Adopted: September 28, 2023 – As Written

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CONWAY PLANNING BOARD

MINUTES

SEPTEMBER 14, 2023

A meeting of the Conway Planning Board was held on Thursday, September 14, 2023, beginning at 6:00 pm at the Conway Town Office, Conway, NH. Those present were: Chair, Benjamin Colbath; Selectmen's Representative, Steven Porter; Vice Chair, Ailie Byers; Eliza Grant; Bill Barbin; Mark Hounsell; Alternate, Ted Phillips; Town Planner, Ryan O'Connor; and Planning Assistant, Holly Whitelaw.

APPOINTMENT OF ALTERNATE MEMBER

Chair Colbath appointed Mr. Phillips as a voting member.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Porter made a motion, seconded by Mr. Hounsell, to approve the minutes of July 27, 2023, August 10, 2023, and August 24, 2023 as written. Motion carried unanimously.

AGENDA OUT-OF-ORDER

Mr. Porter made a motion, seconded by Ms. Byers, to take the agenda out-of-order to discuss GREP WMH II, LLC first. Motion carried with Mr. Hounsell as present.

OTHER BUSINESS

<u>GREP WMH II, LLC (File #FR21-15 & #S21-19) – Request to extend conditional approval (PID 235-87):</u> Chris Meier of Cooper Cargill Chant appeared before the Board. Mr. Meier reviewed the project and requested a one-year extension.

Ms. Grant stated when they came in requesting their first extension the Board agreed to six months because we did not want to go beyond that point. Mr. Porter stated he is disenchanted with how the site looks, and the Board has stated before that we would like it cleaned up and for it to look more taken care of which hasn't been done. Mr. Colbath stated they did clean the graffiti, but the lawn was never tended to and the trim boards were falling off the building, and all we asked was for a little maintenance to be done.

Mr. Meier stated if there are specifics he will take back them back to his client. Mr. Porter stated he would like to see the property maintained, and he is not happy that the site was clear cut before they came to the Board. Mr. Porter stated he would like to see them maintain the property, mow the lawn. Mr. Colbath stated he would like to see the building from looking like it needs to be condemned.

Mr. Meier stated the Town will not issue a demolition permit, and asked if the Board could help with that. Mr. Porter stated he would look into it.

Mr. Porter made a motion, seconded by Mr. Barbin, to extend the conditional approval for GREP WMH II, LLC until March 28, 2024 with the understanding that the property be kept up. Chair Colbath asked for Board comment; Ms. Grant stated this is the exact same conversation we had 6 months ago, and if not met we would not extend this. Mr. Colbath stated it is very disappointing to look at this property. Mr. Barbin stated it is an embarrassment, but they are going to try to make it better.

Mr. Hounsell stated we have an issue with impervious surface along the river, and we should put the well-being of the Saco River over the applicant. Mr. Barbin stated they are in compliance and can resubmit. Ms. Grant stated they do not meet the new 30% greenspace requirement. Motion defeated with Mr. Hounsell, Ms. Byers, Ms. Grant and Mr. Barbin voting in the negative and Mr. Phillips, Mr. Porter and Mr. Colbath voting in the affirmative. Mr. O'Connor stated the conditional approval expires on October 26, 2023 so all conditions have to be met by then.

At the end of the meeting, Mr. Colbath made a motion, seconded by Ms. Byers, to reconsider the vote for GREP WMH II, LLC. Motion carried with Ms. Grant voting in the negative.

After a brief discussion, Mr. Colbath made a motion, seconded by Mr. Porter, to extend the conditional approval until January 25, 2024 with the conditions that the applicant maintain the existing landscaping including regularly cutting the grass and overgrown vegetation, removing current and future graffiti, securing any existing enclosures (dumpster and mechanical areas), and removing any broken or damaged building façade materials. Motion carried with Ms. Grant voting in the negative.

