

CONWAY PLANNING BOARD

MINUTES

JUNE 23, 2022

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CONWAY PLANNING BOARD

MINUTES

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A meeting of the Conway Planning Board was held on Thursday, June 23, 2022 beginning at 6:00 pm at the Conway Town Office, Conway, NH. Those present were: Chair, Ben Colbath; Selectmen's Representative, Steven Porter; Vice Chair, Ailie Byers [via video]; Secretary, Erik Corbett; Eliza Grant; Alternate, Ted Phillips; Alternate, Steven Hartmann; Planning Director, Jamel Torres; and Planning Assistant, Holly Whitelaw.

APPOINTMENT OF ALTERNATE MEMBERS

Mr. Colbath appointed Mr. Phillips and Mr. Hartmann as voting members.

REVIEW AND ACCEPTANCE OF MINUTES

Ms. Grant made a motion, seconded by Mr. Colbath, to approve the Minutes of June 9, 2022 – Work Session as written. Motion carried with Ms. Byers and Mr. Hartmann abstaining from voting.

Ms. Grant made a motion, seconded by Mr. Corbett, to approve the Minutes of June 9, 2022 – Regular Session as written. Motion carried with Ms. Byers and Mr. Hartmann abstaining from voting.

AGENDA OUT-OF-ORDER

Mr. Colbath made a motion, seconded by Mr. Hartmann, to take Other Business out-of-order. Motion carried unanimously.

OTHER BUSINESS

E & C Maine Realty, LLC (File #NA22-08): Sullivan Gaudreau, Food Truck Coordinator for Cheese Louise, appeared before the Board. This is a request to allow a food truck at 2709 White Mountain Highway, North Conway (PID 218-97).

Mr. Gaudreau stated they have been at this site under a Temporary Event permit. Ms. Grant asked if they have had any issues with people trying to park around you. Mr. Gaudreau stated it is mostly foot traffic. Mr. Gaudreau stated in the rare occasion that a line forms they disburse people; it never really becomes a problem. Mr. Colbath asked if they provide their own trash receptacles. Mr. Gaudreau answered in the affirmative. Mr. Colbath asked if there are bathrooms for customers on this site. Mr. Gaudreau stated that Sun and Ski has a bathroom that their patrons can use.

Ms. Grant suggested allowing this for a year to see if it is problematic. Mr. Gaudreau stated they would like to be there 2-3 days a week through October 29th.

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Mr. Colbath asked if they have written documentation from the lot owner. Mr. Gaudreau stated they have written approval from the Store Manager for the summer and fall season. Mr. Phillips stated this is a very busy area and he is concerned with safety. Mr. Phillips stated if we are going to start allowing food trucks for longer terms then we are opening up every piece of property, and he has a concern with that.

Mr. Corbett asked if the pickup truck stays attached. Mr. Gaudreau stated it could be detached. Mr. Phillips stated this is a very busy corner. Mr. Corbett asked if there was another spot on the lot for this to be located. Mr. Gaudreau stated he has not discussed that with them. Mr. Phillips stated a pedestrian was just hit in this area due to blind spot; he thinks it is a very dangerous situation.

Mr. Colbath suggested having a safety plan. Mr. Colbath stated we need an ordinance for food trucks, something that is a little more flexible. Mr. Porter stated he has concerns allowing this all summer; parking is a problem, rest rooms are a problem, pedestrian traffic is a problem. Mr. Porter stated he is leaning more against allowing than allowing.

The Board requested a conceptual site plan with parking calculations, hours and days of the week of operation, a letter from the property owner, that the truck will be detached from the trailer, that the applicant seek a safer location, and a written safety plan, to be approved by the North Conway Fire Chief. **Mr. Porter made a motion, seconded by Mr. Hartmann, to continue until July 14, 2022 with new information to be submitted by July 6, 2022. Motion carried unanimously.**

Saco Woods Condominium (File #NA22-07): Dan Lucchetti of HEB Engineers appeared before the Board. Paula Shappell, President of Saco Woods Condominiums, was in attendance. This is a request to allow the removal of the vehicular gate at the entrance to Hutchins Drive (PID 261-50). Mr. Lucchetti stated they are requesting to remove a vehicular gate that separates Hutchins Drive from one of the driveways into Saco Woods. Mr. Colbath stated this just seems like a no-brainer from a safety standpoint.

