

CONWAY PLANNING BOARD

MINUTES

JANUARY 13, 2022

PAGES

- 1 Appointment of Alternate Member
- 1 Meeting Time Frame
- 1 Viewpoint North Conway, LLC (File #FR21-01) – Full Site Plan Review Continued (PID 202-168)
 - Conditionally Approved

CONWAY PLANNING BOARD

MINUTES

JANUARY 13, 2022

A meeting of the Conway Planning Board was held on Thursday, January 13, 2022 beginning at 6:00 pm at the Conway Parks & Recreation Department, Marshall Gymnasium, at 176 Main Street, Conway, NH. Those present were: Chair, Benjamin Colbath; Selectmen's Representative, Steven Porter; Vice Chair, Ailie Byers; Secretary, Sarah Frechette; Bill Barbin; Erik Corbett; Alternate, Steven Hartmann; Town Engineer, Paul DegliAngeli; and Planning Assistant, Holly Whitelaw. Alternate Ted Phillips was in attendance. Peter Malia and Jason Dennis of Hastings Malia Law Firm were in attendance.

APPOINTMENT OF ALTERNATE MEMBER

Mr. Colbath appointed Mr. Hartmann as a voting member.

MEETING TIME FRAME

Mr. Porter made a motion, seconded by Mr. Hartmann, that the meeting would not exceed 9:00 pm. Motion carried unanimously.

VIEWPOINT NORTH CONWAY, LLC (FILE #FR21-01) – FULL SITE PLAN REVIEW CONTINUED (PID 202-168)

Josh McAllister of HEB Engineers and John Ratigan of Donahue, Tucker & Ciandella appeared before the Board. This is an application to demolish the existing motel and site features and construct a **20,735** ~~59,412~~ ~~105,836~~ square foot (footprint), 3-story ~~4-story~~, **70** ~~98~~ ~~105~~-room hotel **and 75-seat restaurant** with associated infrastructure. This application was accepted as complete on February 11, 2021.

Mr. McAllister gave an overview of the new plans. Mr. McAllister reviewed his letter dated December 21, 2021 to Jamel Torres with the Board [in file]. Mr. McAllister stated in regard to Nuisance Mitigation Measure #1 the number of rooms were modified to 70 and they defined the restaurant as 75-seats open to the public.

Mr. McAllister stated they completed a parking analysis according to the Town of Conway site plan review regulations for two independent uses as though it were a standalone hotel and a standalone restaurant, and provided 102 spaces which meets the Town of Conway's parking calculations. Mr. McAllister stated subsequent to that he had conversations with the Town Engineer and the Town Planner and we defined the parking further; the number of seats in the restaurant were reduced from 75 to 60 and added a 10-seat lounge. Mr. McAllister stated this change still represents 102 parking spaces.

Adopted: February 10, 2022 – As Written
CONWAY PLANNING BOARD – JANUARY 13, 2022

Mr. McAllister stated in regard to Nuisance Mitigation #2 the applicant, the Town of Conway and the NHDOT met on December 7, 2021 to review the scope of the project and the impacts to the area around the Route 16/Intervale Crossroads intersection.

Mr. McAllister stated there is no longer access to Intervale Crossroads, and the hotel and restaurant are now open to the public. Mr. McAllister stated they updated their traffic study and trip generation and NHDOT agreed that the hotel and the restaurant will have an insignificant impact to the traffic on Route 16, and NHDOT will not require any mitigation measures for traffic impact on Route 16 as they don't believe it is warranted.

Mr. McAllister stated they did discuss pedestrian access in the area, and NHDOT indicated that pedestrian needs in that area would be a Town of Conway request; the Town of Conway would have to request the applicant to comply with pedestrian access. Mr. McAllister stated it was discussed if the need for crossing Route 16 exists in the current condition or because of the hotel, and it was agreed that there currently is a pedestrian issue that is not because of the hotel/motel that exists there.

Mr. McAllister stated it is likely that the users of the new hotel, that will have a views of the Vista, are not likely to go across Route 16 to the Vista to see the same view. Mr. McAllister stated the existing pedestrian conflicts exists because of pedestrian's going back and forth to Subway, Cannell's or the ice cream shop. Mr. McAllister stated he believes the Town Engineer met with the Board of Selectmen and the Board of Selectmen voted unanimously not to look into pedestrian access in this area.