RIVER RUN COMPANY, LLC (FILE #FR23-08 & #S23-09) – CONCURRENT FULL SITE PLAN AND UNIT SUBDIVISION REVIEW CONTINUED (PID 215-9 & 11)

This is an application to construct 52 residential dwelling units and the continued use of the Nereledge Inn consisting of 12 dorm-style rooms and one apartment with associated infrastructure and create a 42-unit residential subdivision at 94 & 130 River Road, North Conway. This hearing was continued from August 10, 2023.

Mr. Porter made a motion, seconded by Mr. Hounsell, to continue the concurrent full site plan and unit subdivision review for River Run Company, LLC until February 8, 2024 at 6:00 pm with new information to be submitted by January 9, 2024. Motion carried unanimously.

JAMES JR. AND MARY HILL (FILE #S23-12) – 4-LOT SUBDVISION REVIEW (PID 283-25)

Ron Briggs of Briggs Land Surveying and James Hill, Jr. appeared before the Board. This is an application to subdivide 40.2-acres into four lots at 1467 Brownfield Road, Center Conway. Mr. O'Conner gave a brief overview of the project. Mr. Porter made a motion, seconded by Ms. Grant, to accept the application for a subdivision review as complete with the staff report. Motion carried unanimously.

Mr. Brigg gave an overview of the project. Chair Colbath asked for Board comment; there was none. Chair Colbath asked for public comment; Esther Skofield asked if the wells would affect the water for the neighbors. Mr. Briggs stated it should not affect the neighbors and will need state approval.

The Board agreed to take all the waivers at once. Mr. Briggs read waiver requests for §130-23.E., §130-23.J., §130-23.N., and §130-24.E. Mr. Porter made a motion, seconded by Ms. Grant, to grant the waiver requests for §130-23.E., §130-23.J., §130-23.N., and §130-24.E. Chair Colbath asked for Board comment; there was none. Motion carried unanimously.

Mr. O'Connor read the conditions of approval. Mr. Hounsell made a motion, seconded by Mr. Porter, to approve the 4-lot subdivision for James Jr. and Mary Hill conditionally upon indicating NHDES subdivision approval number on plan; adding waivers granted table to the plan; submitting four copies of revised plans with original stamps and signatures of the surveyor and wetland scientist; submitting a mylar for recording; submitting a \$25 check made payable to the Carroll County Registry of Deeds for the L-CHIP fee; submitting a cost estimate for street trees and monuments to be set to be approved by the Town; submitting \$200 for inspection fees; a performance guarantee for street trees and monuments to be set; when the conditions have been met, the plans can be signed out of session; and this conditional approval will expire on December 14, 2023. Motion carried unanimously.

CHRISTOPHER STROUT AND TRACY ROBERGE-STROUT (FILE #S23-13) – 4-LOT SUBDIVISION REIVEW (PID 216-73.1)

This is an application to subdivide 35.6-acres into 4 lots and create a new roadway on West Side Road, North Conway. Mr. Briggs stated the applicant would like to create a fifth lot; therefore, he is withdrawing the application.

VARAHI NORTH CONWAY REALTY, LLC (FILE #FR23-10 & #S23-14) – CONCURRENT FULL SITE PLAN AND 2-UNIT SUBDIVISION REVIEW (PID 230-119)

This is an application to construct a 2,200 square foot residential dwelling unit on a commercial site with associated infrastructure and create one commercial unit and one residential unit at 2039 White Mountain Highway, North Conway.

Mr. O'Connor stated the applicant has requested the application be continued. Mr. Porter made a motion, seconded by Ms. Grant, to continue until November 16, 2023 with new information to be submitted by October 24, 2023. Motion carried unanimously.

LUCY BROOK PARTNERS, LLC (FILE #S23-11) – 10-LOT SUBDIVISION REVIEW (PID 201-1)

Josh McAllister of HEB Engineers appeared before the Board. This is an application to subdivide 20.6-acres into 10 lots on West Side Road, North Conway. Mr. O'Conner gave a brief overview of the project. Mr. Porter made a motion, seconded by Ms. Grant, to accept the application of Lucy Brook Partners for a 10-lot subdivision review as complete with the staff report. Motion carried unanimously.

