

**CONWAY PLANNING BOARD**

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**CONWAY PLANNING BOARD**

**MINUTES**

**DECEMBER 14, 2023**

A meeting of the Conway Planning Board was held on Thursday, December 14, 2023, beginning at 7:00 pm at the Conway Town Office, Conway, NH. Those present were: Chair, Benjamin Colbath; Selectmen’s Representative, Steve Porter; Vice Chair, Ailie Byers; Secretary, Erik Corbett; Eliza Grant; Mark Hounsell; Alternate, Debra Haynes; Town Planner, Ryan O’Connor; and Assistant Planner, Holly Whitelaw. Deputy Town Manager, Paul DegliAngeli, was in attendance.

**APPOINTMENT OF ALTERNATE MEMBER**

Chair Colbath appointed Ms. Haynes as a voting member.

**REVIEW AND ACCEPTANCE OF MINUTES**

**Mr. Porter made a motion, seconded by Ms. Byers, to approve the minutes of November 16, 2023, as presented.** Chair Colbath asked for Board comment; there was none. **Motion carried unanimously.**

**EDWARD SARRO REVOCABLE TRUST (FILE #S23-19) – TWO-LOT SUBDIVISION REVIEW (PID 280-77.11)**

This is an application to subdivide 11.58 acres into two lots at 876 Eaton Road, Conway. Mr. O’Connor stated that the applicant has requested a continuance. **Mr. Porter made a motion, seconded by Mr. Colbath, to continue the Edward Sarro Revocable Trust two-lot subdivision review until January 25, 2024, with new information to be submitted by December 26, 2023.** Chair Colbath asked for Board comment; there was none. **Motion carried unanimously.**

**CONWAY POKER ROOM AND CASINO, LLC (FILE #FR23-12) – FULL SITE PLAN REVIEW (PID 265-147)**

This is an application to change the use from a grocery store to an 11,836 -quare foot restaurant/ bar with accessory charitable gaming at 234 White Mountain Highway, Conway. Mr. O’Connor stated that the applicant has requested a continuance.

**Mr. Porter made a motion, seconded by Mr. Colbath, to continue the Conway Poker Room and Casino, LLC for a full site plan review until January 11, 2024, with new information to be submitted by December 26, 2023.** Chair Colbath asked for Board comment. Mr. Hounsell suggested continuing until February 8, 2024.

**Mr. Porter rescinded his motion.**

Mr. Porter made a motion, seconded by Mr. Hounsell, to continue the Conway Poker Room and Casino, LLC for a full site plan review until February 8, 2024, at 6:00, with new information to be submitted by January 9, 2024. Chair Colbath asked for Board comment; there was none. Motion carried, with Ms. Byers opposed.

## **PUBLIC HEARING – ZONING AMENDMENTS PROPOSED BY THE CONWAY PLANNING BOARD**

**§190-28. – Wetland and Watershed Protection Overlay District** – The purpose of this amendment is for the inclusion of Low-Impact Development stormwater controls.

Mr. O'Connor reviewed the changes to the Wetland and Watershed Protection Overlay District, which include expanding the overlay from 100 feet to 300 feet; limiting impervious coverage within the overlay to 25%; increase stormwater controls for projects requiring a site plan review; and increase the structure setbacks from 75 feet to 100 feet.

Chair Colbath opened the public hearing at 7:10 pm.

Chair Colbath asked for public comment.

Shawn Bergeron of Bergeron Technical Services appeared before the Board. He shared a graphic of an existing project and explained how the proposed changes will impact it, saying the overall effect of these changes will be significant. He noted that by expanding the overlay to 300 feet from the Saco River, most of the projects that his firm is dealing with in North Conway will be affected by the overlay district.

Ms. Grant asked if they had taken into account the amount of impervious cover in the expanded area. Mr. Bergeron said they did not go into that level of detail; however, they will be dealing with the greenspace requirement and the impervious coverage restriction. He noted issues with filtration of runoff and the infrastructure that will be required to address it.

Mr. Bergeron submitted recommended changes to the Board (attached) and these were discussed. Mr. O'Connor agreed more input is needed before the final version is completed.

Chair Colbath closed public comment at 7:28 pm.

The Board agreed to review the amendment with the recommended changes at the January 25, 2024, Planning Board meeting.

