

**CONWAY PLANNING BOARD**

**MINUTES**

**NOVEMBER 7, 2019**

**PAGES**

- |   |   |
|---|---|
| 1 | Review and Acceptance of Minutes <ul style="list-style-type: none"><li>• October 24, 2019 – Adopted as Written</li></ul>  |
| 1 | Conway MarketPlace Associates, LLC/Echo Consulting Services, Inc. (File #S19-08) – Boundary Line Adjustment Review (PID 265-144 & 146) <ul style="list-style-type: none"><li>• Conditionally Approved</li></ul> |
| 2 | Other Business <ul style="list-style-type: none"><li>• Affordable Housing Ordinance Discussion</li><li>• Solar Collection System Discussion</li><li>• Proposed Zoning Amendments</li></ul>                      |

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**NOVEMBER 7, 2019**

A meeting of the Conway Planning Board was held on Thursday, November 7, 2019 beginning at 7:01 pm at the Conway Town Office in Center Conway, NH. Those present were: Selectmen's Representative and Acting Chair, Steven Porter; Secretary, Benjamin Colbath; Steven Steiner; Bill Barbin; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

**REVIEW AND ACCEPTANCE OF MINUTES**

**Mr. Steiner made a motion, seconded by Mr. Barbin, to approve the Minutes of October 24, 2019 as written. Motion carried with Mr. Colbath abstaining from voting.**

**CONWAY MARKETPLACE ASSOCIATES, LLC/ECHO CONSULTING SERVICES, INC. (FILE #S19-08) – BOUNDARY LINE ADJUSTMENT REVIEW (PID 265-144 & 146)**

Loralie Gerard of Thorne Surveys appeared before the Board. This is an application to convey 21,842 square feet of land to PID 265-144 (Echo) from PID 265-146 (Conway Marketplace). Ms. Gerard reviewed the application with the Board.

**Mr. Colbath made a motion, seconded by Mr. Steiner, to accept the application of Conway Marketplace Associates, LLC/Echo Consulting Services, Inc. for a boundary line adjustment review as complete. Motion carried unanimously.**

Mr. Porter asked for Board comment; there was none. Mr. Porter asked for public comment; there was none.

Mr. Irving read waiver requests for §130-24.E & §130-36.A. **Mr. Barbin made a motion, seconded by Mr. Colbath, to grant the waiver requests for §130-24.E. & §130-36.A** Mr. Porter asked for Board comment; there was none. **Motion carried unanimously.**

**Mr. Colbath made a motion, seconded by Mr. Barbin, to conditionally approve the boundary line adjustment conditionally upon revising distance between new monuments; submitting four copies of revised plans with original stamps and signatures; submitting 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 January 23, 2020. Motion carried unanimously.**

**20TEN INVESTMENTS, LLC/DVS FAMILY, LLC/1858 CONWAY, LLC/RUSHIL CONWAY, LLC/RAJ 1858, LLC (FILE #FR19-03) – FULL SITE PLAN REVIEW CONTINUED (PID 235-17 & 17.1)**

This is an application to construct a 20,292 square foot, 3-story, 115-room hotel and associated infrastructure and to approve pad sites for a 5,800 square foot restaurant space and a 4,970 square foot retail/bank space. This application was accepted as complete on March 14, 2019.

Mr. Irving stated that the application has been withdrawn.

**OTHER BUSINESS**

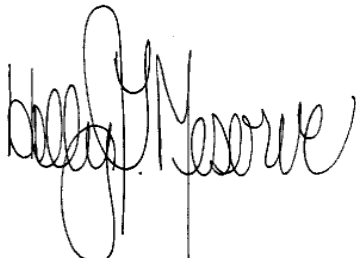
**Affordable Housing Ordinance Discussion:** Victoria Laracy and Andy Dean of the Mount Washington Valley Housing Coalition. Ms. Laracy and Mr. Dean submitted a proposed Affordable Housing Ordinance [attached]; and reviewed the ordinance with the Board. Mr. Irving stated the Board should review for the December 12, 2019 Planning Board meeting where the Board will determine if they want to hold a public hearing on January 23, 2020. Ms. Laracy stated this ordinance is for long term stable housing for our community.