Mr. McAllister gave an overview of the project. Chair Colbath asked for Board comment; Mr. Colbath asked if the NHDOT would not grant a driveway permit if there was granite curbing. Mr. McAllister stated he is not sure if they wouldn't issue a driveway permit whether the granite curbing was in place or not, but it is inconsistent to the other driveways in the area. Mr. McAllister stated from a drainage standpoint adding curbing in that area would require the installation of catch basins.

Ms. Grant was concerned with some of the lot configurations, the need for driveway easements, and drainage systems not being developed prior to selling of the lots. Mr. O'Connor read §130-29, lot layout, and stated it seems the lots generally meet this regulation. Mr. McAllister stated shared driveways will be outlined in the covenants and restrictions of the property.

Mr. McAllister explained the drainage ponds and stated the covenants and restrictions will outline when those ponds are developed. Mr. McAllister stated he has suggested to NHDES that when those lots are developed NHDES, as part of the alteration of terrain permit, review those ponds and require a letter from a professional engineer that they were developed in accordance with alteration of terrain permit. Mr. McAllister stated he is not sure NHDES will be amenable to that suggestion.

The Board had a concern with lot 10. Mr. O'Connor stated he feels there is enough buildable area. Mr. Porter recommended eliminating that lot. Mr. McAllister stated the lot meets the regulations. Ms. Byers asked if there has been a Functions and Values Report done showing what is on the site now and how it could be negatively impacted by the development. Mr. McAllister answered in the negative and stated typically that is done when it is with wetland impacts and is required by NHDES.

Mr. Hounsell stated it is a clever use of lot 10, and he believes they have covered the impact on Lucy Brook so he has no problem with that layout. Mr. Barbin stated they have provided a buildable lot.

Chair Colbath asked for public comment; Jennifer Fentriess asked if the State has been notified as an abutter and do they have any comments. Ms. Fentriess stated with the State Park there is a lot of conflict with the public as they wonder around not knowing where they are going. Ms. Fentriess stated her concern is for the last two lots; they could be inviting conflict for future owners. Ms. Fentriess suggested fencing off the end to keep the public off their property. Mr. McAllister stated that is not something he is aware of. Mr. Colbath suggested bringing that concern to the developers. Mr. McAllister agreed.

Matt Yosca stated Lucy Brook has a lot of erosion along the banks and want to make sure that is considered. Mr. McAllister stated Lucy Brook has the benefit of having the wetland and watershed protection overlay district surrounding it.

Mike Morin stated if you look at lidar data you can see that Lucy Brook has moved considerably over the years, centuries, so just because right now it is where it is and the development falls within the buffer doesn't mean that over time the brook won't move. Mr. Colbath stated it is hard for us to see into the future. Mr. Colbath stated we have ordinances to protect the water and we are looking into strengthening that language.

Mr. O'Connor stated the restrictions for the wetland and watershed protection overlay district could be included in the deed. The Board agreed. Mr. McAllister stated it will be on the recorded plan as well. Ms. Grant stated if the back of the lot is a sensitive area for wildlife then a fence would not be appropriate.

Mr. McAllister read waiver requests for §130-66.(2)(a) and §130-29.H. Mr. Porter made a motion, seconded by Ms. Grant, to grant the waivers for §130-66.(2)(a) and §130-29.H. Chair Colbath asked for Board comment; Mr. O'Connor stated Paul DegliAngeli [Town Engineer] has an issue with the waiver because when there is no curbing and cars continually go over the pavement the pavement breaks down overtime. Mr. O'Connor stated if the town were to take over the road they would prefer to see granite curbing; Mr. DegliAngeli would like to see curbing. Mr. Hounsell stated he understands the concern, but his concern is proper drainage off the West Side Road for the sake of potential hazards, over the Town taking the road, so, therefore, he is going to support granting the waiver. Motion carried unanimously.

