

**CONWAY PLANNING BOARD**

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**FEBRUARY 11, 2010**

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**CONWAY PLANNING BOARD**

**MINUTES**

**FEBRUARY 11, 2010**

A meeting of the Conway Planning Board was held on Thursday, February 11, 2010 beginning at 7:00 pm at the Conway Town Office in Center Conway, NH. Those present were: Chair, Steven Porter; Vice Chair, Martha Tobin; Secretary, Patricia Sell; Ted Sares; Steven Hartmann; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

**REVIEW AND ACCEPTANCE OF MINUTES**

**Ms. Sell made a motion, seconded by Mr. Hartmann, to approve the Minutes of January 28, 2010 as written. Motion carried with Mr. Sares abstaining from voting.**

**ZONING PETITIONS – PUBLIC HEARING**

**Residential/Agricultural District:** This is an amendment to allow yard sales to run for no more than 12 calendar days in a year (§147.13.1.9). No one was present to represent the petitioned article. Mr. Porter opened the public hearing at 7:02 pm.

Mr. Irving stated that the current regulation allows no more than six days and the petition as worded would allow no more than 12 days in a year. Mr. Irving stated that the question is does this allow 12 days per property or 12 days per household. Mr. Sares stated that this amendment would double the amount of days allowed. Mr. Irving answered in the affirmative. Ms. Tobin asked how we clarify. Mr. Irving stated that is the weakness of a petitioned article, we have to accept them as written.

Ms. Sell asked if there could be additional problems with parking. Mr. Irving answered in the affirmative. Mr. Sares stated in the absence of a person explaining the extent, he is left thinking that this would require more policing and parking. Mr. Sares stated that this type of ordinance is not what he is sitting here to regulate. Mr. Irving stated this Board is here to protect private property rights, reduce congestion and assure public safety. Mr. Porter asked for public comment; there was none. Mr. Porter closed the public hearing at 7:05 pm.

**Ms. Sell made a motion, seconded by Ms. Tobin, to recommend the proposed amendment to §147.13.1.9 as written on the warrant. Motion unanimously defeated (0-5-0).**

**Residential Agricultural/Center Conway Village Residential/Conway Village Residential/North Conway Village Residential/Center Conway Village Commercial/Conway Village Commercial/North Conway Village Commercial/Highway Commercial/Industrial-1/Industrial-2/Recreational Resort Districts:** This is an amendment to allow yard sales to run for no more than 12 calendar days in a year (§147.13.1.9; §147.13.2.9; §147.13.3.8; §147.13.4.8; §147.13.5.9; §147.13.6.10; §147.13.7.9; §147.13.8.9; §147.13.10.9; §147.13.11.9; and §147.13.12.10). No one was present to represent the petitioned article.

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Mr. Porter opened the public hearing at 7:05 pm. Mr. Irving stated that the only difference between this amendment and the first amendment is that this amendment would allow it in all districts. Mr. Porter asked for public comment; there was none. Mr. Porter closed the public hearing at 7:06 pm.

**Mr. Sares made a motion, seconded by Ms. Tobin, to recommend the proposed amendment to §147.13.1.9; §147.13.2.9; §147.13.3.8; §147.13.4.8; §147.13.5.9; §147.13.6.10; §147.13.7.9; §147.13.8.9; §147.13.10.9; §147.13.11.9; and §147.13.12.10 as written on the warrant. Motion unanimously defeated (0-5-0).**

**Special Highway Corridor Overlay District:** This is an amendment to exclude from the Special Highway Corridor Overlay District the portion of the District north of the center line of NH RT 113/US RT 302 (§147.13.19.2). The public hearing opened at 7:07 pm.

Bayard Kennett of the Kennett Company; Ben Wilcox of Cranmore Mountain; and David Smith of Northeast Auto Body appeared before the Board. Mr. Wilcox stated that two years ago at a meeting with the NHDOT in regard to the viability of the southern and northern bypass, he spoke in favor of the northern end. Mr. Wilcox stated having the bypass exit at our door step was a promising thought of having clients right at our door step.

Mr. Wilcox stated that the Southern portion of the bypass is in the ten year plan, but the central and northern, from what he is hearing from the public and the State, is uncertain. Mr. Wilcox stated that the overall purpose of the central and northern bypass our greatly in question. Mr. Wilcox stated that it seems like now is that it is so far out of sight and may never happen.