**Solar Collection System Discussion:** Mr. Irving submitted a Use Table for Solar for the Board to review. Mr. Irving stated the Board should review for the December 12, 2019 Planning Board meeting where the Board will determine if they want to hold a public hearing on January 23, 2020.

**Proposed Zoning Amendments:** Mr. Irving reviewed a sign housekeeping zoning amendment; an amendment to allow the construction of parking lots as the principle use; and a housekeeping item for older home conversions.

Meeting adjourned at 7:38 pm.

Respectfully submitted,



Holly L. Meserve  
Planning Assistant

## **Town of Conway Affordable Housing Ordinance**

### **Purpose and Intent:**

The purpose of this Ordinance is to (i) provide a mechanism to encourage the development of Affordable Units for moderate and lower income households to meet the needs of the Town of Conway, (ii) foster economic and social stability within the larger community by providing opportunities for home ownership and long-term rental units, and (iii) provide for the sustainability of Affordable Units in the future through the use of deed restrictions and other legal mechanisms and to further the intent of the Town of Conway to meet the requirements described under New Hampshire RSA 674.

### **Authority:**

This Ordinance is adopted under the authority of New Hampshire RSA 674:21 and is intended as an “inclusionary zoning” provision as defined therein which states in part that inclusionary zoning shall “provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income. Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.”

### **Applicability:**

This Ordinance shall apply to the following Districts:

- (1) Residential/Agricultural District, subject to the limitations set forth below,
- (2) Conway Village Residential District,
- (3) North Conway Village Residential District,
- (4) Center Conway Village Commercial District,
- (5) Conway Village Commercial District,
- (6) North Conway Village Commercial District, and
- (7) Highway Commercial District.

### **Density Bonus and Other Development Incentives:**

Notwithstanding the minimum lot size, density requirements and frontage standards set forth in the zoning districts listed above as more particularly described in Chapter 190-13 through 14, and Chapter 190-16-20, lot size, density requirements and frontage standards, for Affordable Units and market rate units within an affordable housing development shall be as follows:

- (i) For lots serviced by municipal water system and municipal sewerage system shall have at least one-quarter (1/4) acre for the first unit and five thousand (5,000) square feet for each additional unit on the same lot.
- (ii) Lots serviced by a municipal water system shall have at least one-half (1/2) acre for the first unit and five thousand (5,000) square feet for each additional unit on the same lot; provided the loading capacity for the septic system complies with, or

obtains all appropriate waivers relating to, NHDES Code of Administrative Rules – Chapter Env.-Wq. 1000, as amended.

- (iii) All other lots shall have at least one-half (1/2) acre for each unit that may be located thereon; provided the loading capacity for the septic system complies with, or obtains all appropriate waivers relating to, NHDES Code of Administrative Rules – Chapter Env.-Wq. 1000, as amended. The density requirements set forth in this subparagraph (iii) shall not apply to the Residential/Agricultural District and the density requirements set forth in Chapter 190-13(B)(3) shall govern and control.
- (iv) All lots must front on a state or town highway with a Class I, II, III, IV or V classification, a private road, cul de sac all constructed to town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be seventy-five (75) feet.
- (v) All roads shall comply with the Town of Conway Road Standards described in the Subdivision (§ 130) regulations of the Town of Conway.
- (vi) No parking shall be within the front setbacks of any lot located within the Center Conway Village Commercial District, Conway Village Commercial District, Highway Commercial District and North Conway Village Commercial District. In instances where a development does not require site plan review, no parking shall be within the first fifteen (15) feet of the front setbacks of the Center Conway Village Residential District, North Conway Village Residential District and Residential/Agricultural District measured from the right of way.

