

CONWAY PLANNING BOARD

MINUTES

JUNE 8, 2023

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CONWAY PLANNING BOARD

MINUTES

JUNE 8, 2023

A meeting of the Conway Planning Board was held on Thursday, June 8, 2023 beginning at 6:01 pm at the Conway Town Office, Conway, NH. Those present were: Chair, Benjamin Colbath; Selectmen’s Representative, Steven Porter; Secretary, Erik Corbett; Bill Barbin; Eliza Grant; Mark Hounsell; Alternate, Ted Phillips; Deputy Town Manager/Town Engineer, Paul DegliAngeli; and Planning Assistant, Holly Whitelaw. Alternate Debra Haynes was in attendance.

APPOINTMENT OF ALTERNATE MEMBER

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

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Porter made a motion, seconded by Mr. Barbin, to approve the Minutes of April 27, 2023 and May 11, 2023 as written. Motion carried unanimously.

AGENDA OUT-OF-ORDER

Mr. Porter made a motion, seconded by Ms. Grant, to take the agenda out-of-order. Motion carried with Mr. Hounsell present.

OTHER BUSINESS

Tarberry Company, LLC (File #NA23-10): This is a request to allow a temporary food truck from June through November 2023 at 2760 White Mountain Highway, North Conway (PID 218-43). Sheila Duane of the Tarberry Company appeared before the Board.

Ms. Duane stated this is one of the occupants of the food hall, Cheese Louise. Mr. Colbath stated he would prefer it to be located outback, rather than in front with the roadway traffic. Ms. Grant asked if it would take any parking spaces. Ms. Duane answered in the negative. Mr. Porter asked if it would be located up against the building. Ms. Duane answered in the affirmative.

Mr. Hounsell asked if there would be a toilet for the clients. Ms. Duane answered in the affirmative and stated there are bathrooms in the building. Mr. Colbath asked for public comment; there was none.

Mr. Hounsell made a motion, seconded by Mr. Porter, that the Planning Board determined that based on the provisions of §110-4. A.(5), regarding applicability, that a temporary food truck on the west elevation and or in the alley way through December 1, 2023 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. Motion carried unanimously.

Kennett Company/Continuum of North Conway, LLC (File #FR21-10 & #S21-11) – Request to extend conditional approval (PID 246-1 & 65/252-62/262-71.11): Shawn Bergeron of Bergeron Technical Services appeared before the Board.

Mr. Porter made a motion, seconded by Mr. Hounsell, to extend the conditional approval for Kennett Company/Continuum of North Conway, LLC until July 25, 2024. Motion carried unanimously.

Pine Hill Homeowners Cooperative, Inc. (File #FR22-05) – Request to extend conditional approval (PID 262-79):

Mr. Porter made a motion, seconded by Ms. Grant, to extend the conditional approval for Pine Hill Homeowners Cooperative, Inc. until June 13, 2024. Motion carried unanimously.

SETTLERS R2, INC. (FILE #FR23-06 & #S23-07) – CONCURRENT FULL SITE PLAN AND UNIT SUBDIVISION REVIEW (PID 235-89)

Mark Lucy of Horizons Engineering, Rob Barsamian of OVP Management and Derek Lick of Orr & Reno appeared before the Board. Roger Williams of OVP Management was in attendance. Mr. Barbin stepped down at this time. This is an application to change the permitted use of Building O from 2,323 SF of personal service and 2,323 SF of business service establishment to 3,705 square feet of dining space and create a commercial unit subdivision at 39 Common Court, North Conway.

Mr. Porter made a motion, seconded by Mr. Corbett, to allow a concurrent site plan and subdivision review of this project. Motion carried unanimously.

Mr. Porter made a motion, seconded by Mr. Corbett, to accept the application for a concurrent full site plan and unit subdivision as complete with the staff report. Motion carried unanimously.

Mr. Lick stated a larger building was approved as part of the Market Basket approval. Mr. Lick stated the building footprint is being reduced, and the use is changing to a restaurant with drive-thru. Mr. Lick stated the 10,000 square foot restaurant proposed for Building G [File #FR22-09] has been withdrawn. Mr. Lick stated the parking proposal is using a substitute standard, and it is exactly the same parking standard used when Market Basket was approved.

Mr. Lucy reviewed the project. Mr. Lick submitted a photo of the building to the Board, and indicated that the dumpster screening will be similar to what is at Settlers Green currently. Mr. Lucy stated the greenspace became non-compliant with the change in the code. Mr. Lick stated they received a letter of support this afternoon from Market Basket.

Mr. Colbath asked for Board comment; Mr. Corbett stated the bird's eye's view photo does not show mechanicals on the roof. Mr. Williams stated they will be on the ground. Mr. Barsamian stated they would be on the ground and screened. Mr. Colbath asked if it would reduce the greenspace.

