

CONWAY PLANNING BOARD

MINUTES

DECEMBER 8, 2011

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CONWAY PLANNING BOARD

MINUTES

DECEMBER 8, 2011

A meeting of the Conway Planning Board was held on Thursday, December 8, 2011 beginning at 7:00 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chair, Steven Porter; Selectmen's Representative Mary Seavey; Vice Chair, Martha Tobin; Secretary Patricia Sell; Steven Hartmann; Kevin Flanagan; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

Ms. Sell made a motion, seconded by Mr. Hartmann, to approve the Minutes of November 17, 2011 as written. Motion unanimously carried.

EASTERN SLOPE INN ASSOCIATES/RIVER RUN COMPANY - BANCROFT HOUSE – CONCEPTUAL PHASING REVIEW (PID 218-34, 35, 51.01 & 52) FILE #FR11-02

Mr. Irving stated the applicant has requested that this discussion be continued until January 26, 2012. **Ms. Tobin made a motion, seconded by Ms. Sell, to continue the conceptual phasing review for Eastern Slope Inn Associates/River Run Company until January 26, 2012. Motion unanimously carried.**

OTHER BUSINESS

Call for public hearing on proposed and petitioned Zoning Amendments: Mr. Irving stated the proposed changes were recommended by FEMA. **Ms. Sell made a motion, seconded by Ms. Tobin, to hold a public hearing on proposed amendments to §147.13.16.8, Earth Disturbance; §147.13.14, Floodplain Conservation Overlay District; and §147.15, revisions and additions to definitions recommended by FEMA. Motion unanimously carried.**

Ms. Sell made a motion, seconded by Ms. Tobin, to hold a public hearing on the proposed petitioned articles on January 26, 2012. Motion unanimously carried.

Hugh W. Hastings, II/Hale Estates – Conditional Approval Expiring (PID 250-32, 57, 71 & 100 and 263-62) File #S09-06: Hugh Hastings appeared before the Board. Mr. Irving stated that staff recommends the extension to address some of the final details. **Ms. Tobin made a motion, seconded by Mr. Porter, to extend the conditional approval for Hugh W. Hastings, II until June 28, 2012. Motion unanimously carried.**

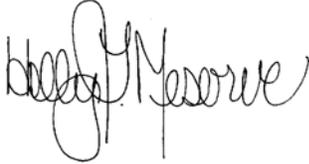
**Adopted: January 26, 2012 – As Written
CONWAY PLANNING BOARD – DECEMBER 8, 2011**

Harold Whitaker and Thomas Fadden – Conditional Approval Expiring (PID 243-12) File #S08-05: Mr. Irving stated the property has been sold and the new owners are not interested in pursuing this project any further. **Ms. Tobin made a motion, seconded by Ms. Sell, to deny the application of Harold Whitaker and Thomas Fadden without prejudice for not satisfying the conditions of approval. Motion unanimously carried.**

Committee Reports/Workforce Housing Discussion: Mr. Flanagan stated that the Board might want to look into trying to find out what other Departments and Boards need for information services. Mr. Irving stated that technology is through the Board of Selectmen and would have to go through them. Ms. Tobin stated that a developer cannot afford to develop housing and then charge an amount that is considered affordable. Mr. Porter stated that there is a difference between subsidized housing, affordable housing, workforce housing and regular rentals.

Meeting adjourned at 7:30 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Holly L. Meserve". The signature is written in a cursive style with a large initial "H" and "M".

Holly L. Meserve
Recording Secretary



TOWN OF CONWAY

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MEMO

TO: Planning Board
FROM: Tom Irving, Planning Director 
CC: File
DATE: 11/29/11
RE: Zoning Ordinance Amendments

Message:

Please find the attached zoning amendments the Planning Board is proposing for the 2012 Warrant.

The first amendment is to §147.13.16.8 Earth Disturbance. This amendment addresses the new standard used by NH DES

The second is to §147.13.14 Floodplain Conservation Overlay (FCO) District. These revisions are recommended by FEMA to maintain compliance with the NFIP requirements.

The remaining amendment is to §147.15 Definitions. These revisions amend or add definitions as recommended by FEMA to maintain compliance with the NFIP requirements.