Mr. Colbath asked for public comment; Jay Winters of Journey Church, stated they are against opening the gate. Mr. Winters stated we constructed the church in 2016; we spent a lot of time and money building the road, and we maintain the road. Mr. Winters stated the amount of traffic coming over that road just from the condominiums far outweighs the traffic generated by the church. Mr. Winters stated they don't see the benefit of opening the road.

Mr. Winters stated it has been gated for thirty years; fire and police have access to the gate. Mr. Winters stated they feel it is a safety issue for the church. Mr. Winters asked since they constructed the road would they be liable if anything happens. Mr. Winters stated they maintain the road to their needs; in the winter time they don't always have it plowed and sanded. Mr. Winters stated they are asking the Board to not to open that gate.

Mr. Colbath asked if this is a private road. Mr. Lucchetti stated this is a private road and there is a recorded easement. Mr. Lucchetti stated they have reviewed with NHDOT and they have no concerns. There was a brief discussion that if there is no road maintenance agreement, then that is something that would have to be worked out between the two property owners.

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Mr. Porter stated if it was not for Journey Church the road would not be there. Mr. Porter stated he would vote against it as it is to give Saco Woods a second, alternate route, but at the expense to Journey Church. Mr. Porter stated it is not fair for them to shoulder the burden. Mr. Torres stated there is an easement agreement that they can use it for ingress and egress.

Ms. Grant stated it was indicated that the fire and police departments have access, so is the issue that they don't want to spend the time to unlock the gate or is it that there was an emergency and nobody had a key. Ms. Shappell stated Journey Church bought the property with this deeded legal right-of-way in place to Hutchins Drive. Ms. Shappell stated there was a safety situation that happened a few years ago and no one came to Hutchins Drive to unlock the gate, instead they came down the full length of the property at a high rate of speed. Ms. Shappell stated it was a super dangerous situation.

Ms. Shappell stated we don't believe this is a site plan issue, it is a legal issue between two owners. Mr. Colbath asked if they have contacted Journey Church in regards to sharing the responsibilities of maintaining Hutchins Drive. Ms. Shappell answered in the affirmative and there was no response.

Mr. Hartmann asked who owns the gate. Mr. Lucchetti stated it is on Saco Woods property. Mr. Hartmann asked why are they here. Mr. Torres stated it is a change to their site plan approval which depicts it as closed on the plan. Mr. Hartmann stated he has an issue with the maintenance, but it seems Saco Woods has taken the right steps and the Church has yet to respond. Mr. Hartmann stated it seems like a civil matter, and not really a Planning Board matter.

Ms. Shappell stated there is another issue relative to site plan, the Journey Church also has a gate on their approved site plan. Mr. Hartmann asked if that gate is installed. Mr. Shappell answered in the negative. Mr. Torres stated there is a deeded right to utilize the driveway. Mr. Torres stated the reason it is before the Board is because Saco Woods was recently approved with a gate in place.

Ms. Grant stated from a purely planning perspective the property rights is on Saco Woods side; this is their gate on their property and they have an easement. Ms. Grant stated if they want to remove a gate from their site plan, she is not seeing a Planning Board reason that they cannot remove a gate from their site plan.

Ms. Byers stated they have an easement; they have a legal right to use the road. Ms. Byers stated the two parties should probably sit down and figure it out. Ms. Grant asked if they would be willing to install a stop sign. Ms. Shappell answered in the affirmative and stated it could be installed where the gate is now.

Ms. Grant made a motion, seconded by Mr. Corbett, that the Planning Board determined that based on the provisions of §110-4. A.(5), regarding applicability, that the removal of the vehicular gate at the entrance to Hutchins Drive 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 with Mr. Porter voting in the negative.

KENNETT COMPANY/CONTINUUM AT NORTH CONWAY, LLC (FILE #FR21-10 & #S21-11) – CONCURRENT SITE PLAN AND SUBDIVISION REVIEW (PID 246-1 & 65, 252-62 & 262-71.11)

Shawn Bergeron of Bergeron Technical Services and Wayne Morrill President of Jones & Beach appeared before the Board. Ian McKinney of Jones & Beach, Mike Black of Continuum, Joe Hogan of Continuum, and Kate Richardson of Bergeron Technical Services were in attendance.

