTATE INVESTMENT COMPANY, LLC – MINOR SITE PLAN
REVIEW CONTINUED (PID 235-33) FILE #MR05-02**

Edgar Allen of Thaddeus Thorne Surveys appeared before the Board. This is an application to construct a 914 square foot mezzanine inside a retail building and was accepted as complete on October 27, 2005. Mr. Irving stated that the NHDOT left him a

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message that they would be taking care of the driveway situation themselves. Mr. Allen stated that the applicant has shown a fence and hedges along the fence on the plan at the back of the property.

Ms. Duane stated that she would like to see the application include the landscaping plan from 2002. Mr. Martin stated that he likes what has been proposed at the back of the property. Mr. Irving stated that six evergreens need to be planted between the northern property line and the upper parking lot, that two additional hardwood trees need to be planted behind the outdoor storage area and that the shrubs depicted on a landscaping plan approved on 10/03/02 along Route 16 and Echo Acres Road be added to the plan. The Board agreed that they wanted to see the landscaping added to the plans prior to a conditional approval.

Mr. Drinkhall asked for public comment; there was none. **Ms. Duane made a motion, seconded by Mr. Martin, to continue the Minor Site Plan review for Fram Real Estate Investment Company, LLC until January 12, 2006. Motion unanimously carried.**

**DYER REVOCABLE TRUST OF 1997 – FULL SITE PLAN REVIEW (PID 252-8)
FILE #FR05-20**

Edgar Allen of Thaddeus Thorne Surveys appeared before the Board. Ms. Tobin stepped down at this time. This is an application to convert existing residential unit and residential garage to retail and construct an 864 square foot garage to be used for retail storage. **Mr. Henderson made a motion, seconded by Mr. Martin, to accept the application of Dyer Revocable Trust of 1997 for a full site plan review as complete. Motion unanimously carried.**

Mr. Irving asked if any automobile sales are proposed. Mr. Allen answered not to his knowledge. Mr. Irving stated areas of concern by the Board were the outdoor display area, the window requirements, the waiver for the driveways, the parking area rather than vehicle storage area, the northern property line that abuts residential in regards to buffer and setback area and whether it is effectively screened, and the rear parking lot area impact on the Center of Hope as it is an educational institution.

Mr. Allen asked if the Board wants the driveways to be one-way in and one-way out. The Board agreed. Mr. Henderson stated that the parking area in the back is not a good location for the retail. Mr. Martin stated that the outdoor display area probably would not be granted. Mr. Martin stated he would like to see windows in the garage.

Mr. Porter stated there needs to be landscaping in the back along the whole property line to serve as a sound barrier. Ms. Duane stated she would like to see sketches of the buildings. Mr. Irving stated that there are elevation drawings for the proposed garage and pictures of the existing building. Mr. Henderson stated that the back parking spaces would be more effective if attached to the other parking. Mr. Drinkhall asked for public comment; there was none.

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Mr. Porter made a motion, seconded by Ms. Duane, to continue the full site plan review for Dyer Revocable Trust of 1997 until January 12, 2006. Motion unanimously carried.

THE KENNETT COMPANY – 3-LOT SUBDIVISION (PID 262-71) FILE #S05-28

Ms. Tobin rejoined the Board at this time. Mr. Irving stated that the Applicant has withdrawn the application.

JONATHAN WELLS – 3-LOT SUBDIVISION CONTINUED (PID 219-104) FILE #S05-24

Doug Burnell of H.E. Bergeron appeared before the Board. This is an application to subdivide 1.58 acres into 3-lots and was accepted as complete on October 27, 2005.

Mr. Irving stated that the Town has received a correspondence from Cooper, Deans & Cargill. Claudine Safar stated that she represents the Damore's who are abutters and own property at PID 219-109. Ms. Safar stated that the Damore's are objecting to the subdivision; as they do not believe the lots conform to the zoning regulations. Ms. Safar stated that the home is being rented to 20 or so occupants at a time and this district does not allow for boarding homes. Mr. Irving stated under Article 131-24.M, the subdivision regulations require a statement as to the compliance of the proposed lots with zoning requirements. Mr. Irving stated that he interprets that as being the land itself.