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Mr. Porter stated he does not like the architecture, and would like to see more of a New England style architect; this is a footprint plan for Panera. Mr. Barsamian disagreed and stated there are seven different types of materials. Mr. Colbath stated he appreciates the effort at breaking up the building, but it is not our standard. Mr. Hounsell stated McDonald's was recently here and we went through quite a bit of work with a remodel, but this is a new building; not sure why it can't be designed to meet the regulations.

Mr. Colbath stated a greenspace waiver might be required without the mechanicals being shown. Mr. Barsamian suggested leaving the greenspace as is and they will redesign of the building.

Mr. Corbett stated he has concern with the flow of traffic and backing up. Mr. Barsamian stated there are many ins and outs out of Market Basket. Mr. Barsamian stated 11:30 – 2:30 is the busiest time for the restaurant, and will not have a stacking problem. Ms. Grant stated she would like to see parking spaces removed for greenspace; there is plenty of parking. Mr. Barsamian stated they can probably meet the criteria without taking parking away.

Mr. Hounsell stated he is concerned with stacking. Mr. Barsamian stated their average ticket is 45 seconds, they do a lot on their app. Mr. Hounsell asked where does the stacking go if it is full. Mr. Barsamian answered into the parking area. Mr. Colbath stated stacking in a parking lot is better than on Route 16. Mr. DegliAngeli stated we don't want them to stack behind cars that are parked. Mr. DegliAngeli asked what is the linear feet from the window to the parking lot. Mr. Lucy answered 160-feet, 8 spots.

Mr. Colbath asked for public comment; Roy Tilsley reviewed his letter dated 06/07/23 [in file]. Mr. Tilsley stated he thinks the drive-thru is a significant change and concerned with traffic in this area as this is an access point for Market Basket. Mr. Tilsley stated this might be fine for Panera, but it could change with a different tenant. Mr. Tilsley stated this is not designed for the type of traffic from Market Basket and now to a restaurant. Mr. Tilsley stated the site distance looks iffy. Mr. Tilsley stated this is going to be a crowded area and is only going to be more crowded. Mr. Tilsley stated this should require an internal traffic study to address those issues.

Mr. Tilsley stated Market Basket was approved under a different parking standard, and a different version was used for their calculations on Building G. Mr. Tilsley stated we are concerned with the different versions with each application; if the Board is going to allow substitutions, they should be consistent. Mr. Tilsley stated they should use the most current version of ULI; that would better reflect the current standards. Mr. Tilsley stated the other issue with parking is §110-21.D.(1) requires that off-site parking be within 400-feet of the property line of the applicant's lot.

Mr. Colbath stated we allow multiple alternative standards. Mr. DegliAngeli agreed. Mr. Tilsley stated it makes sense to use the most current version. Mr. Tilsley stated parking spaces are more than 400-feet and there is no waiver request. Mr. Tilsley stated his client's concern is that they are going to park at the hotel as they are closer. Mr. Tilsley stated the 1675 lot has an easement for parking for Merlino's, and those spaces have not been included in this application.

Mr. Tilsley stated internal traffic is an issue, internal stacking is an issue and site distance on Roger Road is an issue; a study needs to be done. Mr. Hounsell stated he doesn't see how a restaurant with 18-seats and 8-cars waiting will impact the hotel.

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Mr. Lick stated the 400-foot issue was an issue previously brought up when the other building was being proposed; he thinks this is a non-issue. Mr. Lick stated the parking standard proposed today, ULI Shopping Center Second Edition, was used last time around and was approved last time around. Mr. Lick stated the Court sent an application back to the Board to make sure the Board was satisfied with their April 2020 decision where the Board found that the 1999 ULI, which had routinely been applied to other projects, was suitable for projects.

Mr. Lick stated there is plenty of site line from Building O onto Roger Road. Mr. Lick stated they come in one-way and go out another. Mr. Barsamian showed photos of the two busiest days of the year, Black Friday and Bring-a-Friend, to the Board.

Mr. Colbath asked if they have done any internal traffic studies on how much can Roger Road handle and the site line. Mr. Barsamian stated Roger Road is more of a connector, and what we are doing with sidewalks is a way to get around. Mr. Barsamian stated from a pedestrian standpoint, it cannot get any safer. Mr. Barsamian stated they don't think an internal traffic study is necessary, this is probably the least traffic area in the shopping center.

Mr. Hounsell asked Mr. DegliAngeli if he feels an internal traffic study is necessary. Mr. DegliAngeli stated he does not think a traffic study is warranted internally here. Mr. Colbath stated his concern is the site line leaving the drive-thru. Mr. DegliAngeli stated he and Mr. Lucy could answer that without too much effort. There was a brief discussion regarding sidewalks, and Mr. Barsamian agreed to add slow signs.

Mr. DegliAngeli stated we have problems with our drive-thru restaurants using Route 16 as part of their que and requested supporting documentation for this proposed restaurant. Mr. Barsamian agreed to provide that information.

Mr. Porter made a motion, seconded by Ms. Grant, to continue the concurrent site plan and unit subdivision review for Settlers R2, Inc. until July 13, 2023 at 7:00 pm with new information to be submitted by June 20, 2023. Motion carried unanimously.