In order to have these amendments considered on the 2012 Town Warrant you should call for public hearings to be held at your January 26, 2012 Meeting.

147.13.16.8 EARTH DISTURBANCE. Prior to any work activity in which digging will occur or the ground's vegetative cover will be removed or substantially disturbed, sufficient erosion and sedimentation control measures shall be installed in accordance with RSA 485-A:17 and NH Code of Administrative Rules Env-Ws 415 for alteration of terrain and the specifications of the 1992 publication entitled "~~Stormwater Management and Erosion and Sedimentation Control for Urban and Developing areas in NH~~", DES and RCCD, April, 1992 the NH Stormwater Manual (Vol. 3 Erosion and Sediment Controls During Construction). Such measures, which may include hay bales and silt fences, shall be maintained in proper working order until the ground surface is stabilized and no longer subject to erosion. The control measures shall be installed to protect both the water, the wetland and the buffer (in order to preserve the buffer's natural filtering capacity).

147.13.14 FLOODPLAIN CONSERVATION OVERLAY (FCO) DISTRICT. The FCO District is primarily designed to promote and protect the health, safety and general welfare of the Town by providing reasonable regulations governing development and use of the floodplain. Land Uses permitted in this district are represented in §147.16 Table of Uses.

147.13.14.1 DISTRICT BOUNDARIES. The Floodplain Conservation Overlay District is hereby determined to be those areas identified and delineated as a floodplain with a one-percent-or-greater chance of flooding in any given year, which is designated on the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) of Conway issued by the Federal Emergency Management Administration as amended from time to time.

147.13.14.2 DISTRICT MAP.

147.13.14.3 SPECIAL EXCEPTIONS. The following land use(s) shall be allowed within the floodplain, except those areas within the floodway, unless expressly allowed in the floodway hereunder if granted a special exception by the Zoning Board of Adjustment:

147.13.14.3.1 Uses, but not structures, compatible to open space.

147.13.14.3.2 Limited agricultural extraction of sand, gravel and other materials for noncommercial use.

147.13.14.3.3 Boat landings and boat access areas within the floodway.

147.13.14.3.4 Railroads, streets, driveways, bridges, utility, transmission lines and pipelines.

147.13.14.3.5 Storage yards for equipment, machinery or materials accessory to adjacent permitted uses.

147.13.14.3.6 Fill or materials to be deposited in the floodplain may be allowed by special exception, provided that the purpose is consistent with the permitted uses represented in §147.16 and the amount thereof is not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials. Such fill or other materials shall be protected against erosion by riprap, vegetation cover or bulkheading.

147.13.14.3.7 Municipal and school district facilities.

147.13.14.3.8 Agricultural buildings that do not require septic systems.

147.13.14.3.9 The construction or maintenance of farm, forest or recreational service roads.

147.13.14.3.10 River or floodway maintenance.

147.13.14.3.11 In the area around Pequawket Pond between the one-hundred-year and the ten-year-flood level [464.1 feet to 460.5 feet], as shown on the maps described herein, development, substantial improvements and building, provided that it is serviced by precinct water and sewerage and the lowest floor is above the one-hundred-year-flood level.

147.13.14.3.12 Signs for permitted uses and existing nonconforming uses as provided in 147.14, provided that the signs meet the minimum standards and intent for signs in the underlying district.

147.13.14.3.13 Accessory industrial-commercial uses limited to loading areas, parking areas and aircraft landing strips.

147.13.14.3.14 HELIPORTS. A special exception may be granted to permit heliports, as a private/business accessory use. The requirement for a special exception to be granted under this section shall not be applied to the use of helicopters, or any other type of aircraft, being used on a

temporary basis for such purposes as emergency response, medical necessity, ongoing construction projects that have been permitted by the Town of Conway, or temporary (less than 7 days) news media coverage. Before a special exception for a heliport can be granted by the Zoning Board the following conditions must be met:

147.13.14.3.14.1 The use of the site for a heliport shall not be offensive to the character of the neighborhood;

147.13.14.3.14.2 The use of the site for a heliport shall not decrease abutting property values. Evidence supporting property values must be submitted by any party with an interest in the granting of the special exception from a credible source that is knowledgeable of land evaluation and property values.

