

CONWAY PLANNING BOARD

MINUTES

NOVEMBER 19, 1998

A meeting of the Conway Planning Board was held on Thursday, November 19, 1998, beginning at 7:05 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chairman, Catherine Woodall; Vice Chairman, Charlene Browne; Sheila Duane; Robert deFeyter; Arthur Bergmann; Alternate, John Waterman; Town Planner, Dawn Emerson; and Recording Secretary, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

The Minutes of October 15, 1998, should be amended as follows: page 2, paragraph 3, line 2, should read, "Mr. Hastings stated that the Board should be polled..."; page 4, paragraph 1, line 3, should be added, "...through Conway. The Board agreed to send a letter and Special Highway Corridor ordinance to the surrounding Towns for their review.". Ms. Browne made a motion, seconded by Mr. deFeyter, to approve the Minutes of October 15, 1998, as amended. Motion unanimously carried.

The Minutes of November 5, 1998, should be amended as follows: page 3, paragraph 2, line 2, should read, "...be a Minor Site Plan Review. Mr. deFeyter..."; page 3, paragraph 4, line 6, should read, "Motion carried with Mr. deFeyter voting in the negative."; page 3, paragraph 6, line 5, should read, "...legal counsel outlining...". Mr. deFeyter made a motion, seconded by Ms. Browne, to approve the Minutes of November 5, 1998, as amended. Motion unanimously carried.

APPOINTMENT OF ALTERNATE TO A VOTING MEMBER

Ms. Woodall appointed John Waterman as a voting member for this evening.

EASTERN SLOPE INN ASSOCIATES - FULL SITE PLAN REVIEW CONTINUED (MAP 69, PARCEL 15) FILE #FR98-12

Joe Berry of Eastern Slope Inn Associates; and Diane Smith of Thaddeus Thorne Surveys appeared before the Board. Mr. Berry stated that he would like to convert an existing garage into twelve (12), 2-bedroom suites that would be tied into the hotel. Mr. Berry stated that based on the needs for parking, they are going to develop a parking lot on the back lot. Mr. Berry stated that a pedestrian tunnel will be constructed under the Conway Scenic Railroad. Ms. Woodall stated that this application has already been accepted.

Ms. Emerson read a letter from Wayne Derouin, North Conway Fire Department Chief, and stated that the fire lane has been done and a waiver request has been submitted for the scale of the drawing. Ms. Woodall read the waiver request for Article 123-7.B(2). Ms. Woodall read the requirements to grant a waiver. Ms. Duane made a motion, seconded by Mr. deFeyter, to approve the waiver request of Article 123-7.B(2). Motion unanimously carried.

Mr. deFeyter stated that the applicant is saying that waivers for parking were granted in 1985 and 1986. Mr. deFeyter asked the waivers be explained. Mr. Berry stated that in 1985 the Reporter Building came before the Board for a remodeling and they constructed a 42-car parking lot out back. Mr. Berry stated that they asked for a waiver under shared parking. Mr. deFeyter asked how did the applicant come up with 404 parking spaces required and does this number include the theater. Ms. Emerson referred to Article 123-22.A(2)(b) and Article 123-41. Ms. Woodall asked if the parking lot on the other side of the Conway Scenic Railroad was constructed yet. Mr. Berry answered in the negative and stated that they would be committing to constructing that parking lot.

Ms. Woodall asked what type of permits would be required for the pedestrian tunnel. Mr. Berry stated that he needs permission from the Conway Scenic Railroad. Mr. Berry stated that they have discussed the

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pedestrian tunnel, but we don't have an agreement in hand. Mr. Berry stated that we have applied for a building permit, but need shop drawings for final approval. Mr. Bergmann stated that under the shared parking, 99 parking spaces were waived and now the applicant is asking for an additional 18 parking spaces to be waived. Mr. Bergmann stated that wouldn't the shared parking be used up with the 99 parking spaces. Ms. Emerson agreed and stated that Mr. Berry was going to give justification for the shared parking. Mr. Berry listed the following:

Eastern Mountain Sports (EMS)	36 Parking Spaces Required	Daytime Use
80-room Hotel	18 Parking Spaces Required (staff)	Daytime Use
5,800 s.f. Dormitory	24 Parking Spaces Required	Daytime Use
Plaza Building	43 Parking Spaces Required	
2-Overnight Buildings	6 Parking Spaces Required	Nighttime Use
Additional Retail Space		

Mr. deFeyter asked if the garage which will be converted to the Carriage House is currently used for parking and equipment. Mr. Berry stated that there is a 2-bay garage and it is also used for house keeping equipment and storage. Mr. deFeyter asked where will that be relocated to. Mr. Berry stated there will be a subgrade level to the Carriage House which is planned for house keeping and maintenance. Mr. Bergmann asked if the applicant still has a written agreement to use the bank parking lot. Mr. Berry stated that there was never a written agreement, but the language in the lease allows them to use the bank parking. Mr. Berry stated that there is no recorded easement.