Mr. Irving stated in regard to the specific use of the property, if that activity is going on then it is not in compliance. Mr. Irving stated that the building inspector has inspected the building and it was not occupied at that time. Mr. Irving stated that this site is not permitted as a rooming house at this point in time. Mr. Irving stated that the Town has recognized the complaint, has inspected the complaint and will be monitoring it now.

Ms. Duane stated it's nice that it has been put on the enforcement list, but what happens if it happens on weekends. Mr. Irving stated when the building inspector went by the premises it was not occupied, however, he does inspections on weekends if it is necessary. Mr. Martin asked what happens if it is a ski club. Mr. Irving stated most ski clubs in the area predate zoning, but a new one today has to meet all regulations, especially life safety.

Mr. Henderson asked if the subdivision regulations apply to land and not uses. Mr. Irving stated that it refers to lots. Ms. Safar referred to Article 131-2 and stated that they want to prevent future situations. Mr. Drinkhall asked for other public comment; there was none. Mr. Drinkhall closed public comment.

Mr. Drinkhall read the waiver request for Article 131-24.O. & 131-26.A. **Mr. Porter made a motion, seconded by Ms. Duane, to grant the waiver for Article 131-24.O. & 131-26.A.** Mr. Drinkhall asked for Board comment; Mr. Martin stated that he could

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sympathize with the abutters, but he believes this is an enforcement issue. Mr. Martin stated that Town Staff would be on top of it if they can catch them in the act. Mr. Drinkhall stated that he concurs and there is a proper channel to correct the violation. Mr. Porter stated if this has been taking place, why was it not brought to light before now. Ms. Duane stated that there has been a change in ownership of the property.

John Damore stated that he is a 30-year part-time resident and this home was originally rented to a family with state wards. Mr. Damore stated that the craziness started within the last year. Mr. Damore stated that he has two small children and there have been ski bums, 15 cars at a time and drinking, which are not good for a residential neighborhood. Mr. Damore stated with a triple subdivision we would have more of the same. Mr. Damore stated that the man who owns this property it is not going to live there and he doesn't want to see it turn into a drunken ski party.

Mr. Damore stated that he understands that the Board has a small window, but it is going to be a major issue and there will be a lot of sparks, as he is not going away. Mr. Damore stated that he doesn't want to see a real nice residential area turn into a drunken party. Mr. Irving stated that this is the first it has come to my attention as town staff and a rooming house is a commercial activity that is not permitted on this site or any of these lots. Mr. Irving stated that this is an enforcement issue and will be monitored.

Mr. Irving suggested the neighbors contact the police on the weekends as they are pretty good witnesses. Mr. Irving stated in order to have a rooming house the applicant would have to go before the Zoning Board of Adjustment and, then, if allowed, would have to have a review by the Planning Board. Mr. Porter asked what is the intention of these three lots. Jonathan Wells stated that he has a business that markets this property to larger family oriented groups. Mr. Wells stated that the comments have been blown out of proportion as they are very stringent on marketing family get-togethers, however, occasionally things slip through. Mr. Wells stated that they are not a boarding house.

Mr. Wells stated he is looking to retire and would like to construct a new home and sell the existing home. Mr. Wells stated that the Frydman's have their lawn and shed on his property, which he is willing to sell that piece of property to them. Mr. Wells stated that instead of in a condominium, families could be under one roof. Mr. Wells stated that this has been blown out of proportion.

Mr. Drinkhall asked if Mr. Wells was present on the weekends. Mr. Wells answered in the negative. Ms. Duane asked what types of permits are required for this type of use. Mr. Irving stated that the type of use proposed is not allowed in this area. Mr. Irving asked Mr. Wells if he was paying room and meals taxes. Mr. Wells answered in the affirmative. Mr. Irving stated there is a commercial use being operated in the residential district.