## **OTHER BUSINESS**

### **Conway Police Department Renovation and Expansion:**

Chief Christopher Mattei and Lieutenant Suzanne Kelley-Scott appeared before the Board. Chief Mattei reviewed the need for a building renovation and addition. He noted the need for additional space, driven primarily by the equipment, gear, and paperwork required to perform their duties, although two staff positions have been added. Storage is also an issue.

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A feasibility study was conducted. The spatial study recommended the need for 50 percent more space, with up to 70 percent more needed in the next 25-30 years. He reviewed the mechanical issues that need to be remedied in the interior and exterior of the building. He noted the lack of space for storage, equipment, and personnel.

Mr. Hounsell commended the Chief on his assessment of the issue and his transparency in presenting the project. He said the current building is unhealthy and has lived out its useful life. He noted the cost of the project will not decrease and offered his full support. He suggested the Board take a vote of support on the need for this project.

The Board agreed the Police Department needs a specialized building and the Town has a responsibility to provide this. Mr. Porter noted the current holding cell setup needs to be addressed.

Chair Colbath opened public comment.

Andy Pepin, Police Commissioner, noted the reasons that the garage needs to be expanded.

Chair Colbath closed public comment.

**Mr. Hounsell made a motion, seconded by Mr. Porter, that the CPB communicate through a letter of support to the Board of Selectmen, the Conway Police Commission, and the Conway Budget Committee their support for this project, signed by the Chair on behalf of the Board.** Chair Colbath asked for Board comment.

Mr. Hounsell suggesting naming the building in honor of Robert Porter.

**Motion carried unanimously.**

Chief Mattei invited the Board members to tour the building and hopes to offer opportunities for the public to tour the building as well.

**Skate Park Update:**

Caren Peare and Greg Mossman appeared before the Board.

Mr. O'Connor has reviewed the plans for the proposed skate park, and expressed his approval of the design and location. He noted civil design items that will need to be addressed. He mentioned the existence of grant opportunities on which the Town might be able to provide more information.

The Board expressed their support of this project.

**Mr. Hounsell made a motion, seconded by Mr. Colbath, to have Ms. Grant draft a letter of support.** Chair Colbath asked for Board comment; there was none. **Motion carried, with Ms. Grant abstaining.**

**Steven Troian and Steven Douglass – Lot Merger (PID 263-86 & 87):**

Mr. O'Connor noted there were no concerns with the proposal. The Building Inspector inspected the structure on each property and ensured one was not a living unit.

**Ms. Byers made a motion, seconded by Mr. Porter, to approve the lot merger for Steven Troian and Steven Douglass to merge PID 263-86 & 87 into one lot of record.** Chair Colbath asked for Board comment; there was none. **Motion carried unanimously.**

**Parkway Discussion/Parkway Committee Update:**

Mr. O'Connor reviewed the language for the proposed parkway overlay district, including definitions and restrictions.

Mr. Hounsell commended the Committee on the work done on this proposal.

Mr. Porter suggested expanding the scope of the parkway and incorporate the same thought process along Route 16. Chair Colbath suggested designating Route 16 as a Scenic Byway through Conway. Mr. O'Connor is investigating this possibility.

Ms. Grant shared the final report with the Board, noting the addition of a generic definition of parkway to the ordinance. She reported the Committee discussed forming a group to examine ongoing bypass land when relevant. Chair Colbath noted this would be a good avenue to involve the Conway Conservation Commission.

**Mr. Porter made a motion, seconded by Ms. Grant, to post to a public hearing on January 25, 2024.** Chair Colbath asked for Board comment; there was none. **Motion carried unanimously.**

**Crematorium Discussion:**

Mr. O'Connor said the ordinance does not address funeral homes in the definitions or table of uses, and crematoriums are only allowed in the I-2 district. He offered language that would allow crematoriums in the I-2 and the Highway Commercial districts, while funeral homes would be included in all commercial zones. He shared definitions of crematoriums and funeral homes and reviewed the changes in use. He noted the state permitting to operate one of these facilities is extremely strict.

**Mr. Hounsell made a motion, seconded by Mr. Porter, to post to a public hearing on January 25, 2024.** Chair Colbath asked for Board comment; there was none. **Motion carried unanimously.**

**Kennell Discussion:**

Mr. O'Connor explained that the proposed changes simplify the ordinance. He shared the new definition and changes to the special exception criteria. Mr. Hounsell noted changes he believed should be made regarding barriers and Mr. O'Connor agreed to revisit that language to clarify the intent.