This is an application to subdivide ±126.47 acres (in four lots) into nine lots; to construct a 4,130 square foot bank (lot 1), 17 residential dwelling units (lot 2), a 5,500 square foot daycare (lot 4), 27 residential dwelling units (lot 5), a 38,400 square foot medical building (lot 6), an 84,255 square foot assisted care/services building (lot 7), 33 residential dwelling units and a 2,500 square foot community building (lot 8), and 148 residential dwelling units in two buildings (lot 9); and create a 225-unit subdivision.

Mr. Bergeron stated under §110-14 they are limited to 10 minutes to present our project. Mr. Bergeron stated this project is sizable and asked that they be allowed to exceed that limit. **Mr. Porter made a motion, seconded by Ms. Grant, to allow the applicant to exceed the 10-minute limit. Motion carried unanimously.**

Mr. Bergeron stated this project consists of four parcels containing approximately 127 acres that is mostly located in the Highway Commercial District. Mr. Bergeron stated the four parcels will be subdivided resulting in nine parcels, and three new development roads. Mr. Bergeron stated a heating plant is proposed on lot 9 that will come back to the Board at a later date, and is not part of this application.

Mr. Morrill stated lot 1 is 7.64-acres located in the highway commercial district and is proposed to have a 4,130 square foot bank for Norway Savings Bank. Mr. Morrill stated the future pads shown on the plan will be coming back before the Board.

Mr. Morrill stated lot 2 is 6.26-acres located in the highway commercial district and is proposed to have 17-units of first step housing. Mr. Morrill stated the buildings are between 380- and 500-square feet for studio housing units to be leased and not available for short-term rentals. Mr. Colbath asked for Board comment; Mr. Porter asked why they chose the square footage of the homes to be so small. Mr. Morrill stated these are neighborhoods that make you park in the middle and walk around; it is more of a community.

Mr. Corbett asked if there is an age minimum. Mr. Morrill answered in the negative and stated this size unit is going to reduce any children; it is made for a professional. Mr. Hartmann asked what percentage of these are going on the open market. Mr. Black stated that has not been determined, right now they are to be leased through Continuum.

Ms. Grant asked if this requires a special exception for density. Mr. Torres stated this is a large parcel that offers a significant amount of density. Mr. Morrill stated there is more available density for this lot, but there are wetlands. Mr. Morrill stated all lots are serviced by municipal water and sewer.

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Mr. Morrill stated lot 4 is 2.71-acres located in the highway commercial district and is proposed to have a 5,500 square foot day care center. Mr. Colbath asked for Board comment; Mr. Corbett asked if the daycare is open to the public. Mr. Morrill answered in the affirmative. Mr. Corbett asked how many children. Mr. McKinney answered 70-80 kids. Mr. Torres asked the reason the crosswalk was at a mid-block rather than at the intersection with the driveways. Mr. Morrill stated they felt the centralized location gets it away from the driveways and keeps pedestrians away from traffic circulation.

Mr. Morrill stated lot 5 is 7.70-acres located in the highway commercial district and is proposed to have 27-units of first step housing. Mr. Morrill stated the buildings are 380- to 500-square feet studio housing units to be leased and not available for short-term rental. Mr. Morrill stated on this site there is a gravel parking lot which is a trailhead parking lot that will be deeded to the Town of Conway. Mr. Morrill stated people outside of the development can park and use the trails. Mr. Morrill stated Bonita's way is a right-in right-out onto Eastman Road, and the raised median on Eastman Road will be extended past this roadway.

Mr. Colbath asked for Board comment; Mr. Torres asked if they would consider a sign for public parking. Mr. Morrill answered in the affirmative. Mr. Porter asked if they could expand the amount of parking for the trail head. Mr. Morrill stated they could increase it to 10-parking spaces.

Mr. Colbath asked for public comment; Bayard Kennett stated this is not the only hiker parking lot that will be on the property. Mr. Kennett stated Upper Saco Valley Land Trust (USVLT) has bought the land between Eagles Way and Route 16 and near the high school there is going to be another parking lot that USVLT is building. Mr. Colbath stated it would probably be beneficial to have signage on the road that there is no parking on the roads if the parking lot is full. Mr. Phillips left at this time.

Mr. Morrill stated lot 6 is 5.4-acres located in the highway commercial district and is proposed to have a 28,400 square foot two-story medical building and a 10,000 square foot one-story specialty medical building. Mr. Morrill stated there is an easement on lot 7 for 10 additional parking spaces.