Ms. Byers asked if the infiltration systems would be privately built and privately maintained. Mr. McAllister stated the private ones are being provided easements around them, but the association would maintain them. Mr. McAllister stated it would be built at the time of lot development, but would be maintained and owned by the owner of the Association. Mr. McAllister stated all the ponds associated with roadway designs will have to be built at the time the road is constructed. Mr. McAllister stated lots 8, 10 and 11 will be constructed at the time of the lot development, but there are easements provided for those drainage areas to be maintained by the association.

Ms. Grant stated lot 10 is bugging us and there is a bend in the brook in that area. Ms. Grant read §130-29.D. Ms. Grant stated lot 10 should be absorbed into adjacent lots so it allows a little wiggle room for when the environment changes. Mr. McAllister listed his qualifications and stated in regard to the outer bend of this stream where the actual building location will be is more on a straight of way then on an outer bend. Mr. McAllister stated the outer bend is closer to the lot line between lots 9 and 10. Mr. McAllister stated that is where the forces are on this river would be.

Mr. McAllister stated in his professional opinion the risk of erosion at the 8k area, where the building is, is lower than it is in other locations. Mr. McAllister stated he does not share the concerns of the stream component at this location.

Mr. O'Connell read the conditions of approval. Mr. Colbath made a motion, seconded by Mr. Porter, to conditionally approve the 10-lot subdivision conditionally upon Town Engineer approval; North Conway Fire Chief approval; NHDOT Driveway permit and indicating permit number on plan; NHDES Subdivision approval and indicating approval number on plan; NHDES Alteration of Terrain permit and indicating permit number on plan; NHDES Septic System approval and indicating approval number on plan for individual parcels; obtaining final approval of File #S23-11; submitting a road name to be approved by Town; revising plans to identify an additional vegetative buffer of 25' for lot 10, excluding drainage basins, and all other requirements of the Wetland and Watershed Protection Overlay District shall apply; revising waivers granted table [if necessary]; submitting draft Homeowner's Association documents and drainage easement language for Town approval prior to recording; no site disturbance is permitted prior to final approval; submitting four copies of revised plans with original stamps and signatures; submitting a Mylar for

recording; submitting \$600 for inspection fees; a performance guarantee for all on-site improvements; a performance guarantee for all off-site improvements [if necessary]; when the conditions have been met, the plans can be signed out-of-session; and conditions subsequent to final approval, prior to building permit issuance, the subdivision shall be flagged indicating parcel and Wetland and Watershed Protection Overlay District boundaries; the restrictions of the Wetland and Watershed Protection Overlay District shall be identified in the deeds of each parcel; and this conditional approval will expire on September 12, 2024. Motion carried unanimously.

BARNES DEVELOPMENT, LLC (FILE #FR23-11 & S23-16) – CONCURRENT FULL SITE PLAN AND 31-UNIT SUBDIVISION REVIEW (PID 235-82)

This is an application to construct ten (10) residential rental apartment and thirty (30) residential condominium townhouses with associated infrastructure and create a 31-unit residential subdivision on Puddin Pond Drive, North Conway (PID 235-82).

Mr. Colbath made a motion, seconded by Ms. Grant, to continue the concurrent full site plan and unit subdivision review for Barnes Development, LLC until February 8, 2024 at 6:00 pm with new information to be submitted by January 9, 2024. Motion carried unanimously.

OTHER BUSINESS CONTINUED

North Conway Fairways, LLC (File #NA23-12): Josh McAllister of HEB Engineers appeared before the Board. This is a request to install a drive-thru teller window with a speaker in the southernmost unit of building B at 120 North-South Road, North Conway (PID 246-51). Mr. McAllister stated they are looking to remove 18-parking spaces to install a teller window and landscaped island; they will stripe 18-parking spaces at the rear of the building.

