

CONWAY PLANNING BOARD

MINUTES

JANUARY 18, 2000

A meeting of the Conway Planning Board was held on Tuesday, January 18, 2000, beginning at 7:00 p.m. at the Conway Police Department in Center Conway, NH. Those present were: Chair, Catherine Woodall; Selectmen's Representative, Gary Webster; Vice Chair, Sheila Duane; Stacy Sand; Arthur Bergmann; Robert deFeyter; John Waterman; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

The minutes of December 16, 1999, should be amended as follows: page 2, paragraph 3, line 1, should read, "...not affect this amendment..."; page 3, paragraph 1, line 5, should read, "...or any commercial district..."; page 3, paragraph 6, line 3, should read, "...built up much like Route 1 in Saugus already..."; page 4, paragraph 3, line 2, should read, "...that's limited. Steve..."; page 5, paragraph 1, line 1, should read, "...deFeyter indicated that Mr. Moore stated that the Town of Seabrook had some of these businesses before the ordinance was in place and they were difficult to control. Mr. deFeyter..."; page 5, paragraph 5, line 5, should read, "...legal opinion. It was agreed that no legal opinion was requested."; page 5, paragraph 7, line 3, should read, "... Ms. Woodall asked that if you don't..."; page 6, paragraph 2, line 5, should read, "... supported the increase of expenditure on the landfill..."; and per the memo titled Changes to the Dec. 16, 1999 minutes for the adult entertainment public hearing (attached).

Ms. Sand made a motion, seconded by Ms. Duane, to continue the Minutes of January 6, 2000. Motion unanimously carried.

The public hearing was opened at 7:10 p.m. Randy Cooper appeared before the Board. Mr. Cooper thanked the Board for allowing this to be a board-sponsored amendment. Mr. Cooper stated that he appreciates the Board's help. Mr. Cooper stated when the Planning Board recommended and the Town adopted the Special Highway Overlay District a substantial portion of the hospital grounds were included in that district. Mr. Cooper stated by being the only hospital in Town and a regional hospital for the area, we are now in a position with this that has a dramatic effect on what you can do to the hospital in the future. Mr. Cooper stated that the zoning ordinance has to be somewhat flexible, which doesn't mean it cannot be changed a year from now to require a special exception.

Mr. deFeyter stated that when the district was set up there were a lot of hearings and considerations to the hospital. Mr. deFeyter stated that the impact and the setbacks were looked at very closely. Mr. deFeyter stated that there was a person on the Planning Board that was on the staff for the hospital. Mr. Cooper stated if that is so the management never understood it. Mr. Cooper stated that he would like to research the minutes. Mr. Bergmann stated that in a letter Mr. Cooper stated that the hospital has been working on this for a year and a half. Mr. Cooper agreed. Mr. Bergmann asked why at the eleventh hour, at the last possible moment, the Board is being asked for a public hearing.

Gary Paquette, Executive Director, stated that they were not aware of any expansion or location of an expansion until a few months ago. Mr. Paquette thanked the Board for hearing this amendment this evening. Mr. Paquette reviewed the time frame of this project with the Board. Mr. Paquette stated that the hospital started this process approximately 18 months ago. Mr. Bergmann asked why this was not brought to us in October or November. Mr. Paquette stated that Marty Risley of H.E.B. Civil Engineers did not come in until November and he will discuss when the problem was discovered.

Ms. Woodall asked if the proposed Emergency Department is to be connected to the hospital. Mr. Paquette answered in the affirmative. Ms. Woodall stated that this is a grand fathered structure. Mr. Cooper stated

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that this does not cover expanding into the setback area. Mr. Paquette reviewed the existing plan. Susan Perrault stated that this facility has gone from an in-patient facility to an outpatient facility. Ms. Perrault stated that there are outpatient services that are undersized and poorly organized. Ms. Perrault stated that there is certainly no space and over time we have needed more space for patients. Ms. Perrault stated if we could move the emergency department that would free up some space and allow us to enhance other services such as Cardiac Rehab and Oncology/Chemotherapy. Ms. Perrault stated that both programs have grown significantly over the past couple of years.

Ms. Perrault stated that surveys have shown that registration does not have enough space or privacy. Ms. Perrault stated that the laboratory would be reconfigured for privacy and space. Ms. Perrault stated that this would be a state of the art emergency department. Ms. Perrault stated that they hope to provide adequate space for waiting, storage and staff space. Marty Risley showed conceptual plan of the expansion to the Board. Mr. Risley stated the hospital came to him in November and they started in late November. Mr. Risley stated that he noticed the conflict in the zoning boundaries and setbacks and spent some time reviewing the options. Mr. Risley stated that he approached Mr. King approximately December 9, 1999. Mr. Risley stated that there was confusion in the time frame for zoning changes. Mr. Risley stated that is how we got to this point. Mr. Risley stated that there was no intention of springing this on any one.

Mr. Risley stated that there are more than 30 parking spaces and he looked at a number of different options and this is the one that best meets the needs. Mr. Risley stated that he questions if it can be expanded toward the hospital as it is suppose to go away from the area which is being protected. Ms. Woodall stated that under Article 147-14.2.(H)(5) the buffer area could be reduced. Ms. Woodall read that section and asked why it that cannot be done. Mr. Risley stated that the provision states you cannot have over 5,000 square feet and the existing facility is over 5,000 square feet. Mr. Risley stated that the expansion has to be away from the buffer area. Mr. deFeyter stated that he would agree that it has to be away from the buffer.

Mr. Risley stated that the helipad is far less than 30 feet from the highway and it needs to be in that location. Mr. Risley stated that trees would have to be removed within the reduced thirty foot buffer area. Mr. Risley stated that the parking needs to be greater than 30 cars in order to meet the requirements. Ms. Woodall asked if the helipad will still be in the Highway Commercial District within 25 feet. Mr. Risley stated that it is not a right-of-way. Ms. Woodall stated if it is platted it is. Ms. Duane stated if the hospital owns the land it is not a right-of-way. Mr. Cooper stated if there was any other way of changing the zoning he would have recommended that particular course. Mr. Cooper stated that he is there to work with clients for the path that has the least resistance. Mr. Cooper asked if there is a better way of doing this, yes; today, no. Mr. Cooper stated that a special exception may be the better way to approach it.

Mr. Bergmann asked if the State has been involved with the location of the helipad and cutting of trees. Mr. Cooper stated that he did not know. Mr. Bergmann stated the State may have something to say about it being that close and the removal of trees. Mr. deFeyter stated that the State has agreed to keep it wooded. Mr. Cooper stated that we cannot pick up the hospital and move it. Mr. deFeyter stated that this is where people are going to go onto the bypass and this is what they are going to see. Mr. deFeyter stated that the whole concept wasn't for an urban situation, but to feel like a forested parkway running through the valley.

Mr. deFeyter stated that the EPA funded a consultant for 18 months and he would assume that the hospital would have known what going on. Mr. deFeyter stated that there was a lot of time spent going over this. Mr. deFeyter stated that they are grand fathered. Mr. deFeyter stated that they can build and expand away from the bypass area. Mr. deFeyter stated that he is flabbergasted at the location of the helipad and flying the damn thing over the bypass. Mr. deFeyter stated that there are ways to expand. Mr. deFeyter submitted copies of Chapter 14B of the Master Plan to the Board. Mr. deFeyter stated it discusses basically what we want to achieve. Ms. Duane stated under purpose it refers to "quality of life and general welfare".

Mark Hounsell stated that we write laws and ordinances, but we don't write them in stone. Mr. Hounsell stated the people should be able to decide. Ms. Woodall stated that it can be done with a variance. Mr. deFeyter stated that there needs to be some flexibility, but what they are proposing is for any pre-existing hospitals to be exempt. Mr. deFeyter stated that they do not want to be effected by that district at all and

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they can do anything. Mr. Hounsell stated that it is a uniqueness having a hospital in a community. Mr. Hounsell stated that there is a compelling need for that piece of land and it is the only land available.

Jac Cuddy asked if the propose of the meeting is to determine whether or not this goes before the voters. Ms. Woodall answered in the affirmative. Mr. Cuddy stated that he has been a part of the process for a long time. Mr. Cuddy stated that the Special Highway Corridor District was worked upon because the EPA needs to permit the highway. Mr. Cuddy stated that the Town of Conway would take natural steps to prevent new development along the highway and become another strip. Mr. Cuddy stated that this was not to be a prudent measure for business, but for strips. Mr. Cuddy stated regardless of when this was it was never discussed at public hearings. Mr. Cuddy stated that the voters should be allowed to vote on this. Mr. Cuddy stated that this effects everybody, not just a particular business that is self-serving. Mr. Cuddy stated that the Board should allow the voters this important decision.

Mr. deFeyter stated that this is not a petitioned article, but a Planning Board article and if it is recommended tonight than it is in effect immediately until the election. Mr. Cooper stated that it will be at the builder's risk. Dr. Simmons stated that this facility is not about patient care as it is a very difficult place for patients to be. Dr. Simmons stated to put the emergency department in a different location would be to relocate everything. Dr. Simmons stated that the emergency department is very small and this is something good for the people. Ms. Woodall asked what if the State doesn't agree with the location of the helipad, then what happens. Mr. Cooper stated that the State does not have jurisdiction over the FAA. Mr. Cooper stated that he doesn't see any problem with the State, but he could be wrong. Mr. Cooper stated that it is for emergency situations.

Ms. Woodall asked why you cannot seek a variance instead of exempting hospitals from the ordinance. Mr. Cooper stated that it is difficult in this State to obtain a variance. Mr. Cooper stated that it is not an unnecessary hardship because it is a hospital; it has to be a hardship in the land itself. Ms. Woodall stated that she doesn't know if she would agree. Mr. Bergmann stated that the only reason they are here is because they do not think they can obtain a variance. Mr. Cooper stated that it is his job to find a way that helps his client and the community.

Katherine Duane stated that she hopes the Board will allow the voters to vote as this is their hospital. Ms. K. Duane asked why the people cannot vote on it. Ms. K. Duane stated that the people should have a say on this amendment. Mr. deFeyter stated that he thinks there are other ways to do this. Mr. deFeyter stated that there should be some flexibility, but what is proposed is to completely exempt hospitals. Mr. deFeyter read the last paragraph from a letter from Peter Hastings. Mr. deFeyter stated that Town Counsel thinks it is contrary to the Town's Master Plan as it is suppose to be a forested byway. Mr. Cuddy stated that it is important that this community support the overlay district, but not to be punitive to an existing facility that is necessary to this community.

Ms. Sand stated that she agrees with trees and that, but if you need to be flown to Dartmouth for emergency services then they are not appropriate. Ms. Sand stated that she does not think this is conflicting. Ms. Sand stated that the hospital has researched their master plan for the past 18 months and they need to increase their service. Mr. Waterman stated that he feels strongly that this needs to go to the voters. Mr. Waterman stated that something should be done so this doesn't happen again. Mr. Irving read his recommendations. Wesley Palmer, President of the Board of Trustees, stated that he was not aware that the Special Highway Corridor District effected the hospital. Mr. Palmer stated when we became aware of this they tried to deal with it as best they could. Mr. Palmer stated that the Board may be making a decision that is contrary to the master plan, but you will be giving the community the opportunity to say we want the hospital to be the best it can be. Mr. Palmer stated that this is the absolute best option. Mr. Palmer stated that it is a need that needs to be addressed in the short term.

Mr. deFeyter stated if the President of the Board of Trustees did not know this then you have not exhausted all the ways to expand the hospital. Mr. deFeyter stated that the hospital services an important function and it services the whole valley. Mr. deFeyter stated that the signatures on the amendment are not all Conway residents. Mr. deFeyter stated that this needs to be done right. Mr. deFeyter stated that he would support this amendment if there was no other way of doing it, but it needs to be explored. Mr. deFeyter stated if

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you just found out about this then you haven't had that opportunity. Mr. Palmer stated that this is a volunteer board and a community board. Mr. Palmer stated that we are sitting there with the community in mind. Mr. Palmer stated that this is the best location for the best health care. Mr. Palmer disagrees that they haven't done their homework. Mr. Palmer stated if the community is given the option they would allow the hospital to move forward. Mr. Palmer stated that he thinks the hospital wins out over green space.

Mr. Cuddy stated that the hospital has done an excellent job on location in the valley. Mr. Cuddy stated that this is not an industrial park or retail space. Mr. Cuddy stated that the reason is to provide a service to this community. Ms. Woodall stated that there are five reasons to grant a variance and hardship is one. Mr. Cooper stated that it is the hardest one to prove. Ms. Woodall stated what you are arguing is a hardship. Mr. Cooper stated that it is a hardship to the land itself and not the use. Ms. Woodall stated it is basically arguing economics. Mr. Cooper disagreed.

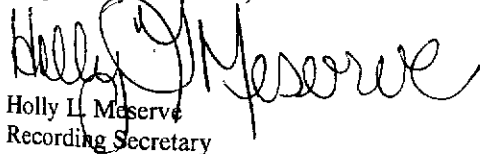
Ms. Sand made a motion, seconded by Ms. Duane, to adopt the amendment for Article 147-14.2(e) as written. Ms. Woodall stated that variances are good, useful tools that can be used to work around things. Ms. Woodall stated that she does not see where you are guaranteeing that you will work in the best interest of the Town. Mr. Cooper stated that that is absolutely incorrect. Mr. Cooper stated that this is the quick and easiest way. Mr. Cooper stated that it would help to have workshops. Ms. Woodall asked when is the expected start date. Mr. Cooper answered June, 2000. Mr. Bergmann stated that the amendment goes too far. Mr. Bergmann stated that they can do anything in the overlay district and he doesn't think it should be accepted the way it is. Ms. Woodall closed the public hearing at 8:40 p.m. Mr. deFeyter stated that he doesn't think the Board has any intention of not working with the hospital. Mr. deFeyter stated that this is not a band-aid, but a hemorrhage. **Motion carried with Ms. Woodall, Mr. Bergmann and Mr. deFeyter voting in the negative.** Mr. Cooper thanked the Board.

Ms. Duane made a motion, seconded by Ms. Sand, to continue the minor site plan review for M & P Partners LTD Partnership until February 3, 2000. Motion unanimously carried.

Ms. Sand made a motion, seconded by Mr. Bergmann, to adjourn. Motion carried with Mr. deFeyter voting in the negative.

Meeting adjourned at 8:47 p.m.

Respectfully Submitted,


Holly L. Meserve
Recording Secretary