Mr. McAllister stated in regard to Nuisance Mitigation #3 they revised the exit from the site onto Intervale Crossroad to an emergency access which allowed them to maintain that buffer. Mr. McAllister stated on the eastern boundary they have included a 3-foot-high vegetative berm with an 8-foot-high fence. Mr. McAllister stated on the residential side of the berm an arborvitae screen has been provided the full length of the berm, and they have added white spruce just on top of the berm. Mr. McAllister stated on the southern boundary they have provided an 8-foot stockade fence just inside the ski trail; and there is no landscaping in this area due to the ski trail.

Mr. McAllister stated in regard to Nuisance Mitigation #4 they have reduced the height of the building to accommodate the concerns of the Board and abutters, however, 100% of the building does not meet the 40-feet; 4.7% of the roof area exceeds the height of 40-feet. Mr. McAllister stated the additional 5-feet is to provide code compliant access to the observation deck to the public. Mr. McAllister stated we have provided a waiver request from this mitigation measure to allow 4.7% of the building higher than 40-feet.

Mr. Colbath asked for Board comment; there was none.

Mr. McAllister stated they received a letter from Roy Tilsley of Bernstein Shur dated January 11, 2022 [in file]. Mr. McAllister stated in regard to the questions and concerns regarding the restaurant, the modifications to the parking included the 10 bar seats as part of the parking calculations as well as the 60 restaurant seats and the 70 hotel rooms. Mr. McAllister stated we are meeting the Town requirements for parking on the site.

Adopted: February 10, 2022 – As Written
CONWAY PLANNING BOARD – JANUARY 13, 2022

Mr. McAllister stated as for the Special Event commentary, he believes that is the purview of the Select Board; he is not sure he can address this, but they are willing to adhere to any of the ordinance requirements in regard to Special Events.

Mr. McAllister stated in regard to questions and concerns regarding the observation deck, the observation deck is no longer connected to the bar, it is an observation deck; it is for hotel guests only and the intent is for people to go out to take pictures. Mr. McAllister stated there will not be anything to take pictures of at night, so the intent is for the observation deck to be closed.

Mr. McAllister stated in regard to concerns about the buffer plantings for Mountain View Estates (MVE) property line, arborvitae are planted along the buffer along that boundary line and are separated by a four-foot gap to ensure mature growth. Mr. McAllister stated they have also proposed larger, more robust trees behind the arborvitae that will be 2-feet higher than the arborvitae and between the gaps of the arborvitae. Mr. McAllister stated they believe with these plantings coupled with a berm with an 8-foot stockade fence meets the intent of the concern.

Mr. McAllister stated in regard to MVE buffer during construction, if the board desires to have a note somewhere stating that the buffer along the property line shall be constructed first the applicant is willing to agree to a condition subsequent to final approval.

Mr. McAllister stated in regard to the stream buffer, the current buffer for the stream is almost fully encompassed by the back of the existing motel building. Mr. McAllister stated by right of zoning they have the ability to utilize these impervious areas, and they have only proposed a very small portion of the parking lot, less than 5 square feet, and two concrete pads for mechanicals in the buffer area in an area that is already taken up by the existing building. Mr. McAllister stated they are increasing greenspace in this area, vegetating in this area, significantly tree planting and restoring this area; it is an improvement over the current condition.

Mr. McAllister stated the entire project is graded to the center of the parking lot, none of the paved areas drain toward the stream. Mr. McAllister stated when the drainage reaches the center of the parking lot, it is collected by catch basins to an infiltration system which manages up to a 50-year storm event. Mr. McAllister stated every drop of water that hits this site will end up in the infiltration system and will not go over land to the stream.

Mr. McAllister stated in regard to the drive onto Intervale Crossroads, emergency services will have access to the gate. Mr. McAllister stated they are ok with providing DO NOT ENTER signs at the curb cut of Intervale Crossroads. Mr. McAllister read the note that is already on the plan in regard to snow storage; which he has put on all plans submitted to the Board. Mr. McAllister stated with respect to the ski trail, the snow storage area is on the development side of the fence. Mr. McAllister provided color renderings to the Board in regard to the building exterior.