Mr. McAllister stated the drive thru speaker will not be operated before 9 am or after 5 pm and there are no residential uses nearby. Mr. McAllister stated they are relocating 18 parking spaces, and they provided 216 parking space, but 210 is required. Mr. McAllister stated there is no change of use, it is serviced by municipal water and sewer, there are more trees than required and there is an increase in greenspace. Mr. McAllister stated the drive thru window is 120 square feet.

Mr. McAllister stated the traffic control island is not 12-feet, but more of a landing area for the canopy. Mr. Barbin stated he doesn't see this as a minor undertaking; traffic flow for a drive thru would be a significant change. Mr. McAllister stated peak traffic of a restaurant is still more than a bank.

Mr. Hounsell stated he's not sure how it will impact visually as we don't know what this canopy is going to look like. Mr. McAllister stated there is no change to the landscaping, no change to what you see from Hemlock Lane.

Goshe Imran of the UPS store stated he is concerned with UPS store employee parking and deliveries; they have an 18-wheeler that backs up on that side of the building. Mr. McAllister stated the site was designed for trucks to go between the two buildings, the site was not designed for a tractor trailer traffic on the south side of the building.

Mr. Barbin asked if this would change the snow storage plan. Mr. McAllister answered in the negative. Mr. Phillips stated he struggles with a drive thru in that small area, it is different with stacking cars. Mr. McAllister stated a bank has a lower capacity then a sit-down restaurant; the lane is long enough to have three or four cars stacked. Mr. Phillips stated he is having problems with it doesn't change the intensity of use.

Mr. Colbath stated he doesn't think there is great flow there, but tractor trailers have been backing up in that area. Ms. Grant stated if we allow this there has to be a contingency that they be able to get there truck where they need to get their truck; we need to honor the existing work flows. Mr. McAllister stated there is no way that a tractor trailer will be able to maneuver with a canopy; it is a tenant/landlord issue. Mr. McAllister stated a tractor trailer should not be maneuvering in that area; it was designed to maneuver a fire trucks.

Diana McAllister of the UPS Store stated their store is designed to ship packages up to 150 pounds and need to be closer to our store. Ms. McAllister stated she is also concerned with pedestrian safety. Mr. McAllister stated he is requesting approval under §110-4.A.(4), and asked the Board to review the proposal under that criteria and identify where it does not fit.

Ms. Byers made a motion, seconded by Mr. Hounsell, to allow the construction of the drive thru as a non-applicable. Motion defeated with Mr. Hounsell, Mr. Phillps, Ms. Grant and Mr. Barbin voting in the negative and Ms. Byers, Mr. Porter and Mr. Colbath voting in the affirmative.

After a brief discussion, Mr. Hounsell made a motion, seconded by Mr. Colbath, to reconsider the vote. Motion carried unanimously.

Mr. Colbath made a motion, seconded by Ms. Grant that the Planning Board determined that based on the provisions of §110-4. A.(5), regarding applicability, that the installation of a drive-thru teller window with speaker in the southernmost unit of Building B is not subject to a 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 with conditions of Town Engineer approval for impacts to internal traffic patterns, including drive-thru stacking, must be shown as insignificant to the existing use; to work with the landlord to ensure employee parking is adequately provided for all tenants which complies with ADA standards, North Conway Fire Chief approval; providing reasonable access from the originally approved loading zone to the rear southern portion of the structure; replacing dead trees along the southern property line; and repairing broken portion of the dumpster screening enclosure. Chair Colbath asked for Board comment; there was none. Motion carried unanimously.

<u>Vernon Jr. and Robin Campbell – Lot Merger (PID 276-204 & 205):</u> This is a request to merge PID 276-204 and PID 276-205 into one lot of record. **Ms. Byers made a motion, seconded by Ms. Grant, to approve the lot merger for Vernon Jr. and Robin Campbell. Motion carried unanimously.**

<u>Profile Mountain Holdings Corporation – Lot Merger (PID 277-315, 316, 317, 318 & 322)</u>: This is a request to merge PID 277-315, 316, 318 & 322 into one lot of record. Mr. Colbath made a motion, seconded by Ms. Grant, to approve the lot merger for Profile Mountain Holdings Corporation. Motion carried unanimously.