At least twenty-five percent (25%) of dwelling units within the affordable housing development must meet the definition of Affordable Units. When the number of Affordable Units is calculated to a fractional number, any fraction of less than one-half shall be rounded down to the next whole number; any fraction of one-half or greater shall be rounded up to the next whole number and treated as a whole inclusionary unit. For example, a three-unit development would be calculated as  $3 \times 25\% = 0.75$ , which would be rounded up to one Affordable Unit. Mobile homes or manufactured housing as defined in RSA 674:31 are not permitted; however pre-site built units as defined in RSA 674:31-a shall be permitted.

#### **Plan Submission and Approval:**

Any subdivision and/or site plan submitted to the Planning Board in connection with this Ordinance shall contain the following information:

- (1) The number of Affordable Units created and the percentage of Affordable Units relative to the percentage of market rate housing.

- (2) Descriptions of the Affordable Units and the market rate units evidencing comparable number of bedrooms, bathrooms and square footages and complementary architectural styles and exterior finishes.
- (3) Any other information as required by the Subdivision (§ 130) and/or Site Plan Review (§110) regulations of the Town of Conway.

At the time of Planning Board approval, the Affordable Units must be expressly designated as such and shown on a plan with a condition that they shall remain affordable in compliance with this Ordinance and a deed restriction shall be recorded in the Registry of Deeds as evidence of the same. The deed restriction will be in a form and substance approved by the Town of Conway.

**Affordable Unit Location, Construction and Appearance:**

All Affordable Units shall be dispersed throughout the project by being fully integrated with the market rate units such that they are distributed throughout the development and not clustered in one area of the development.

All Affordable Units shall be constructed concurrently with the market rate units. Progress rates for construction of Affordable Units shall be the same as that of the market rate units.

Affordable Units shall be constructed with complementary exterior design and materials that are comparable with those used in constructing the market rate units. Similar landscaping shall be applied to both Affordable Units and the market rate units. Affordable Units as well as market units may be pre-site built units as defined in RSA 674:31-a.

Interior materials and amenities in the Affordable Units may be different from those used in the market rate units, provided that: the number of bedrooms shall be proportional between Affordable Units and market rate units.

**Definitions:**

For purposes of this Ordinance the following terms shall be defined as follows:

“Administrator” shall mean a designated officer with the Town of Conway or at the Town’s discretion, its agent, which agent may be New Hampshire Housing and Finance Authority, a local housing non-profit, or such other third party administrator as determined by the Town of Conway.

“Affordable Unit” shall mean (i) with respect to unit ownership, the purchaser shall be an Eligible Buyer (as defined below) and the purchase price of the Affordable Unit shall be no greater than the estimated maximum affordable purchase price as most recently published by the New Hampshire Housing Finance Authority, and (ii) with respect to a rental unit, the renter shall be an Eligible Renter (as defined below) and the monthly rent shall be no greater than estimated maximum affordable monthly rent for Carroll County as most recently published by the New

Hampshire Housing Finance Authority. Notwithstanding any other provision to the contrary, the resale price of an Affordable Unit may be increased by an amount not to exceed fifty percent (50%), up to a maximum amount of Ten Thousand Dollars (\$10,000.00), of documented capital improvements made by the seller and with a value as stated in a certification from a certified public accountant in a form reasonably acceptable to the Town of Conway and signed under the pains and penalties of perjury and delivered to the Administrator.

“Eligible Buyer” is a household whose income does not exceed eighty percent (80%) of the area median income for a family of four in Carroll County as most recently published by the United States Department of Housing and Urban Development. The Eligible Buyer shall occupy the Affordable Unit as its primary residence and shall not own or have an interest in any other real estate.

“Eligible Renter” is a household whose income does not exceed sixty percent (60%) of the area median income for a family of three in Carroll County as most recently published by the United States Department of Housing and Urban Development. The Eligible Renter shall occupy the Affordable Unit as its primary residence and shall not own or have an interest in any other real estate.