THE RESIDENCES AT SACO RIVER, LLC (FILE #FR23-07 & #S23-08) – CONCURRENT FULL SITE PLAN AND 2-UNIT SUBDIVISION REVIEW (PID 246-23)

Mark Lucy of Horizons Engineering, Rob Barsamian of Settlers Green and Derek Lick of Orr & Reno appeared before the Board. Mr. Barbin rejoined the Board at this time. This is an application to construct 228 residential dwelling units, 15 townhouses, a 5,675 square foot clubhouse with associated infrastructure and create a 2-unit subdivision at 1552 White Mountain Highway, North Conway.

Mr. Porter made a motion, seconded by Ms. Grant, to allow a concurrent site plan and subdivision review of this project. Motion carried unanimously.

Mr. Porter made a motion, seconded by Mr. Barbin, to accept the application for a concurrent full site plan and unit subdivision as complete with the staff report. Motion carried unanimously.

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Mr. Lucy stated they were allowed a density increase through the ZBA, and the owner upped the required 25% to be rental units to 40%. Mr. Lucy stated 61 units less than 1,000 SF and 36 units greater than 1,000 SF will remain as long-term rentals; that is 97 deed-restricted units for long term rentals for 20-years. Mr. Lucy stated the townhouses will be sold for market rate.

Mr. Lucy reviewed the project and went through Will Haskell's staff report dated 05/31/23.

Mr. Colbath asked for public comment; Bill Christopher, representing the owners of Northway Plaza Shopping Mall and the Druker Company, stated we are willing to work with the applicant but they have some concerns with the plans and how the applicant will be dealing with traffic and vehicular traffic. Mr. Lucy stated we have brought a connecting drive to the property line. Mr. Lucy stated the NHDOT wanted us to close the southern drive on the Northway Plaza property, but we don't want anything to do that.

Jim McQueen asked about water access, and if there will be a beach or a place where they can put their boats in. Mr. Lucy stated there is nothing proposed at this time.

Mr. Colbath asked for Board comment; Mr. Hounsell stated the amount of traffic off of Sawmill Lane is concerning as that is a strange intersection and it is not easy. Mr. Hounsell stated he has this vision that there is going to be a problem there, and he's not sure if that is our business or the State's business. Mr. Lucy stated neither intersection warrant a traffic signal.

Mr. Colbath asked if they are willing to put false windows on the gable ends of the garage buildings. Mr. Barsamian agreed. Ms. Grant asked if an environmental assessment been done. Mr. Lucy answered in the affirmative and stated it was done by S.W. Cole. Mr. Hounsell stated he is concerned about the river, and he is keen on protecting our ground water. Mr. Hounsell stated you might have to provide some restrictions to the river as the creation of a beach might take place due to human activity.

Ms. Whitelaw read a waiver request for §110-30.C.(3). **Mr. Hounsell made a motion, seconded by Mr. Barbin, to grant the waiver for §110-30.C.(3) contingent upon false windows being added to the gable ends of the garage buildings and striking the maintenance building from the waiver request.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Ms. Whitelaw read a waiver request for §110-20.F./§130-66.C.(2)(a). **Mr. Porter made a motion, seconded by Mr. Phillips, to grant the waiver for §110-20.F./§130-66.(2)(a).** Mr. Colbath asked for Board comment; Mr. DegliAngeli asked if the plan shows granite from Route 16 to the edge of the right-of-way line. Mr. Lucy answered in the affirmative. Mr. DegliAngeli stated bituminous is proposed elsewhere. Mr. DegliAngeli stated he does not have a concern with this waiver request. **Motion carried unanimously.**

Ms. Whitelaw read a waiver request for §110-29.E.(8). **Mr. Porter made a motion, seconded by Mr. Hounsell, to grant the waiver request for §110-29.E.(8).** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Porter made a motion, seconded by Ms. Grant, to continue the concurrent site plan and unit subdivision review for The Residences on the Saco, LLC until July 13, 2023 at 7:00 pm. Motion carried with Mr. Barbin voting in the negative and Mr. Colbath voting as present.

OTHER BUSINESS CONTINUED

Selectmen's Report: There was no report.

Issues for Consideration: Mr. DegliAngeli stated that staff is requesting we move to one Planning Board meeting a month which would be the first of the month. Mr. DegliAngeli stated this will make it possible to have complete applications without problems.

Mr. Hounsell made a motion, seconded by Mr. Barbin, to conduct one meeting of the Planning Board per month from now until January 2024. Mr. Colbath asked for Board comment; Mr. Hounsell stated he recognizes this is the right thing to do under the circumstances. Mr. Colbath asked if the motion could be amended to unless a new planner is hired sooner. Mr. Hounsell stated he would rather make a new motion if that changes. **Motion carried unanimously.**

Media Questions: Tom Eastman asked the Board questions regarding Jamel Torres, Planning Director's, resignation.

Meeting adjourned at 9:28 pm.

Respectfully Submitted,

Holly L. Whitelaw
Planning Assistant