Mr. Wilcox stated as we are looking to be competitive in the future, there are a number of different issues. Mr. Wilcox stated that the Town has done a great job with the Recreational Resort District, but having this Special Highway Corridor Overlay zoning has put many restrictions on Cranmore Mountain for the next 20 years or more and it is going to affect the ability to make improvements. Mr. Wilcox stated that he supports the petition.

Mr. Kennett stated the question is what is different from this year's petition to last year's petition. Mr. Kennett stated that the State has now published its plan, which did not happen last year. Mr. Kennett stated that the expansion of the southern part of the State is more likely to take precedent over a road in North Conway and a lot of people have said that the stages that have already been constructed have in most cases alleviated most problems. Mr. Kennett stated that he thinks that a lot of people are feeling that we don't want a big star through the valley and we don't need it as much. Mr. Kennett stated, however, the State has not said that they will never build the road.

Mr. Smith stated five years ago there were people beating the doors down to get his building; so he built a new body shop in order to move his business and rent his current building. Mr. Smith stated if he had done his homework he would have saved some money, as he cannot move into the new body shop because this overlay district restricts what he can do with the existing shop.

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Tom Herget of Chick Lumber stated the Overlay District has crimped their ability to expand as well. Mr. Herget stated due to the overlay we cannot expand. Mr. Herget stated that they were forced to purchase a warehouse in Conway because they could not expand. Mr. Herget stated that it is difficult to continue with two buildings in these economic times.

Mr. Herget stated the best way to be successful would be to consolidate into one site and the Overlay District has been a real burden on them. Mr. Herget stated that we are very successful on the Maine Coast; based on that we have to have facilities consolidated into one area. Mr. Herget stated that the Overlay has no purpose except to hinder our profitability and success.

Mr. Sares asked what the Overlay Districts restrictions are. Mr. Herget stated there is a 500 foot setback and the district only allows 5,000 square foot buildings. Mr. Kennett stated that the 500 foot setback starts at the outer edge of the State owned right-of-way and within that area there is a 100-foot fully treed buffer required and then the next 400 feet you can only have a 5,000 square foot footprint. Mr. Kennett stated it also limits the parking lots to 24 parking spaces, but there can be multiple lots. Mr. Kennett stated that the building is allowed to be up to 35-feet in height, but for commercial uses, that is impractical.

Mr. Sares stated they are being held hostage on the prospect of the southern bypass. Mr. Kennett stated that the petition is for the middle and the northern portions. Mr. Kennett stated that the Overlay District would stay in place for the southern portion. Mr. Sares asked if the Town did undertake this petition, how it would affect the Town. Mr. Kennett stated that it wouldn't.

Ms. Tobin stated that she was against this last year, but things are different from last year. Mr. Hartmann asked what happens if this passes and the State decides to construct the northern portion. Mr. Kennett stated if it did happen it wouldn't happen for at least 10 years. Mr. Kennett stated that the present plan has been in place for about six years. Mr. Kennett stated Federal funding for highways have been greatly diminished. Mr. Kennett stated that they have come up with an alternative, being the North-South Road. Mr. Kennett stated that a great deal of the support for the bypass was Berlin and Berlin has lost its economic basis.

Mr. Hartmann asked but what happens if it is built. Mr. Kennett stated the State buys the properties that they don't already own with any improvements. Mr. Kennett stated that when this Bypass was originally going for permits there was a meeting that the Director of EPA stated if the Town didn't put in zoning regulations that guaranteed that you won't screw up the new road as you have done your existing roads we will not give you permits. Mr. Kennett stated so the Town put the zoning in place; primarily to satisfy the EPA. Mr. Kennett stated that they wanted us to regulate the intersections, but Conway was in the mood to make this a scenic byway.

Mr. Wilcox stated when the southern bypass was approved it was a milestone and we need to make sure that happens in 10-years. Mr. Wilcox stated if it does come down the road, it will be well after 10 years. Mr. Hartmann stated you don't know what stimulus will do, things can change overnight. Mr. Hartmann asked if this could put any financial burden on the Town. Mr. Irving stated sure it could, but we could find by removing the district the values would go up.

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Mr. Irving stated what would happen if it was constructed; the only thing the State is interested in is the corridor that they would construct. Mr. Irving stated that the underlying district is the Residential Agricultural District where there are already setback requirements. Mr. Irving stated that we would not have the same restrictions on the land that is there now only what is in the underlying district. Mr. Irving stated that they were trying to reduce the scale, intended to avoid the views from the bypass and intended to provide a buffer.