Mr. McAllister stated in regard to traffic and parking concerns, the loading area presented is as it is on most commercial development plans, there is no loading dock; deliveries occur via pull-in, unload and pull-out, which is typically done during off hours. Mr. McAllister stated suppliers and vendors will park in the loading area, or in a designated parking area space like every other development in the Town of Conway.

Adopted: February 10, 2022 – As Written
CONWAY PLANNING BOARD – JANUARY 13, 2022

Mr. McAllister stated parking is designed per Town of Conway regulations for peak demand; overflow parking does not exist. Mr. McAllister stated there will be valet parking on the site; if there are no parking spots to park a car, the valet can park a car. Mr. McAllister stated if the hotel capacity has been met, or the capacity of the restaurant has been met the valet does not accept any additional cars. Mr. McAllister stated there will be designated spaces for the hotel guests.

Mr. Colbath asked for Board comment; Mr. Porter asked if there is any way to deviate from red for the roof. Mr. McAllister stated it is the applicants desire for a red roof.

Ms. Frechette asked for an explanation in regard to providing safe pedestrian crossings. Mr. McAllister stated the discussion was across Intervale Crossroads from the hotel to the Cannell Store property, and the reason they cannot propose that is because there is nowhere to land. Mr. McAllister stated they cannot provide a crosswalk immediately at the intersection because vehicles making a right-hand turn can come in at high speeds, so the crosswalk should be set back further on Intervale Crossroads; however, there is head-in parking along that side of Cannell Store and some of that parking is within the road right-of-way.

Mr. McAllister stated to provide safe pedestrian access, to reduce the Town liability, a sidewalk with a landing area and a ramp needs to be provided. Mr. McAllister stated a sidewalk has to be provided on both sides of the crosswalk, and that cannot be provided with the current configuration of Cannell's Plaza. Ms. Frechette stated she doesn't believe this cannot happen, and that it might have a different journey to get there; she feels very strongly for pedestrian safety and the Town should work towards a solution to this situation.

Mr. Colbath asked public comment; Roy Tilsley of Bernstein Shur stated he is representing Michael Grant who is one of the neighbors and abutters who has submitted the nuisance application. Mr. Tilsley stated they appreciate the efforts made by the applicant to reduce the size and scope of the building, the one before the Board now is a lot better from the neighbor's perspective than what was before the board almost a year ago. Mr. Tilsley stated they still have some questions and concerns.

Mr. Tilsley stated while they appreciate that most of the building is 40-feet or less, they do not support the waiver request asking to allow the observation deck portion of the building to be 45-feet. Mr. Tilsley stated that the Board has already determined that a height greater than 40-feet constitutes a nuisance; as such the waiver is detrimental to the general welfare, injurious to other parties and nullifies the intent of the site plan review regulations.

Mr. Tilsley stated there is no substantial benefit in granting this waiver. Mr. Tilsley stated he thinks the criteria the applicant is hanging their hat on is a hardship criteria; hardship is unique physical characteristics of the site. Mr. Tilsley stated the hardship is code compliant access to the observation deck, it is not due to unique physical characteristics of the site; therefore, they are not entitled to a waiver.

Mr. Tilsley stated the bigger question they have is the need for the observation deck and how it fits into the operation; they appreciate they want an observation deck, but there is not anything that would entitle them to a waiver. Mr. Tilsley stated we need to be clear how the observation deck fits into the property; we know that the parking is tight and right at the calculation of 102 spaces.

**Adopted: February 10, 2022 – As Written
CONWAY PLANNING BOARD – JANUARY 13, 2022**

Mr. Tilsley stated the Town Planner in his recommendation is to propose a stricter parking calculation because he feels the restaurant criteria is not sufficient to meet the needs of restaurant patrons. Mr. Tilsley stated their concern is simple, if there are not enough parking spaces for hotel guests and the restaurant they are going to park in the neighborhood; there needs to be sufficient parking for all the uses of this site.

Mr. Tilsley stated what is critical to his clients is that the observation deck not become something in addition to the bar and the restaurant. Mr. Tilsley stated if the observation deck is truly for guests only, for only people who have an assigned seat, it is very important that it be a condition of approval so it doesn't become more people, and more cars to park. Mr. Tilsley stated similarly if there is going to be special events, those events need to be limited to hotel guests or to the 60 restaurant seats and 10 lounge seats.