Mr. Irving asked if there has been an inspection by the Building Inspector or the Fire Chief. Mr. Wells answered in the negative. Mr. Irving asked if the Town has issued a certificate of occupancy. Mr. Wells answered in the negative. Mr. Martin asked even

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with these issues, can the subdivision be approved. Mr. Irving answered in the affirmative. **Motion carried with Ms. Tobin abstaining from voting.**

Mr. Martin made a motion, seconded by Ms. Duane, to conditionally approve the 3-Lot subdivision for Jonathan Wells conditionally upon a performance guarantee for site improvements (driveway onto lot 2 and trees); when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on March 9, 2006. Motion carried with Ms. Tobin and Mr. Henderson abstaining from voting.

**CHARLES AND NATHAN MACOMBER – 2-LOT SUBDIVISION (PID 272-4)
FILE #S05-29**

Doug Burnell of H.E. Bergeron appeared before the Board. This is an application to subdivide 49.6 acres into two-lots with one lot containing 3.03 acres and the second lot containing 46.6 acres. **Ms. Duane made a motion, seconded by Mr. Martin, to accept the application of Charles and Nathan Macomber for a Subdivision Review as complete. Motion unanimously carried.**

Mr. Drinkhall read the waiver requests for Articles 123-24., 24.A. & 25.B.; 131-24.N.; 131-24.T.; 131-24.U.; 131-29.; 131-30.; 131-29; and 131-24.O & 131-26.A. **Mr. Martin made a motion, seconded by Mr. Porter, to grant the waiver requests for Articles 123-24., 24.A. & 25.B.; 131-24.N.; 131-24.T.; 131-24.U.; 131-29.; 131-30.; 131-29; and 131-24.O & 131-26.A. Mr. Drinkhall asked for public comment; there was none. Motion unanimously carried.**

Mr. Drinkhall read a waiver request for Article 131-37.1.A. **Ms. Duane made a motion, seconded by Mr. Porter, to grant the waiver request for Article 131-37.1.A. Mr. Drinkhall asked for Board comment; Mr. Henderson stated that the additional trees would not disrupt the views. Mr. Burnell stated that these are a nice set of buildings. Mr. Irving stated that the reason for the requirement is to create a canopy. Ms. Duane stated that she would like to see the trees since if a smaller caliber tree was allowed. The Board agreed to 2” caliber trees. Motion was with withdrawn and the second was withdrawn.**

Ms. Duane made a motion, seconded by Mr. Porter, to grant the waiver request for Article 131-37.1.A. to allow 2” caliber trees. Motion carried with Mr. Henderson voting in the negative. Mr. Drinkhall asked for public comment; there was none. Mr. Irving asked if the applicant would like to proceed with a conditional approval or continue the application. Mr. Burnell agreed to proceed with a conditional approval.

Ms. Tobin made a motion, seconded by Mr. Martin, to conditionally approve the subdivision for Charles and Nathan Macomber conditionally upon obtaining ZBA Approval in regard to Article 147.13.16.10.7.1; indicating ZBA Approval on plan; NHDES Subdivision Approval; indicating NHDES Subdivision Approval number on plan; NHDOT Driveway Permit; indicating NHDOT Driveway Permit Approval number on the plan; NHDES Wetland Permit; indicate NHDES Wetland Permit

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approval number on the plan; Conway Village Fire Chief Approval; demonstrate compliance with street trees requirement; submit 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 March 9, 2006. Motion unanimously carried.