Mr. Irving stated if the State were to decide to construct this after the District is gone, they would take the land and any development and the owner would be compensated. Mr. Irving stated that the underlying zoning restrictions would apply. Ms. Sell stated that she supports this as it is a good area for development. Ms. Sell stated that she supported this petition last year and she will support it this year. Mr. Irving stated that the State has agreed to look at the future needs, but he doesn't know what those discussions will entail.

Mr. Kennett stated that highway monies and priorities have been governed by the area where the roads were being built. Mr. Kennett stated that the State will come here and ask if we want it built. Mr. Wilcox stated if the community does not lend its support it would be another challenge from the State's perspective.

Mr. Porter asked for public comment; Luigi Bartolomeo stated the overlay district is valuable and protects a great deal of property. Mr. Bartolomeo stated that it limits the scale of the development if you are trying to avoid big box stores. Mr. Bartolomeo stated that this is intelligent and sensitive zoning. Mr. Bartolomeo stated when the warrant articles come up, you have a lot of power, the whole future of this protected zone is in your hands and he would like to see it stay in track.

Jason Stretch stated that he thinks it's a good idea as it creates more jobs and we already have stringent development standards. Mr. Porter closed public comment at 7:42 pm.

Mr. Porter stated he knows what Route 16 looked like in the 70's and without restrictions Route 16 is what we inherited. Mr. Porter stated he personally likes the restrictions. Mr. Porter stated right now he sees a lot of empty buildings, so he is not in favor of this petition. Mr. Sares asked what side of the North-South Road this amendment would affect. Mr. Irving answered both sides from Barnes Road.

Mr. Herget stated he could operate his operation from anywhere and if hindered and cannot expand, he can move the business and there would be a loss of jobs. Mr. Sares stated he doesn't see an increase with the economic times. Mr. Herget stated that believes in one big operation, not several small operations.

**Ms. Sell made a motion, seconded by Mr. Sares, to recommend the proposed amendment to §147.13.19.2 as written on the warrant. Motion carried with Ms. Tobin, Ms. Sell and Mr. Sares voting in favor and Mr. Porter and Mr. Hartmann voting in the negative (3-2-0).**

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**Conway Village Commercial District:** This is an amendment to permit balloons (§147.13.6.7.12.2). Jason Stretch and Janice Crawford appeared before the Board. Mr. Porter opened the public hearing at 7:43 pm. Mr. Stretch stated that this was written on behalf of the Chamber of Commerce. Mr. Stretch stated that they would like to change the ordinance from not allowing balloons to allowing less than six balloons that are less than one foot in diameter. Mr. Stretch stated that it is a reasonable change.

Mr. Irving stated he is concerned with enforcement as we will have to measuring them. Mr. Irving stated this is going to be difficult to regulate. Mr. Irving stated that there are ways that this could be clearer. Ms. Sell stated that she agrees with Mr. Irving that the language is too vague. Ms. Sell stated every business having six balloons will be a cost to the taxpayers and she doesn't want the visual clutter. Ms. Sell stated she doesn't want to burden tax payers with additional staff to police **nor does she want the strip to look like a circus.**

Mr. Sares asked the intent. Mr. Stretch stated the intent was to allow the use of balloons in order to get the attention of the public at large. Ms. Sell stated there are other ways to do that. Mr. Irving stated that the Board permitted additional signage for temporary events last year and the cost is \$10.

Mr. Porter asked for public comment; John Arruda of Best Regards stated that he has been in business for 13 years and he is the largest retailer of balloons in the Valley. Mr. Arruda stated that there is nothing evil about balloons. Mr. Arruda stated that most are 11" latex balloons. Mr. Arruda stated long thin balloons will not float.

Mr. Arruda stated his secondary problem to this is that he sells balloons and he cannot display balloons; that is his issue. Mr. Arruda stated that he has been cited several times. Mr. Arruda stated that balloons have a life expectancy of 18 to 24 hours and cost on average of \$1.00 a piece. Mr. Arruda stated that he doesn't think this is going to add any additional staff to watch six balloons. Mr. Arruda stated that balloons are allowed for residential.

Mr. Irving stated balloons are regulated under signage regulations and are used to attract attention to commercial businesses. Mr. Irving stated that they are not allowed to regulate free speech of residential. Ms. Sell stated she will not support this, but it is up to the voters of the Town of Conway.