<u>Profile Mountain Holdings Corporation (File #FR20-03) – Conditional approval expiring (PID 277-215, 318 & 322)</u>: With the approval of the lot merger the applicant has satisfied all conditions and does not need to extend the conditional approval expiration date.

<u>Selectmen's Report</u>: Mr. Porter stated the NHDOT will give the town more time to review the lots along the North-South Road; the NHDOT will be here on October 24th.

Issues for Consideration: Mr. Hounsell submitted a hand out to the Board (see attached).

Media Questions: There was none.

Meeting was adjourned at 9:39 p.m.

Respectfully Submitted, Holly Whitelaw

Holly L. Whitelaw

From: Mark Hounsell <granitestatefocus@gmail.com>

Sent: Thursday, September 14, 2023 12:39 PM

To: Holly Whitelaw

Subject: For the Planning Board's 9/14/2023 minutes

Bill, I hope to read this at the Board meeting tonight. MH

Printed on the back cover of my Aunt Janet Hounsell's book <u>CONWAY NEW HAMPSHIRE 1765-1997</u> is a poem written by Ruth Burnham Davis Horne that goes like this,

From the heart of White Mountains*
From the lake that never fails,
Falls the Saco in the green lap
Of Conway's intervales
In all its virgin freshness
Its waters foam and flow
As when Darby Field first saw them
Two hundred years ago.

For those of us on this planning board, we get it. For those of us who grew up in these parts our rivers have provided us, and the many who came before us, with an abundance of mountain clear water that provides us with the essence of life, for commerce, for agriculture and for recreation.

For those who made the decision to move here and live along the Saco in some ways have a better appreciation of the river's uniqueness and beauty.

Saco derives its name from the Abenaki and means, "land where the river comes out".

The river discharges (flows) an average of 7,200 gallons per second in Conway. The river at flood stage discharges as much as 353,000 gallons per second.

From the late Barbara Lucy, who in the early 1960s practically singlehanded stopped the Army Corp of Engineers from constructing a dam on the Saco in order to flood the Intervale, to the leaders and people of the Conway Fire District and the North Conway Water Precinct who have boldly invested a substantial amount of money in its water and wastewater systems that is environmental stewardship of the sort from which we all benefit, we have good examples to help us in our efforts to care long-term for the Saco River.

Our time spent working on a master plan that will guide us to making Conway a town where families can thrive would be incomplete if we fail to enact safeguards with zoning measures to protect this wonderous river.

Equipped with knowledge provide to us by Mark Dindorf, Chairman of the Saco River Local Advisory Committee as well as a capable and seasoned staff in the town's planning department the time is ideal for this planning board to provide the people of Conway with robust river stewardship. Shoreline protection must be paramount. The advisory committee has provided us with data that speaks *of* the negative impact of asphalt roads and *asphalt* parking areas close to the river. Too much imperious cover (25%) is "non-supporting for aquatic suitability".

On page twenty-five of the report it reads, "It is well documented in the literature that impervious cover is negatively correlated with stream habitat quality. Impervious cover greater than 25% has been shown to be non-supporting for aquatic suitability..."

Community leaders on local planning boards must work together to help everyone understand the hopes of thriving futures for all our towns along the Saco begins with ensuring the safe water that we currently have is protected from avoidable degradation of all sorts. Stainable quality waters demand that we safeguard the Saco River from Crawford to the sea.

Long lasting economic prosperity will not endure without environmental stewardship, and vice versa. Let us work to ensure that, "with its virgin freshness the (Saco) waters foam and flow as when Darby Field first saw them two hundred years ago."

I thank you for your kind attention.

^{*} In her poem Horne refers to the White Mountains as "Waumbek Methna" which means "White Rocks of the Great Spirit."