Mr. Bergmann asked if the bank parking lot is counted in the existing number of parking spaces available. Mr. Berry answered in the negative. Mr. Bergmann stated that 410 parking spaces are required and asked how many does the applicant have. Ms. Smith answered 287 parking spaces. Mr. Waterman asked about lighting and security of the parking lot. Mr. Berry stated that it will be adequate lighting and with usage, people and lighting it will become a more viable area. Mr. deFeyter stated that the lower parking lot can be a very nice place, but it needs to be well lit. Mr. deFeyter stated that he would like to see low level lighting used. Mr. Berry stated that he is willing to do that.

Ms. Browne stated that EMS is opened at nights on the weekends. Mr. Berry agreed and stated that they are opened Friday and Saturday nights until 9:00 p.m. Mr. Berry stated that there will be some overlap there. Ms. Woodall asked if there is any specified parking spaces for each use. Mr. Berry answered in the negative. Mr. Waterman asked about snow storage and asked if snow will be removed off site. Mr. Berry stated that snow will be a challenge, but historically they have had snow removed. Mr. Berry stated that they may lose a few parking spaces in the winter months. Mr. deFeyter stated that the curb cut for the back parking lot is 19 feet wide and the Town requires 24 feet wide. Ms. Smith stated that that is the current curb cut. Ms. Woodall asked if Mr. Berry applied for a State driveway permit. Mr. Berry answered in the negative. Mr. deFeyter stated that the concept is good, but he is concerned about intensity. Ms. Duane asked if the curb cut could be expanded. Mr. Berry answered in the negative.

Ms. Woodall asked for public comment; Ed McBurney, Attorney for abutter Schrader, stated that his clients are concerned with the loading of that back lot. Mr. McBurney stated that it is currently hardly ever used and there will be 129 parking spaces constructed. Mr. McBurney stated that his clients are concerned with the amount of traffic. Ms. Duane asked how many cars travel River Road in a day. Mr. McBurney stated that he did not know. Ms. Duane stated that River Road is a busy road. Mr. McBurney stated that his clients are just concerned with the additional traffic as getting in and out of their driveway can be trouble some.

Ms. Woodall stated that the applicant is required to apply to the State for a driveway permit and then it is up to the State to grant or deny that permit. Mr. deFeyter stated that one of the Board's criteria's is safety. Ms. Browne asked what Mr. McBurney would like to see happen with that site. Mr. McBurney stated that his clients just wanted to express their concerns. Mr. McBurney stated that with a parking lot next to their house they were just asking the Board to consider all elements. Mr. McBurney stated that his client does not have a problem with the site plan. Ms. Browne stated that she would like to hear what the Police

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Department has to say about the tunnel in regard to safety. Ms. Woodall asked Mr. Berry if he has spoken to the Police Department in regard to the tunnel and the parking area. Mr. Berry answered in the negative. Ms. Woodall stated that the Police Department should review the plan. Mr. Berry agreed to have the Police Department take a look at it. Mr. deFeyter stated that he is uncomfortable with a tunnel and asked if a bridge would work.

Ms. Emerson listed the outstanding items: lighting details; paving and drainage details; state driveway permit; check with the Police Department regarding safety; path from tunnel will be straight and not have a dog leg; a path to the south end of the parking lot; a fence for the neighbors; and will there be a change to the bridge on River Road. Mr. deFeyter made a motion, seconded by Ms. Duane, to continue the public hearing for the Eastern Slope Inn Associates until December 17, 1998. Motion unanimously carried.

CLEMENTINE REALTY TRUST - MINOR SITE PLAN REVIEW CONTINUED (MAP 11, PARCEL 62A) FILE #MR98-09

Mark Lucy of White Mountain Survey and Roger Williams, Project Manager, appeared before the Board. Ms. Woodall asked Mr. Williams if he and the Sheraton had come to an agreement. Mr. Williams stated that he left a plan with them, but they needed to submit it to the Corporate Headquarters. Mr. Williams stated that he has not heard anything back from them. Ms. Woodall stated that the application should be continued until the Sheraton has had the opportunity to respond. After a brief discussion, it was the consensus of the Board that the Sheraton knew there was a meeting this evening and if they should have attended if they had concerns.