Mr. Bartolomeo stated he thinks this is tacky visual clutter that we just don't need. Judy Thornton of Studio 95 stated that she has no advertising budget as the economy is not good, but if she could put up six balloons, she could afford \$6.00 twice a week. Ms. Thornton stated balloons are to catch your eye, it is not clutter, and it is a happy thing.

Becky Close of Little shop in the Woods stated that she has no money for advertising and nobody wants tacky, but the regulations we have to adhere to make the Village very blah. Ms. Close stated that there has to be some middle ground some place. Ms. Close stated that nobody wants the Village to look like that, it needs to be quaint, and there is a middle ground that we are missing.

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Mr. Hartmann stated that he is a business owner in North Conway and he doesn't have an advertising budget, but the way it is written it is too broad. Janice Crawford stated that this has been an exercise to give the business community a voice. Ms. Crawford stated that it has been a learning experience. Mr. Porter closed the public hearing at 8:10 pm.

**Mr. Sares made a motion, seconded by Ms. Sell, to recommend the proposed amendment to §147.13.6.7.12.2 as written on the warrant. Motion unanimously defeated (0-5-0).**

**North Conway Village Commercial District:** This is an amendment to permit balloons (§147.13.7.6.12.2). Jason Stretch and Janice Crawford appeared before the Board. Mr. Porter opened the public hearing at 8:14 pm. Mr. Porter asked for public comment; there was none. Mr. Porter closed the public hearing at 8:15 pm. **Ms. Sell made a motion, seconded by Mr. Sares, to recommend the proposed amendment to §147.13.7.6.12.2 as written on the warrant. Motion unanimously defeated (0-5-0).**

**Highway Commercial District:** This is an amendment to permit balloons (§147.13.8.6.12.2). Jason Stretch and Janice Crawford appeared before the Board. Mr. Porter opened the public hearing at 8:15 pm. Mr. Porter asked for public comment; there was none. Mr. Porter closed the public hearing at 8:15 pm. **Ms. Sell made a motion, seconded by Ms. Tobin, to recommend the proposed amendment to §147.13.8.6.12.2 as written on the warrant. Motion unanimously defeated (0-5-0).**

**Conway Village Commercial District:** This is an amendment to allow one portable A-frame sign per business, rather than per lot of record (§147.13.6.7.7.6). Jason Stretch and Janice Crawford appeared before the Board. Mr. Porter opened the public hearing at 8:15 pm.

Mr. Stretch stated only one A-frame is allowed per lot. Mr. Irving stated that this **amendment** is clear and can be interpreted. Mr. Irving stated that the concern that arises is that some properties have many businesses and there are no limits to the amount of A-frames. Mr. Porter stated he remembers how North Conway Village used to be and when there were no regulations. Mr. Porter stated that the regulations helped clean it up. Mr. Porter stated that he doesn't support this as it will clutter up the roadways and the walkways.

Ms. Sell stated that A-frames would be excessive and substantial visual clutter. Ms. Sell stated that she cannot support this amendment. Mr. Hartmann stated that this opens a major can of worms and opens more clutter to the Village.

Mr. Porter asked for public comment; Becky Close stated that she is in Reporter Court and there is nothing to direct people down Reporter Court. Ken Close stated that he certainly understands the sprawling; the intent was to help the businesses be identified by the public. Mr. Close stated that we have found we are limited on the side of a building to have a street sign. Mr. Close stated if you cannot communicate either through lack of money or lack of signage you are going to fail. Mr. Close stated that he feels the town has to work with the business community to help make the villages and shopping areas conducive to succeed.

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Mr. Bartolomeo stated thinking more signage will bring people is not the case in a tourist economy. Mr. Bartolomeo stated that this kind of relaxation in the ordinance in these times is not the answer. Mr. Porter closed public comment; at 8:29 pm.

**Ms. Sell made a motion, seconded by Mr. Hartmann, to recommend the proposed amendment to §147.13.6.7.7.6 as written on the warrant. Motion unanimously defeated (0-5-0).**

**North Conway Village Commercial District:** This is an amendment to allow one portable A-frame sign per business, rather than per lot of record (§147.13.7.6.7.6). Jason Stretch and Janice Crawford appeared before the Board. Mr. Porter opened the public hearing at 8:30 pm. Mr. Porter asked for public comment; there was none. Mr. Porter closed the public hearing at 8:30 pm. **Ms. Sell made a motion, seconded by Mr. Hartmann, to recommend the proposed amendment to §147.13.7.6.7.6 as written on the warrant. Motion unanimously defeated (0-5-0).**

**Highway Commercial District:** This is an amendment to allow one portable A-frame sign per business, rather than per lot of record (§147.13.8.6.7.6). Jason Stretch and Janice Crawford appeared before the Board. Mr. Porter opened the public hearing at 8:31 pm. Mr. Porter asked for public comment; there was none. Mr. Porter closed the public hearing at 8:31 pm. **Ms. Sell made a motion, seconded by Mr. Hartmann, to recommend the proposed amendment to §147.13.8.6.7.6 as written on the warrant. Motion unanimously defeated (0-5-0).**

**RIVER RUN COMPANY (PID 246-34) – MINOR SITE PLAN REVIEW (FILE #MR10-01)**

Sheila Duane of the River Run Company appeared before the Board. This is an application to convert 1,916 square foot caretaker's unit to 1,016 square feet of retail space and 900 square feet of office space. **Ms. Sell made a motion, seconded by Ms. Tobin, to accept the application of the River Run Company for a Minor Site Plan Review as complete. Motion unanimously carried.**

Ms. Duane stated that she has added restaurant seating; therefore, it was recommended by staff that the application be re-noticed. Mr. Porter asked for public comment; there was none. **Ms. Sell made a motion, seconded by Mr. Hartmann, to continue the application for the River Run Company until February 25, 2010. Motion unanimously carried.**

**JGF PROPERTY MANAGEMENT/DQ GRILL & CHILL (PID 246-34) – FULL SITE PLAN REVIEW (FILE #FR10-02)**

Josh McAllister of H.E. Bergeron appeared before the Board. This is an application to demolish the existing building and construct a 3,117 square foot/83 seat restaurant. **Ms. Tobin made a motion, seconded by Ms. Sell, to accept the application of JGF Property Management/DQ Grill & Chill for a Full Site Plan Review as complete. Motion unanimously carried.**



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Mr. Porter asked for public comment; Mr. Bartolomeo stated he was surprised that a waiver was needed for the roof pitch. Mr. Irving stated when it doesn't generally meet the 3:1 requirement we require a waiver.

Mr. Porter read the waiver requests for §123-20.G; §123-20.F/§131-67.C.8.f; §123-28 (north side); §123-28 (south side); and §123-30.A.1. Mr. Hartmann asked if the utilities coming into the building are underground. Mr. McAllister answered in the affirmative. **Ms. Sell made a motion, seconded Mr. Sares, to grant the waiver request for §123-20.G; §123-20.F/§131-67.C.8.f; §123-28 (north side); §123-28 (south side); and §123-30.A.1. Motion unanimously carried.**

Mr. Irving stated that the reviewing engineer had concern with the parking regulations; however, they do meet our regulations. The Board agreed to leave the parking as proposed as it meets the Town's regulation.

**Ms. Tobin made a motion, seconded by Ms. Sell, to conditionally approve the Full Site Plan for JGF Property Management/DQ Grill & Chill conditionally upon North Conway Water Precinct Water and Sewer approval; indicating NHDOT Driveway Permit number on plan; updating waivers granted table on plan as necessary; submit recorded easements for overhead utilities to PID 246-33 and indicate book and page on sheet 4; submit four copies of revised plan sets with original stamps and signatures; submit Mylar(s); 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 May 13, 2010. Motion unanimously carried.**

#### **OTHER BUSINESS**

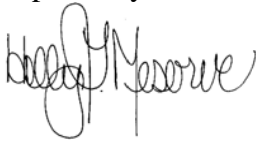
**Schedule Public Hearing - §123-46 – Recording Approved plans: Ms. Sell made a motion, seconded by Mr. Sares, to hold a public hearing on the proposed amendment to §123-46 on February 25, 2010. Motion unanimously carried.**

**Schedule Public Hearing - §123-8.H & §131-13.H – Scanning Fee: Ms. Sell made a motion, seconded by Mr. Hartman, to hold a public hearing on the proposed amendments to §123-8 and §131-13.H on February 25, 2010. Motion unanimously carried.**

**Committee Reports:** There were none.

Meeting Adjourned at 9:02 pm.

Respectfully Submitted,



Holly L. Meserve  
Planning Assistant