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

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. Mr. Irving stated that the applicant has requested a continuance. **Ms. Duane made a motion, seconded by Ms. Tobin, to continue the Full Site Plan review for KGI Mountain Valley Mall, LLC until January 12, 2006. Motion unanimously carried.**

**THE MEMORIAL HOSPITAL – FULL SITE PLAN REVIEW (PID 215-61) FILE
#FR05-21**

Jay Poulin of H.E. Bergeron appeared before the Board. John Wacker, Architect, and David Fitch of Memorial Hospital were in attendance. This is an application for a Full Site Plan Review to construct a 16,250 square foot addition to the hospital. **Ms. Duane made a motion, seconded by Ms. Tobin, to accept the application of Memorial Hospital for a Full Site Plan Review as complete. Motion unanimously carried.**

Ms. Duane asked if there was any consideration with going vertical with the addition and if in the future would they go vertical or would all future expansions to go horizontal. Mr. Wacker stated with a hospital of this size it is very common to be a single story. Mr. Wacker stated it would be an exorbitant cost for the existing hospital to go vertical. Mr. Fitch stated that they do not see an expansion of beds.

Mr. Drinkhall read the waiver requirements for Article 123-6.B.2; 123-29.A.4; and 123-30.A.1. **Ms. Duane made a motion, seconded by Mr. Porter, to grant the waiver request for Articles 123-6.B.2; 123-29.A.4; and 123-30.A.1.** Mr. Drinkhall asked for public comment; there was none. **Motion unanimously carried.**

Mr. Drinkhall read a waiver request for Article 123-29.D.1. **Mr. Martin made a motion, seconded by Ms. Duane, to grant the waiver request for Article 123-29.D.1 with the condition that the trees between the proposed addition and the Merriman House be relocated in accordance with the Fire Chief requirements.** Mr. Drinkhall asked for public comment; there was none. **Motion unanimously carried.**

Mr. Fitch agreed to proceed with a conditional approval. **Mr. Martin made a motion, seconded by Mr. Porter, to conditionally approve the Full Site Plan Review for The Memorial Hospital conditionally upon NHDES Site Specific Permit; indicating**

NHDES Site Specific approval number on plan; NHDOT Driveway Permit; indicating NHDOT Driveway Permit approval number on plan; ZBA Approval (§147.13.16.4); indicating ZBA Approval on plan; revising landscaping per Planning Board; submitting any additional fees; 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 April 13, 2006. Mr. Drinkhall asked for public comment; there was none. **Motion unanimously carried.**

OTHER BUSINESS

Rick and Mary Brillard Revocable Trust (PID 215-20) – Extension of Conditional Approval (File #FR05-14): Ms. Duane made a motion, seconded by Mr. Martin, to extend the conditional approval for Rick and Mary Brillard until May 25, 2006. **Motion unanimously carried.**

Rock Development/Home Depot (PID 235-78) – Extension of Conditional Approval (File #FR05-11): Ms. Duane made a motion, seconded by Mr. Martin, to extend the conditional approval for Rock Development/Home Depot until March 9, 2006. **Motion unanimously carried.**

Joseph III and Lisa Querci (PID 218-101) – Extension of Conditional Approval (File #FR05-16 and #S05-17): Ms. Duane made a motion, seconded by Mr. Martin to extend the conditional approval for Joseph III and Lisa Querci until September 28, 2006. **Motion unanimously carried.**

Cranmore Birches – As-Built Plan Signing (PID 214-78.044): Ms. Duane made a motion, seconded by Mr. Martin, to sign the as-built plans for Cranmore Birches. **Motion unanimously carried.**

Old Mill Estates – As-Built Plan Signing (PID 268-117.52 – Unit 5B): Ms. Duane made a motion, seconded by Mr. Martin, to sign the as-built plans for Unit 5B at Old Mill Estates. **Motion unanimously carried.**

Old Mill Estates – As-Built Plan Signing (PID 268-117.54 –Unit 5D): Ms. Duane made a motion, seconded by Mr. Martin, to sign the as-built plans for Unit 5D at Old Mill Estates. **Motion unanimously carried.**

Meeting adjourned at 9:40 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary