

CONWAY PLANNING BOARD

MINUTES

JUNE 28, 2007

A meeting of the Conway Planning Board was held on Thursday, June 28, 2007 beginning at 7:03 pm at the Conway Town Office in Center Conway, NH. Those present were: Chair, Robert Drinkhall; Selectmen's Representative, Larry Martin; Secretary, Steven Porter; Sean McFeeley; Theodore Sares; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Porter made a motion, seconded by Mr. Sares, to approve the Minutes of June 14, 2007 as written. Motion unanimously carried.

NORTH CONWAY PLAZA, LLC/THE DRUKER COMPANY – MINOR SITE PLAN REVIEW (PID 246-24 & 24.001) FILE #MR07-01

Jay Poulin of H.E. Bergeron Engineers appeared before the Board. This is an application to modify the façade and loading dock. **Mr. Porter made a motion, seconded by Mr. McFeeley, to accept the application of North Conway Plaza, LLC/The Druker Company for a Minor Site Plan Review as complete. Motion unanimously carried.**

Mr. Irving stated once staff received the dimensions of the parking lot layout we thought the applicant may be able to improve the parking and mentioned a possible solution. Mr. Irving asked if a Hydrangea needs a lot of water. Mr. Poulin answered in the negative and stated not according to John Wacker, the landscape architect.

Mr. Sares stated this is a classic case of responsiveness and the proposal looks good. Mr. Drinkhall asked if Mr. Sares was okay without street trees. Mr. Sares answered in the affirmative. Mr. Porter asked why the applicant could not do the proposed changes to the parking lot and add street trees. Mr. Poulin stated that the proposed layout of the parking lot is unconventional. Mr. Poulin stated that there would be less aisles and it doesn't make sense from the applicant's standpoint, as it would not be marketable. Mr. Poulin stated that aisles for pedestrians are necessary. Mr. Poulin recommended leaving the parking layout as it is. Mr. Drinkhall stated he has seen plazas laid out that way and it has worked and he would prefer the proposed layout, as street trees would be added. Mr. Drinkhall asked for public comment; there was none.

Mr. Porter asked if we were to broach the subject regarding street trees how adamant is the applicant against street trees. Harold Dennis, Executive Vice President for the Druker Company, stated they have nothing against street trees, but there is a very narrow sloped area where street trees will not survive. Mr. Porter stated with the way it is laid out it won't work, but there was a possible opportunity to revise. Mr. Dennis stated that tenants

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just don't like that type of layout and he cannot think of any shopping centers that have that type of layout. Mr. Dennis stated that this is the standard way and it provides easy access to the retail stores. Mr. Drinkhall stated he would like to see street trees since the T.J. Maxx façade is not being redone.

Mr. McFeeley stated that he agrees with turning the parking lot layout and removing a few spaces to add an additional aisle. Mr. McFeeley stated that tenants don't really look at parking lot layouts, but foot traffic. Mr. Sares asked if the Board talked about this last time. Mr. Drinkhall stated that the Board did not have this information the last time. Mr. McFeeley stated that the Board did not have the dimensions of the parking lot at that time. **Mr. Sares stated otherwise we could be giving them a head fake.** Mr. Porter stated that he would like to see street trees. Mr. Porter stated that the Board did discuss street trees and shrubbery, but if we cannot get the street trees then he accepts that and should move forward. Mr. Porter stated that this site has been empty for a long time.

Mr. Drinkhall stated he is stubborn as there is only 7% greenspace and there are no **street** trees on the site. Mr. Porter stated the Board should take a common sense approach as the site is short on a lot of issues, but this site has been developed since the early 1980's. Mr. Porter stated that the Board should not penalize the applicant. Mr. Porter stated that the site has been empty for a long time and the Board should move forward and get a viable tenant. Mr. Porter stated for the most part the applicant has done what the Board has asked.

Mr. Martin asked if trees could be located at the north end of the parking lot. Mr. Poulin stated there is limited space and it is the only place for snow storage, plus it is steep. Mr. Sares stated there was a compromise at the last meeting where the Board **pressed for** shrubbery. Mr. McFeeley stated that he would love to see improvements to the parking, but the applicant has fulfilled what the Board asked.

Mr. Drinkhall read the requirements to grant a waiver. Mr. Drinkhall read the waiver requests for §123-20.C.; §123-20.F/131-67.C.8.a & §123-27; §123-20.F/131-67.C.8.b; §123-20.F/131-67.C.8.f; §123-21.A; §123-22.C; §123-22.D; §123-29.A.2 & A.3; §123-29.B; §123-29.D.1; §123-29.D.6 & D.7; and §123-30.A.3. **Mr. Porter made a motion, seconded by Mr. McFeeley, to grant the waivers for §123-20.C.; §123-20.F/131-67.C.8.a & §123-27; §123-20.F/131-67.C.8.b; §123-20.F/131-67.C.8.f; §123-21.A; §123-22.C; §123-22.D; §123-29.A.2 & A.3; §123-29.B; §123-29.D.1; §123-29.D.6 & D.7; and §123-30.A.3.** Mr. Drinkhall asked for Board comment; Mr. Martin stated he would vote in favor of these waivers, but had this not been an existing site there is no way he would have voted for so many waivers. Mr. Porter agreed with Mr. Martin. Mr. Drinkhall asked for public comment; there was none. **Motion unanimously carried.**

Mr. Drinkhall read the waiver request for §123-29.D.8. **Mr. Porter made a motion, seconded by Mr. McFeeley, to grant the waiver for §123-29.D.8.** Mr. Drinkhall asked for Board comment; Mr. Porter stated that he is inclined to grant this waiver because it is a grand fathered, non-conforming site and shouldn't push the issue to not let a tenant in.

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Mr. Drinkhall asked for public comment; there was none. **Motion carried with Mr. Martin and Mr. Drinkhall voting in the negative.**

Mr. McFeeley made a motion, seconded by Mr. Porter, to conditionally approve the Minor Site Plan for North Conway Plaza, LLC conditionally upon address the deficiency list dated 06/20/07; North Conway Fire Chief Approval; NHDOT driveway permit and indicate approval number on plan; update waivers granted table as necessary; a performance guarantee for site improvements; when the conditions have been met, the plan can be signed out-of-session; and this conditional approval will expire on September 27, 2007. Mr. Drinkhall asked for Board comment; there was none. **Motion unanimously carried.**

**CHILDREN UNLIMITED, INC – FULL SITE PLAN REVIEW (PID 277-305)
FILE #FR07-14**

Jay Poulin of H.E. Bergeron Engineers and Jackie Sparks of Children Unlimited appeared before the Board. This is an application to demolish the existing building and construct a new 11,828 square foot facility with associated infrastructure. **Mr. Porter made a motion, seconded by Mr. Martin, to accept the application of Children Unlimited, Inc. for a Full Site Plan Review as complete. Motion unanimously carried.**

Mr. Drinkhall asked for public comment; there was none.

Mr. Drinkhall read the waiver requests for §123-20.G. and §123-29.D.8. **Mr. Porter made motion, seconded by Mr. Martin, to grant the waiver requests for §123-20.G. and §123-29.D.8.** Mr. Drinkhall asked for Board comment; there was none. Mr. Drinkhall asked for public comment; there was none. **Motion unanimously carried.**

Mr. Irving requested that the application be continued so the Town Engineer could review the plans. **Mr. Porter made a motion, seconded by Mr. McFeeley, to continue the Full Site Plan Review or Children Unlimited, Inc until July 12, 2007. Motion unanimously carried.**

**AMETHYST HILL PROPERTIES – FULL SITE PLAN REVIEW CONTINUED
(PID 202-14) FILE #FR07-10**

This is an application to construct a self-service commercial fuel station with a 10'x12' maintenance building, two underground fuel storage tanks and a 24' x 26' canopy. This application was accepted as complete on May 10, 2007.

Mr. Irving stated that the applicant has requested a continuance in order to apply to the Zoning Board of Adjustment for overhead utilities. **Mr. Porter made a motion, seconded by Mr. McFeeley, to continue the Full Site Plan Review for Amethyst Hill Properties until July 26, 2007. Motion carried with Mr. Sares abstaining from voting.**

**HAROLD WHITAKER AND THOMAS FADDEN – 33 – LOT SUBDIVISION
REVIEW CONTINUED (PID 265-127 & 128.1) FILE #S07-04**

Jay Poulin of H.E. Bergeron Engineers appeared before the Board. This is an application to subdivide 81.4 acres into 33-lots with associated road and infrastructure. This application was accepted as complete on March 22, 2007.

Mr. Drinkhall read the waiver request for §131-68, Table 2, Minimum centerline offset from adjacent intersection (3 driveways off Mason Ridge Way cul-de-sac); §131-68, Table 2, Approach Speed; and §131-68, Table 2, Intersection and roadway grades. **Mr. Porter made a motion, seconded by Mr. Martin, to grant the waiver for §131-68, Table 2, Minimum centerline offset from adjacent intersection (3 driveways off Mason Ridge Way cul-de-sac); §131-68, Table 2, Approach Speed; and §131-68, Table 2, Intersection and roadway grades.** Mr. Drinkhall asked for Board comment; there was none. Mr. Drinkhall asked for public comment; there was none. **Motion unanimously carried.**

Mr. Martin made a motion, seconded by Mr. Porter, to conditionally approve the Subdivision for Harold Whitaker and Thomas Fadden conditionally upon Town Engineer Approval; NHDES Subdivision Approval and indicate approval number on plan; NHDES Site Specific Approval and indicate approval number on plan; NHDES Dredge and Fill Approval and indicate approval number on plan; providing recorded easements for all proposed easements; clarifying proposed underground utilities on all applicable plan sheets; renumbering proposed easements on Sheet 6; revising Waiver Granted Table as necessary; original Stamp and Signatures of Wetland Scientist, PE and Surveyors on final plan sets; submitting at least four plan sets (three to remain with Town); submitting Mylar's for recording; a performance guarantee for all site improvements; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on September 27, 2007. Motion unanimously carried.

BARRY LIGHTBOWN – FULL SITE PLAN REVIEW CONTINUED (PID 230-108) FILE #FR07-13

Doug Burnell of H.E. Bergeron and Barry Lightbown, owner, appeared before the Board. This is an application to renovate existing building, new tree and landscaping and repaving and reconfiguration of parking. This application was accepted as complete on June 14, 2007.

Mr. Burnell stated that after the last meeting the applicant reviewed the site to see what would work to buffer the site from the neighbors. Mr. Burnell stated that Mr. Belkin was concerned with looking at the dumpster, but still wanted a view and the McGlaufflin's were concerned about the top of the bank. Mr. Burnell stated that the applicant has proposed to plant arborvitaes at the top of the slope which would immediately block the

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whole site as well as the same arborvitaes around the dumpster which would help the Belkin's. Mr. Burnell stated that the applicant added specific ground cover.

Mr. Burnell stated that there was an issue with street trees being too far back so they are being moved to be within 15-feet of Route 16. Mr. Irving stated by putting the trees within the fifteen feet a waiver is not needed. Mr. Sares stated that he is concerned with erosion and with a couple of heavy downpours there may be some problems. Mr. Sares stated that it is a steep slope and only way to address it is to add planting. Mr. Lightbown stated that the trees cut down are growing back. Mr. Sares stated that he still doesn't know what was cut down. Mr. Burnell stated that there were probably eighty trees that were cut down.

Mr. Porter stated that the other issue, even with the trees growing back, is the rot of those trees that were cut. Mr. Porter stated ten years from now there might be a problem. Mr. Burnell stated that it would take maintenance of the area. Mr. Burnell stated there have been a few severe storms and there haven't been any problems.

Mr. Drinkhall asked if we know that the trees would rot. Mr. Porter stated that he did some research and spoke to people in the landscaping business and there could be a problem with rot, but he wasn't sure of the time frame. Mr. Burnell stated that the ground cover would help with stabilizing the bank. Mr. Sares stated a lot of this is post facto and he's not trying to place blame and criticize, but when the steep slopes were built on the North-South Road, they used netting. Mr. Sares stated that there are ways to address erosion and **these could be multi-faceted**.

Mr. Martin asked what was the largest tree cut down. Mr. Lightbown answered eight inches. Mr. Martin asked if there were any changes to the slope. Mr. Lightbown answered in the negative. Mr. Martin stated that the property was developed some time ago and it has not been eroded since. Mr. Lightbown agreed. Mr. Sares stated that **the issue here is** planned planting versus what was there before. Mr. Sares stated that he is not sure what was there before, except for the photos provided by the McGlaufflin's and there was a forest. Mr. Martin stated that it had grown over the years and made it look thicker than what it was.

Mr. Drinkhall asked for public comment; Greg Laffey stated that he has been there since there have been some heavy storms and there have been no concerns. Mr. Laffey stated that no one maintained that area and Mr. Lightbown was trying to clean it up. Mr. Laffey stated the slope could be hydro seeded as a quick way to address the situation, but it would be difficult to cut. Mr. Laffey stated that they have done a lot of work to get the property fixed up and they don't want to go belly up before we even get open. Mr. Sares stated that we are enabling, but we are not the ones who cut the trees. Mr. Sares stated that there is a built in safety concern as the tenant is concerned. Mr. Irving asked if the Board would like any modification regarding plantings. The Board agreed to proceed as it has been presented.

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Mr. Drinkhall read the waiver request for §123-20.F/131-67.C.8.a & 123.27; §123-20.F/131-67.C.8.b; §123-20.F/131-67.C.8.e; §123-20.F/131-67.C.8.f & 123-20.I; §123-20.G; §123-29.A.2 & A.3; §123-29.B; §123-30.A & §123-30.A.3; and §123-30.A.1.

Mr. Martin made a motion, seconded by Mr. Porter, to grant the waiver request for §123-20.F/131-67.C.8.a & 123.27; §123-20.F/131-67.C.8.b; §123-20.F/131-67.C.8.e; §123-20.F/131-67.C.8.f & 123-20.I; §123-20.G; §123-29.A.2 & A.3; §123-29.B; §123-30.A & §123-30.A.3; and §123-30.A.1. Mr. Drinkhall asked for Board comment; Mr. Porter asked if photographs instead of elevation drawings were acceptable to Town Staff. Mr. Irving answered in the affirmative. Mr. Drinkhall asked for public comment; there was none. **Motion unanimously carried.**

Mr. McFeeley made a motion, seconded by Mr. Martin, to conditionally approve the full site plan for Barry Lightbown conditionally upon North Conway Fire Chief Approval; North Conway Water Precinct Approval; NHDOT Driveway Permit approval and indicate permit number on plan; revise waivers granted table as necessary; revise street tree location; add note to plan that “Proposed lighting shall comply with §123-26”; a performance guarantee for all site improvements; submit four sets of revised plans; submit a Mylar for recording; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on September 27, 2007. Motion unanimously carried.

OTHER BUSINESS

MRM Real Estate Development/Shaw’s Realty Co. (PID 246-19 & 20) – Extension of Conditional Approval (File #FR06-06): Mr. Porter made a motion, seconded by Mr. McFeeley, to extend the conditional approval for MRM Real Estate Development/Shaw’s Realty Co. until August 23, 2007. Motion carried with Mr. Sares abstaining from voting.

Shaw’s Realty Co. (PID 246-20) – Extension of Conditional Approval (File #S06-26): Mr. Porter made a motion, seconded by Mr. McFeeley, to extend the conditional approval for Shaw’s Realty Co. until August 23, 2007. Motion carried with Mr. Sares abstaining from voting.

Rick and Mary Brillard (PID 215-20) – Extension of Conditional Approval (File #FR05-14): Mr. Martin made a motion, seconded by Mr. McFeeley, to extend the conditional approval for Rick and Mary Brillard until August 28, 2008. Motion unanimously carried.

Joseph and Lisa Querci (PID 218-101) – Extension of Conditional Approval (File #FR05-16 & S05-17): Mr. Sares made a motion, seconded by Mr. Porter, to extend the conditional approval for Joseph and Lisa Querci until October 11, 2007. Motion unanimously carried.

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Joe Jones (PID 218-63): Mr. Sares stated that the Joe Jones property on the corner of Mechanic Street and Pine Street has a canoe rack on the greenspace. Mr. Irving stated he would inform the code compliance officer and ask him to address it.

Yield House Staging Area (246-19 & 20): Mr. Sares stated that the staging area next to the former Yield House is an eye sore and asked who is the owner. Mr. Irving answered MRM Real Estate Development. Mr. Porter asked if there are there any guidelines to soften the impact on something like that. Mr. Irving answered in the negative. Mr. Sares stated that is too bad. Mr. Porter stated there is a concern with the safety issue where there is not a lot of fencing. Mr. Porter stated that he would think someone with that kind of stature would try to fence that area some how. Mr. Irving stated that he would have to ask the building inspector. Mr. Martin stated that it may be an OSHA issue and may not fall into our realm.

North Conway Village: Mr. Sares stated North Conway looks really good. Mr. Porter seconded that and stated that North Conway Village has something to be proud of.

Proposed Aquifer District: Mr. Drinkhall stated there has been discussion of an Aquifer Protection District. Mr. Sares stated he would have, at the appropriate time, well thought out comments. Mr. Sares stated that there should be water to Birch Hill as well as protection against what is happening in Fryeburg. Mr. Martin stated that the Board of Selectmen had a letter taken to Concord to a hearing reflecting our concerns. Mr. Irving stated that we have a Ground Water Protection District that may have requested changes.

Meeting adjourned at 8:32 pm.

Respectfully Submitted,

Holly L. Meserve
Planning Assistant