Mr. Williams stated that he added forty feet of screening to the plans. Mr. deFeyter stated that this is for the storage of sand, possibly some salt, picnic tables and not a maintenance shed. Mr. Williams agreed. Mr. Bergmann asked if this was sand for the complex. Mr. Williams answered in the affirmative. Ms. Woodall asked why the concrete pad was not added to the plans. Mr. Williams stated that he thought at the last meeting the Board determined that it was not needed.

Ms. Woodall asked for public comment; there was none. Ms. Emerson stated that she spoke to Gary Chandler of the North Conway Water Precinct and that he did not have any problems in regard to the water. Ms. Woodall read a waiver request for Article 123-30.1. Ms. Woodall read the requirements to grant a waiver. Ms. Duane made a motion, seconded by Ms. Browne, to grant the waiver request for Article 123-30.1. Motion carried with Mr. Bergmann abstaining.

Mr. deFeyter stated that this building was moved from one lot to another before Planning Board approval. Mr. deFeyter read Article 123-49 and stated that it is the Board's obligation to enforce this regulation. Ms. Duane stated this should have been brought up at the first meeting and not now. Mr. Williams stated that the building is still on blocks and can be moved. Mr. deFeyter made a motion, seconded by Mr. Bergmann, that the Board has the written write to enforce this chapter and the Board will waive the fine. Motion carried with Ms. Duane voting in the negative. Mr. Lucy asked if Ms. Duane was opposed to waiving the fine. Mr. Duane answered in the negative and stated that she was opposed to bringing this subject up at this time.

Ms. Duane made a motion, seconded by Mr. deFeyter, to conditionally approve the Minor Site Plan for Clementine Realty Trust conditionally upon four additional trees on the plans; trees must be planted by June 15, 1999; a Performance Guarantee for 50% of all site improvements; and this conditional approval will expire on December 3, 1998. Motion carried with Mr. Bergmann abstaining from voting.

ARBORVIEW COMPANY - FULL SITE PLAN REVIEW CONTINUED (MAP 65, PARCEL 33) FILE #FR98-13

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Jon Howe of Ammonoosuc Survey Company; Robert Roy, applicant; and Edward Labonville, applicant, appeared before the Board. Mr. Howe addressed the concerns from the last meeting. Mr. Howe stated that the site is short 7% of greenspace and a waiver has been submitted. Ms. Woodall read a waiver request for Article 123-30.B and the requirements to grant a waiver. Ms. Browne made a motion, seconded by Ms. Duane, to grant the waiver request for Article 123-30.B. Mr. Roy stated that they could easily move the retaining wall and meet the requirement. Mr. Bergmann asked about the sign and its conformity. Ms. Emerson stated that the Board has to review a waiver request on its own merit. Motion carried with Mr. Waterman abstaining.

Ms. Duane made a motion, seconded by Mr. Bergmann, to conditionally approve the Full Site Plan for Arborview Companies conditionally upon a Performance Guarantee for 50% of all site improvements; and this conditional approval will expire January 7, 1999. Motion unanimously carried.

HYDROKINETIC EFX LTD - FULL SITE PLAN REVIEW CONTINUED (MAP 12, PARCEL 40-7) FILE #FR98-14

Mr. deFeyter made a motion, seconded by Mr. Bergmann, to take the applications for Hydrokinetic out of order. Motion unanimously carried. Bob Gillis and David Couture appeared before the Board. Mr. Gillis stated that he is before the Board to confirm that the property was originally approved for car sales. Mr. Gillis stated that the plan hasn't changed [from file #FR98-06] and the abutters have been notified. Ms. Emerson stated that the application is complete. Ms. Duane made a motion, seconded by Ms. Browne, to accept the application of Hydrokinetic EFX LTD [File #FR98-14] for a full site plan review. Motion unanimously carried.

Mr. Bergmann asked what is the parking requirement. Ms. Emerson answered 1 parking space per 500 square feet. Mr. deFeyter stated that assuming this is retail, there are car sales on the front of the property and a towing service in the back. Mr. deFeyter stated that there are two (2) different uses on this property. Ms. Duane stated that this is where they store the tow trucks, not where they store the vehicles that they have towed. Mr. Couture stated that they are not selling cars in that area. Mr. deFeyter stated that there are State regulations that need to be complied with. Ms. Emerson submitted and read a letter from Peter Malia (attached). Ms. Emerson stated that the Board cannot discuss the State regulations. Ms. Duane stated that the Board should let the applicant deal with the State.

Ms. Woodall stated that the Board should address the parking. Mr. Bergmann stated that we should use the same calculations that was used for Crest Chevrolet. Ms. Woodall stated that she called the engineer for Crest Chevrolet. Mr. deFeyter stated that if the Board goes along with the 1 parking space per 500 square feet, then five (5) parking spaces are required. Ms. Woodall stated that there should be one parking space in the back for an employee. Ms. Woodall stated that four (4) new plans need to be submitted.