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This item will be placed on the January 25, 2024, agenda to revisit the language and consider whether to move the amendment to a public hearing.

**ACLU Committee Update:**

Mr. Hounsell reported there has been no activity and they are not ready to submit a final report.

**Infrastructure Review Ad-Hoc Committee Update:**

Mr. Corbett said the Committee has posed scenarios regarding realigning/closing/shifting the schools. They suggested closing all three schools and building one new school, considering there is \$40 million in maintenance due on the existing buildings, plus ongoing operating costs for older buildings. A motion was made and passed to move a sixth grade to a middle school and close one elementary school in June; however, the School Board did not act on this recommendation.

Ms. Grant asked about the aim of this process and Mr. Corbett said they are seeking the most cost-efficient way to run the schools.

Mr. O'Connor said he presented a general overview to the Committee regarding the current and projected state of housing in Conway.

Mr. Hounsell expressed his dissatisfaction with the School Board and the decisions they are making regarding closing schools.

Ms. Grant said that fixing the need for capital improvements with a new building is a very short-term solution.

Mr. Porter noted that closing three schools and disrupting three neighborhoods to build one new school would have a huge impact on the tax rate.

**Selectmen's Report:**

Mr. Porter reported Chief Mattei presented the costs of constructing a new building to the Selectboard and addressing those costs with bonds. The Board recommended adding a basement to the proposal. The Board discussed the finances to pay for the construction and expressed their support for the project.

**Issues for Consideration:**

Mr. Hounsell said it was very important that the Board should address how the licensing and permitting processes impact the availability of affordable housing. He requested the Selectboard add an agenda item to their next meeting for the Planning Board to attend and discuss this issue. Mr. Porter said this could happen at a later meeting. Mr. Hounsell said he will attend the next meeting and ask the question during public comment, as he has not been able to get an answer.

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Mr. DegliAngeli and Mr. Hounsell discussed why Mr. Hounsell has not received a response to a question he posed. Mr. Hounsell felt a response was overdue and Mr. DegliAngeli explained the reason for the delay.

Chair Colbath suggested adding this topic to the Board's agenda to have a productive, in-depth conversation about the topic. Mr. Porter recommended holding the discussion at a Selectboard meeting instead of a Planning Board meeting. He will attempt to have it added to the agenda of the first available Selectboard meeting after the first of the year.

**Media Questions:**

There were no media questions.

**Non-Public Session – Consideration of legal advice, RSA 91-A:3, II.(1):**

**At 8:49 pm, Ms. Byers made a motion, seconded by Mr. Porter, to enter a non-public session based on RSA 91-A:3.II(1), Consideration of Legal Advice. A roll call vote was taken. Hounsell – yes; Corbett – yes; Byers – yes; Porter – yes; Grant – yes; Haynes – yes; Colbath – yes. Motion passed unanimously.**

**At 10:09 pm, Ms. Byers made a motion, seconded by Mr. Corbett, to leave a non-public session. A roll call vote was taken. Hounsell – yes; Corbett – yes; Byers – yes; Porter – yes; Grant – yes; Haynes – yes; Colbath – yes. Motion passed unanimously.**

**Ms. Byers made a motion, seconded by Mr. Hounsell, to seal the nonpublic session minutes until review by the Board in six months at the April 11, 2024, Planning Board meeting. Disclosure of the minutes at this time would render the proposed action ineffective. Motion carried unanimously.**

Chair Colbath adjourned the meeting at 10:09 p.m.

Respectfully submitted,  
Beth Hanggeli



# TOWN OF CONWAY

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## Memo

To: Planning Board

From: Planning Staff

Date: December 06, 2023

Re: Proposed Amendments to the Wetland and Watershed Protection Overlay District

The following outlines proposed amendments to the Wetland and Watershed Protection Overlay District for consideration at a public hearing.

The proposal expands the overlay district from 100 to 300 feet from year-round watercourses and wetlands. This allows for greater stormwater controls to be put in place to protect these waterbodies. Several recommendations outlined below require low-impact development designs for projects within the districts. These techniques ensure watercourses are not modified and pollutants are removed from stormwater prior to being discharged from a site.