Mr. Tilsley stated in regard to the buffer required by mitigation measure #2, they support the recommendation by the Town Planner to provide a rendering of what that buffer will look like; we don't think it will be sufficient. Mr. Tilsley stated we would be comfortable seeing what it will look like once it is in there; we don't think it is consistent with what this board has approved previously. Mr. Tilsley stated we would like to see more buffering in the stream area. Mr. Tilsley stated more plantings in that area would go a long way to providing his clients with protection from noise and light pollution.

Mr. Tilsley stated in regard to the Intervale Crossroad issue, we are happy to have signs at the curb cut, but we believe it would make more sense to have the gate at the curb cut so it is clear to people that you cannot come in that way. Mr. Tilsley stated in regard to snow storage, it sounds like the fence is a barrier to the ski trail which should be an easy note to the plan. Mr. Tilsley stated the abutters don't like the red roof.

Mr. Tilsley stated we should have clarification that the use of the observation deck is limited to guests and people who have chairs in the restaurant, and there should be no additional receptions, functions or special events that bring additional people to the property. Mr. Tilsley stated we don't agree with response to #5, and we support the Town Planner's recommendation on a rendering for that. Mr. Tilsley stated we are concerned for the neighborhood, that the observation deck is going to be something more, and that the parking is simply too tight.

Mr. McAllister stated that the observation deck is on a different level from the restaurant and bar, so there will not be seats. Mr. McAllister stated when they provided parking calculations that parking calculation does not take into consideration that there will be guests of the hotel eating at the restaurant; there was no consideration for overlap. Mr. McAllister stated they have done a shared parking analysis to confirm using industry standards that the parking that is provided on site is acceptable.

Mr. McAllister stated we assumed that 100% of the parking spaces needed for the hotel would be required for the hotel, but there is an industry standard through the Urban Land Institute that allows for a shared parking analysis which accounts for a peak time that hotel guests are utilizing the restaurant along with guests from outside. Mr. McAllister stated that is about a 30% reduction in overall guest use.

Adopted: February 10, 2022 – As Written
CONWAY PLANNING BOARD – JANUARY 13, 2022

Mr. McAllister stated they conducted a parking calculation that was more conservative, where the restaurant parking is 1.1 spaces per 2-seats versus the Town requirement of one parking space per 3-seats; this is per the International Interpretation Engineer's Parking Generation Guide Book. Mr. McAllister stated we used a more conservative number for the restaurant and we used the Town parking calculations to determine what is the overall parking required on this property.

Mr. McAllister stated with a 30% reduction for the restaurant to account for the users of the hotel using the restaurant, it came to 101.5 parking spaces. Mr. McAllister stated with the same intense of use that we show on the parking the calculations actually come to the same number as the Town's parking numbers. Mr. McAllister stated there are 77 dedicated parking spaces for the hotel use, and it could be a requirement on the plans as a note or to show the striping on the plans is something that they would be willing to consider as a condition of approval.

Mr. McAllister stated they are willing to provide a note on the plan the hours of use of the observation deck. Mr. McAllister stated they would be willing to provide additional plantings in the stream buffer, however, they would like it to be defined. Mr. McAllister stated they are willing to move the gate to Intervale Crossroads. Mr. McAllister stated the roof color is proposed to be red.

Mr. Colbath asked for Board comment; Ms. Frechette stated she is not sure how she feels about the observation deck being closed at night, and she thinks the noise ordinance will take care of the observation deck.

Ms. Byers asked if the stream buffer area could sustain more plantings. Mr. McAllister answered probably and stated the concern with the area is what has been done with the plantings, they have been separated from one another because they are on a slope. Mr. McAllister stated more likely the best solution there is to use a conservation mix grass seed that may have wildflowers seeds in it; at that slope it is not going to be maintained, so it will likely become wild and more vegetated.

Mr. Colbath asked for public comment; Nancy Goyette expressed concerns with the eastern buffer and the observation deck. Mr. McAllister agreed to plant the arborvitaes in the eastern buffer so that they touch. There was a discussion regarding the red roof.

Susan Forsman of 26 Balcony Seat View asked the Board to consider trees like the sugar maple tree in the future because those sorts of trees don't happen in our lifetime. Ms. Forsman stated arborvitaes can be planted root ball to root ball. Ms. Forsman stated there is another layer of buffer that could be planted, a shrub layer, and in the stream area there could be some shrubs planted at the toe of the slope amongst the wildflowers.