147.13.14.3.14.3 Any site being considered to contain a heliport must be, at a minimum, five (5) acres in size.

147.13.14.3.14.4 Other site dimensions, above and beyond the overall acreage requirement listed above, shall be sufficient to provide safety areas suitable to meet all FAA suggested dimensions and requirements.

147.13.14.3.14.5 Previous to zoning board considering any application for a special exception for this land use, all Federal and State approvals, which are required, must be obtained by the applicant with copies of these approvals submitted as part of the request for special exception.

147.13.14.3.14.6 A major site plan approval shall be required of the applicant from the Planning Board for the heliport, which is accessory to an approved business. As a condition for the granting of the special exception, no use of the heliport may be engaged by the applicant until all conditions of the special exception, including a major site plan approval, have been satisfied by the applicant.

147.13.14.4 CONDITIONS. No special exceptions shall be granted, however, until the following conditions are met:

147.13.14.4.1 All development and substantial improvements shall comply with the minimum standards of the regulations of the National Flood Insurance Program contained in 44 CFR 60.3 and 44 CFR 60.6 (Code of Federal Regulations), as amended.

147.13.14.4.2 New and replacement water supply, replacement septic systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into floodwaters.

147.13.14.4.3 All fill, new construction, substantial improvements and other development within the floodway shall be prohibited unless the applicant's New Hampshire registered engineer can show through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the activity would not result in any increase in flood hazard within the Town of Conway.

147.13.14.4.4 The granting of the special exception would not violate the general spirit of the ordinance nor would it create a public health or safety hazard.

147.13.14.5 A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as: the visit of a dignitary, recreational events such as, ski, tennis, equine or golf events, or some other events of short term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

147.13.14.6 SPECIAL PROVISIONS.

147.13.14.6.1 There shall be no expansion of present nonconforming buildings or pre-existing septic systems in the floodplain, provided that this shall not prohibit the maintenance, repair

and/or correction of such pre-existing septic systems, which malfunction. There shall be no allowance of a new septic system in the floodplain.

147.13.14.6.2 Existing nonconforming buildings within this district, which have been substantially damaged, may be repaired within one year, provided that they comply with the minimum standards of the regulations of the National Flood Insurance Program (See definition of substantial damage in Section 147.15.102). Buildings not rebuilt to such standards shall be removed completely.

147.13.14.6.3 Changes to watercourse.

147.13.14.6.3.1 In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the NHDES Wetlands Bureau and submit copies of such notification to the Board of Selectmen, in addition to the copies required by RSA 482-A:3. Further the applicant shall be required to submit copies of said notification to those adjacent towns as determined by the Board of Selectmen, including notice of all scheduled hearings before the Wetlands Bureau.

147.13.14.6.3.2 Along watercourses with a designated Regularly Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge. In Zone A, the Building Inspector shall obtain, review and reasonably utilize any floodway data available from Federal, State or other sources as criteria for requiring that development meet the floodway requirements of this section.

147.13.14.6.3.3 Along watercourses that have not had a Regulatory Floodway designated, no new construction, substantial improvements or other development (including fill) shall be permitted within zones A1-30 and AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

147.13.14.6.4 All developments which are flood proofed shall be certified by a New Hampshire registered professional engineer or architect that the flood-proofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.

147.13.14.6.5 Where the Floodplain Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.

147.13.14.6.6 Within the altered or relocated portion of any watercourse, the applicant shall submit to the Building Inspector certification provided by a registered professional engineer assuring that the flood-carrying capacity of the watercourse has been maintained.

147.13.14.6.7 In Zone A, the Building Inspector shall obtain, review and reasonably utilize any floodway data available from a federal, state or other source as criteria for requiring that development meets the floodway requirements of this section.

147.13.14.6.7.1 In special flood hazard areas, the Building Inspector shall determine the one-hundred-year-flood elevation in the following order of precedence according to the data available:

147.13.14.6.7.1.1 In Zone AE, refer to the elevation provided in the community's Flood Insurance Study and accompanying FIRM.