Mr. Colbath asked for Board comment; Ms. Grant asked what is the basis for coming up with the number of parking. Mr. McKinney answered general office. Ms. Grant stated we have tried to pay more attention to building very large parking lots that are not being utilized. Ms. Grant asked if maybe the back row of these spaces could be gravel. Mr. Colbath stated these buildings will be pretty heavily staffed. Mr. Colbath asked if these facilities were open to the public. Mr. Morrill answered in the affirmative.

Mr. Morrill stated lot 7 is 10.36-acre located in the highway commercial district and is proposed to have an 84,255 square foot assisted care and services building with 60 assisted living units, three 20-unit level of care pods and a rehab center. Mr. Colbath asked for Board comment; Mr. Torres asked if there is a reason for not having crosswalks to the entrance. Mr. Morrill stated they are under the under canopy and it will be signed.

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Mr. Morrill stated lot 8 is 9.9-acres located in the highway commercial district and is proposed to have 33, 55+ age restricted housing units with a community building; 9 single-family units and 12 duplexes. Mr. Morrill stated parking for the units are in the garage and in front of the unit. Mr. Morrill stated the community building has 9 parking spaces.

Mr. Bergeron stated the driveways and all the walkways throughout the entire community will be snow melted by the heating plant. Mr. Bergeron stated there will be underground piping for snow removal so there will not have to be hand snow removal or plow snow removal throughout the development. Mr. Colbath asked for public comment; Mr. Corbett asked if these will be for sale. Mr. Morrill answered in the affirmative.

Mr. Morrill stated lot 9 is 47.07-acres and is proposed to have two buildings; building 3B is a 62-unit residential condominium building in the highway commercial district and building 3A is an 86-unit residential condominium building in the residential agricultural district.

Mr. Colbath asked for Board comment; Mr. Porter asked the height of these buildings. Mr. Bergeron answered 54'-11". Mr. Porter asked if the buildings would be visible from Route 16. Mr. Morrill stated you cannot see the water tower, and these are lower than the water tower; however, there is significant tree cover that exists. Mr. Morrill stated once they clear that area, they probably will be visible, but some of that brush will grow back up.

Mr. Porter asked what is the time frame on this project. Mr. Black stated they would like to get in the ground this fall. Mr. Morrill stated the condominiums will be the first phase. The Board asked to consider a deed-restriction not allowing short-term rentals in the condominiums. Ms. Byers left at this time.

Mr. Colbath asked for public comment; Wayne McDonald of 866 Eastman asked what are the construction hours. Mr. Bergeron stated they would have to follow the requirements of the noise ordinance. Mr. McDonald asked if they would have downward lighting. Mr. Bergeron answered in the affirmative. Mr. McDonald asked the distance to the closet building to Carolyn Brown. Mr. Bergeron stated approximately 270-feet. Mr. McDonald asked if there are any rec paths through the green area. Mr. Kennett stated they are bringing the existing path out to Route 302 where the Gagnon house is now; that is where it will come in, cross the powerline and go into the woods.

Mr. McDonald asked what will happen to the snowmobile trail that currently exists. Mr. Black stated they are working with Saco Valley to move it out of there and put it on the back side of their condos on the backside of Pine Hill.

Mr. Porter made a motion, seconded by Ms. Grant, to continue the concurrent site plan and subdivision review for Kennett Company/Continuum at North Conway, LLC until July 28, 2022. Motion carried unanimously.

JIVAN, LLC (FILE #CR22-01) – CONCEPTUAL CONSULTATION (PID 230-1)

David Sherborne, Architect, and Andrew Pike and Barry Stowe of Opechee Construction Corporation appeared before the Board. This is a conceptual review to construct a 4-story, 90-room hotel on White Mountain Highway, North Conway.

Mr. Sherborne gave an overview of the project. The Board had concerns with the restaurant being opened to the public and the architectural design of the building.

OTHER BUSINESS CONTINUED

Site Plan Review Amendment discussion/§110-21.A.(1) – Number of Parking Spaces: The Board agreed to place this on the second half of the August work session meeting.

Selectmen's Report: There was nothing to report.

Meeting adjourned at 9:30 pm.

Respectfully Submitted,

Holly L. Whitelaw
Planning Assistant