**Restrictions on Rental:**

Units developed pursuant to this Ordinance, including Affordable Units and market rate units, shall not be used for short-term rentals such as, and including, without limitation, Airbnb, VRBO, HomeAway or any other similar short term rental platform. All unit leases shall be in writing and for a period of not less than six (6) months or more than twelve (12) months in any one instance. Tenants that occupy a unit for more than twelve months may continue to occupy the same unit with a written lease on a month to month basis. No tenant in an Affordable Unit shall be permitted to sublease all or a portion of the Affordable unit to anyone other than an Eligible Renter. The foregoing shall be included in the restrictive covenant in a form approved by the Town of Conway and shall be recorded with the Carroll County Registry of Deeds.

**Future Transactions and Ordinance Enforcement:**

Affordable Units offered for sale or rent and approved pursuant to this Ordinance shall require a restrictive covenant enforceable by or on behalf of the Town of Conway in a form approved by the Town of Conway and shall be recorded with the Carroll County Registry of Deeds prior to the sale or rental of any Affordable Units. The limitations on the sale of Affordable Units as described in this Ordinance and the restrictive covenant shall not apply to a foreclosure by an institutional lender or a deed-in-lieu of foreclosure resulting from a mortgage with an institutional lender and upon foreclosure by an institutional lender or a deed-in-lieu of foreclosure resulting from a mortgage with an institutional lender, the income qualifications and resale limitations set forth herein shall terminate with respect to the impacted unit.

Affordable Units for rent shall limit annual rent increases to the percentage increase in the area median income.

This Ordinance shall be enforced by the Town of Conway or its designee in accordance with terms and conditions hereof and the regulations of the Town of Conway. To ensure that only eligible households purchase Affordable Units, at least thirty (30) days prior to the purchase of an Affordable Unit the following information shall be provided to the Administrator for review and approval: (i) a copy of the fully executed purchase and sales agreement, (ii) a certification from a certified public accountant in a form reasonably acceptable to the Town of Conway and signed under the pains and penalties of perjury confirming the annual income of the prospective purchaser, (iii) a certification from a certified public accountant in a form reasonably acceptable to the Town of Conway and signed under the pains and penalties of perjury confirming any capital improvements of seller that increase the purchase price, (iv) a certification from the Eligible Buyer that it will be occupying the Affordable Unit as its primary residence and it has no other interest in any other real estate, (v) a copy of the most recently published report by the New Hampshire Housing Finance Authority evidencing the estimated maximum affordable purchase price for housing units in Carroll County and (vi) the most recently published by the United States Department of Housing and Urban Development report evidencing the area median income for a family of four in Carroll County. The Administrator shall review the purchase and sales agreement, the certifications and the reports to determine compliance with this Ordinance. No sale of an Affordable Unit shall be permitted unless and until the Administrator has provided written approval that the sale of the Affordable Unit complies with this Ordinance and the restrictive covenant. Any sale of an Affordable Unit that fails to comply with this Ordinance and the restrictive covenant shall be deemed null and void.

To ensure that only eligible households rent Affordable Units, at least fifteen (15) days prior to the rental of an Affordable Unit the following information shall be provided to the Administrator for review and approval: (i) a fully executed copy of the lease, (ii) a certification from a certified public accountant in a form reasonably acceptable to the Town of Conway and signed under the pains and penalties of perjury confirming the annual income of the prospective tenant, (iii) a copy of the most recently published report by the New Hampshire Housing Finance Authority evidencing the maximum affordable monthly rent for rental units in Carroll County (iv) a certification from the Eligible Renter that it will be occupying the Affordable Unit as its primary residence and it has no other interest in any other real estate, and (v) the most recently published by the United States Department of Housing and Urban Development report evidencing the area median income for a family of three in Carroll County. The Administrator shall review the lease, the certification and the reports to determine compliance with this Ordinance. No rental of an Affordable Unit shall be permitted unless and until the Administrator has provided written approval that the rental of the Affordable Unit complies with this Ordinance and the restrictive covenant. Any rental of an Affordable Unit that fails to comply with this Ordinance and the restrictive covenant shall be deemed null and void.

### **Effective Date/Invalidity**

This Ordinance shall be effective on the date that is three (3) months from the date it is approved by the voters of the Town of Conway through the passage of a warrant article. If any provision of this Ordinance is held invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby and shall remain in full force and effect.