Ms. Forsman stated the red roof is not appropriate for the character of Intervale and Intervale Crossroads; the dominate view of that area is the Vista and this would dominate the landscape, and it is tacky. Ms. Forsman stated the greater issue is traffic, and crossing that road is never easy. Ms. Forsman stated with a project this size it triggers the problem we have and this can has been kicked down the road for decades; this should be dealt with before this project can be accepted. Ms. Forsman stated this project will increase the danger, and this town needs to care. Ms. Forsman stated this project is out of scale with this neighborhood.

**Adopted: February 10, 2022 – As Written
CONWAY PLANNING BOARD – JANUARY 13, 2022**

There was discussion regarding the architecture and the red roof. Mr. McAllister stated that the applicant has agreed to a black or gray scale on the roof color. Mr. Colbath closed public comment at 7:22 pm.

Mr. McAllister read a waiver request for §110-20.G. **Ms. Byers made a motion, seconded by Mr. Porter, to grant the waiver request for §110-20.G.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. McAllister read a waiver request for §110-29.D.8. **Mr. Porter made a motion, seconded by Ms. Frechette, to grant the waiver request for §110-29.D.8.** Mr. Colbath asked for Board comment; there was none. **Motion carried with Mr. Hartmann voting in the negative.**

Mr. McAllister read a waiver request for Mitigation Measure #4: Structure height not to exceed 40-feet. **Mr. Porter made a motion, seconded by Mr. Hartmann, to grant the waiver request for Mitigation Measure #4: Structure height not to exceed 40-feet.** Mr. Colbath asked for Board comment; there was none. **Motion carried with Ms. Frechette and Mr. Hartmann voting in the negative.**

Mr. Colbath read Nuisance Mitigation #1. **Ms. Byers made a motion, seconded by Mr. Porter, that the applicant addressed Nuisance Mitigation Measure #1 satisfactorily.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Colbath read Nuisance Mitigation #2. **Mr. Barbin made a motion, seconded by Ms. Byers, to accept the applicant's mitigation response.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Colbath read Nuisance Mitigation #3. **Mr. Barbin made a motion, seconded by Mr. Hartmann, to accept the applicant's mitigation response as acceptable.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Colbath read Nuisance Mitigation #4. **Mr. Porter made a motion, seconded by Mr. Corbett, to find in favor of the applicant meeting our mitigation requirements.** Mr. Colbath asked for Board comment; there was none. **Motion carried with Ms. Frechette and Mr. Hartmann voting in the negative.**

Mr. Porter made a motion, seconded by Mr. Hartmann, to conditionally approve the full site plan for Viewpoint North Conway, LLC conditionally upon Town Engineer approval; North Conway Fire Chief approval; Conway Police Chief approval; NHDOT Driveway Permit and indicating permit number on plan; NHDES Alteration of Terrain permit and indicating permit number on plan; submitting a recorded ski trail easement and indicating book and page on plan; indicating additional "DO NOT ENTER" signage at Intervale Crossroads driveway, and relocating the gate to the Intervale Crossroads right-of-way line; stenciling parking spots that are for hotel guests only (77 spaces), and identifying those parking spaces on the plan; adding a note to the plan that states "Observation deck shall be closed at Sunset. Observation deck is for hotel and restaurant guests only. The observation deck is not an extension of the bar or restaurant"; revising snow storage note to include removal of snow within 24 hours; adding a note to the plan that a conservation mix shall be used in the stream

**Adopted: February 10, 2022 – As Written
CONWAY PLANNING BOARD – JANUARY 13, 2022**

buffer area; revising architectural elevations plans to indicate new color of roof to be on the “black or gray scale”; adding a note to the plan that arborvitaes shall be planted along the fence and berm along the eastern property line; adding a note to the plan that the buffer shall be in place before construction begins; \$600 for inspection fees; a performance guarantee for all on-site improvements; a performance guarantee for all off-site improvements; when the conditions have been met the plans can be signed out-of-session; and with an expiration date of January 26, 2023; and a condition subsequent to final approval that the buffer shall be in place before construction begins. Motion carried unanimously.

Meeting adjourned at 8:30 pm.

Respectfully Submitted,

Holly L. Whitelaw
Planning Assistant