Ms. Duane made a motion, seconded by Mr. deFeyter, to conditionally approve the Full Site Plan for Hydrokinetic EFX LTD (File #FR98-14) conditionally upon four (4) new plans showing one (1) additional parking space; the word "Sales" needs to be added to the title block on the plans; add striping to the parking lot; and this conditional approval will expire on December 17, 1998. Motion unanimously carried.

HYDROKINETIC EFX LTD - FULL SITE PLAN REVIEW (MAP 61, PARCEL 30-1) FILE #FR98-15

Bob Gillis and David Couture appeared before the Board. Mr. Gillis stated that they want to add a caboose for office space and to allow car sales from this site. Ms. Emerson gave an overview of the project. Ms. Emerson stated that the proposed parking spaces are adequate for the proposed uses. Ms. Duane made a motion, seconded by Mr. Bergmann, to accept the application for Hydrokinetic EFX LTD [File #FR98-15] for a full site plan review. Motion unanimously carried.

Mr. Bergmann asked if there will be utilities to the caboose. Ms. Emerson answered in the affirmative. Mr. deFeyter stated that the cars should be out of the setback. Mr. Gillis stated that they are using existing

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pavement. Mr. deFeyter stated that there is a problem with the alignment into the car wash. Mr. Gillis stated that there are two (2) lanes going into the car wash. Mr. Gillis stated that currently they use the center lane and there is not a problem. Mr. Bergmann asked why the parking spaces are a different size. Mr. Gillis stated that cars that are for sale are parked closer than what you would normally park.

Ms. Woodall asked about the five (5) foot setback. Edgar Allen of Thaddeus Thorne Surveys stated that when this plan was originally approved it was approved with a five (5) foot setback. Mr. deFeyter stated that since this is a change-of-use it should be required to comply with the ten (10) foot setback. Ms. Emerson stated that it was originally approved with a five (5) foot setback so this would be a grandfathered situation. Ms. Woodall polled the Board on the five (5) foot setback on the South side of the property. Ms. Woodall, Ms. Browne, Ms. Duane and Mr. Waterman were in favor of the five (5) foot setback and Mr. Bergmann and Mr. deFeyter were opposed of the five (5) foot setback. It was the consensus of the Board that all setbacks will be ten (10) feet other than the southern property line which will have a five (5) foot setback.

There was a brief discussion on when car sales began and when licenses were obtained. Mr. Gillis stated that in 1995 they were approved for a wholesale license. Mr. Couture stated that they had a dealership license at the same time, but the Town did not have to be involved. Ms. Duane asked how they obtained a license. Mr. Couture stated that a retail license works with dealer plates. Mr. Couture stated that dealer plates have stricter regulations and you can be a retail seller without dealer plates. Mr. deFeyter stated that the Town and the State have no records.

Mr. deFeyter asked about parking for the rental customers. Ms. Woodall stated that two (2) parking spaces should be designated for customers. Mr. deFeyter stated that a handicap parking space also may be necessary. Ms. Emerson stated that two (2) parking spaces need to be designated for rental customers; the setback needs to be changed; a handicap parking space should be provided; street trees need to be added to the plan; and parking spaces need to be moved due to the increase in the setback. Ms. Duane made a motion, seconded by Mr. deFeyter, to continue the full site plan review for Hydrokinetic EFX LTD [File #FR98-15] until December 3, 1998. Motion unanimously carried.

**TOM & C REALTY, LLC. - CONDITIONAL APPROVAL EXPIRED (MAP 12, PARCEL 33C)
FILE #FR9810 & S98-16**

Mr. Bergmann made a motion, seconded by Ms. Duane, to deny the application for Tom & C Realty, LLC, because the time on the conditional approval has expired. Motion carried with Ms. Duane voting in the negative. Ms. Emerson stated that Tom & C Realty, LLC will be before the Board on December 3, 1998 and will have their attorney present. Mr. Bergmann made a motion, seconded by Mr. deFeyter, to have Town Counsel, Peter Hastings, present at the December 3, 1998, meeting. Motion unanimously carried.

CAPITAL IMPROVEMENTS PROGRAM (CIP) - PUBLIC HEARING

Ms. Woodall asked for public comment; there was no public present. Ms. Browne made a motion, seconded by Mr. deFeyter, to approve the CIP as amended. Motion unanimously carried.

Meeting adjourned at 10:44 p.m.

Respectfully Submitted,

Holly L. Meserve, Recording Secretary