147.13.14.6.7.1.2 In A Zones, the Building Inspector shall obtain, review and reasonably utilize any one-hundred-year-flood elevation data available from

federal, state, development proposals submitted to the community (for example subdivisions, site approvals, etc.) or other sources.

147.13.14.6.7.1.3 In Zone AO, the one-hundred-year-flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or, if no depth number is specified on the FIRM, at least two (2) feet.

147.13.14.6.8 Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

147.13.14.6.9 The Building Inspector shall maintain for public inspection and furnish upon request any certification of flood proofing and the as-built elevation (in relation to mean sea level) of the lowest floor (including the basement) of all new or substantially improved structures and include whether or not such structures contain a basement, and if the structure has been flood proofed, the as-built elevation (in relation to mean sea level) to which the structure was flood proofed. This information must be furnished by the applicant.

147.13.14.6.10 Excavation shall be prohibited in the Floodplain Conservation District.

147.13.14.7 VARIANCES. A variance is a relaxation or setting aside in a specific case, of certain specified terms of this ordinance. In accordance with RSA 674:33, I(b), the applicant shall have the burden of showing, in addition to the usual variance standards under State law:

147.13.14.7.1 That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;

147.13.14.7.2 That, if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and

147.13.14.7.3 That the variance is necessary, considering the flood hazard, to afford relief.

147.13.14.7.4 The ZBA shall notify the applicant in writing that:

147.13.14.7.4.1 The issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

147.13.14.7.4.2 Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

147.13.14.7.5 The community shall:

147.13.14.7.5.1 Maintain a record of all variance actions, including their justification for their issuance; and

147.13.14.7.5.2 Report such variances issued in its annual or biannual report submitted to FEMA's Federal Insurance Administrator.

147.15 DEFINITIONS. As used in this chapter, the following terms shall have the meanings indicated:

147.15.7 BASE FLOOD: The flood having a one percent probability of being equaled or exceeded in any given year.

BASEMENT: Any area of a building having its floor subgrade on all sides.

147.15.20 DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

147.15.29 FIRM: Flood Insurance Rate Map, an official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Conway.

FIS: Flood Insurance Study, and examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

147.15.31 FLOODPLAIN: Land subject to a one-percent-or-greater chance of flooding in any given year which is designated as Zone A and/or AE on the Flood Insurance Rate Map.

147.15.32 FLOODWAY: The channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the flood having a one-percent chance of being equaled or exceeded in any given year without cumulatively increasing the water surface elevation more than one (1) foot.

HISTORIC STRUCTURE: Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) by an approved state program as determined by the Secretary of the Interior, or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

147.15.51 MANUFACTURED HOME: A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailer, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes, the term "manufactured home" does not include park trailer, travel trailers and other similar vehicles. This includes manufactured homes located in a manufactured home park.

147.15.53 MOBILE HOME PARK: A parcel of land, under single ownership, with accommodations for two (2) or more mobile homes, travel trailers or recreational vehicles in use as dwellings, regardless of whether or not a charge is made for such accommodations.

NEW CONSTRUCTION: For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

147.15.73 RECREATIONAL VEHICLE: A vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling and which may include a pickup camper, travel trailer, tent trailer or mobile home.

147.15.95 SPECIAL FLOOD HAZARD AREA: Any area having flood, mudslide and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, Ao, A1-30, AE, A99, AH, VO, V1-30, VE, V, M or E.

START OF CONSTRUCTION: Includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

147.15.100 STRUCTURE: Anything constructed or erected, on or in the ground or in the water, or an attachment to something having a fixed location on the ground, including buildings, permanent or temporary; signs; carports; porches; and other building features, including stacks and antennas, but not including sidewalks; fences; driveways; septic systems; utility poles; boundary markers and field or garden walls or embankment retaining walls. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

147.15.102 SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would be equal or exceed 50 percent of the market value of the structure before the damage occurred.

147.15.103 SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction or improvement of a structure, the cumulative cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. The market value of the structure should equal:

- a. the appraised value prior to the start of the initial repair or improvement, or

b. in the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures that have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

VIOLATION: The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Chapter 44 of the Code of Federal Regulations §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.