The language also recommends limiting impervious surfaces to 25% for portions of a development within the WWPO. Proposed changes to the WWPO are outlined below in red.

### § 190-28. Wetland and Watershed Protection Overlay (WWPO) District.

The WWPO District is primarily designed to protect the public health, safety and general welfare by protecting valuable wetland and water resources; preventing the harmful filling, draining, sedimentation, or alteration of wetlands and watercourses; protecting unique and unusual natural areas; preventing the development of structures and land uses on naturally occurring wetlands, which could contribute to pollution of surface water and groundwater by sewage; preventing the destruction or significant degradation of wetlands which provide flood and storm control by the hydrologic absorption and storage capacity of the wetland; protecting fish and wildlife habitats by providing breeding, nesting, and feeding grounds for many forms of plant and animal life, including rare, threatened, or endangered species; protect existing and potential water supplies, aquifers and aquifer recharge areas; providing pollution treatment to maintain water quality; preventing expenditures of municipal funds for the purpose of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands; providing for compatible land uses in and adjacent to wetlands or surface waters which serve to enhance, preserve, and protect wetland areas and water bodies as natural resources. Excavation shall be prohibited in statutory wetlands. Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

District boundaries and map.



(1) District boundaries.

(a) The WWPO District shall be comprised of all land within **300** feet from the edge of:

- [1] All water bodies, excluding Great Ponds, which are covered under the Shoreline Protection Overlay District; and certain man-made water bodies, such as fire ponds, agricultural/irrigation ponds, sedimentation/detention basins, and sewerage lagoons;
- [2] All year-round watercourses;
- [3] All wetland areas of three or more contiguous acres, excluding constructed or legally altered wetlands that are not part of a wetland mitigation plan, and vegetated swales and roadside ditches;
- [4] All wetland areas as shown on the Town of Conway 1997 Wetlands Composite Map abutting a water body or year-round watercourse, regardless of the wetland acreage involved;
- [5] All perennial watercourses and hydric areas depicted as having poorly or very poorly drained soils according to the Soils Survey of Carroll County, New Hampshire (approved in 1973, and issued in 1977); and
- [6] All wetland areas, except wet woodlands (designated as WW-1 and WW-2), identified and delineated in a report entitled "The Wetlands of Conway, New Hampshire - An Inventory and Evaluation," United States Department of Agricultural Extension Service Wetlands Project, Report No. 1, dated 1979.

(b) Disputed or incorrectly delineated wetlands. When there is a dispute over the delineation of a mapped wetland, or in cases where an unmapped wetland is delineated, it may be resolved with a plan certified by a wetland or soil scientist licensed by the State of New Hampshire that delineates the wetlands in accordance with the criteria established in and defined by the Corps of Engineers Wetlands Delineation Manual Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987 and Regional Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission, 1998.

(2) District map. The WWPO District Map is **included as an attachment to this chapter.**

B. Shoreline and wetland setbacks.

- (1) Each structure shall have a **one-hundred-foot** minimum setback from the edge of the water or edge of wetland, whichever is farther landward. Boat storage sheds, however, may be set back a minimum of 50 feet from the edge of the water or edge of wetland. In the Residential/Agricultural District, storage sheds shall be set back a minimum of 50 feet from the edge of water or edge of the wetland. Only one storage shed is allowed per lot within the buffer.
- (2) Special provisions.

- (a) No septic tank or leach field may be constructed or enlarged closer than 100 feet to any wetland.
- C. Lot coverage shall not exceed 25% within the WWPO. Lot coverage shall include structures and impervious surfaces, including but not limited to buildings, driveways and sidewalks.
- D. Any development within the WWPO which requires Site Plan review shall meet the following performance standards and apply methodologies from the New Hampshire Stormwater Manual Volume 1, 2, and 3 as amended or other equivalent means.
- (1) Low-impact development (LID) site planning and design strategies must be used to the maximum extent practicable. LID strategies must maintain pre-development site hydrology, reduce stormwater runoff volumes, and protect water quality. The applicant must provide justification when LID strategies are not appropriate to manage stormwater.
  - (2) Runoff from impervious surfaces shall be treated onsite and achieve at least 80% removal of total suspended solids and at least 50% removal of both total nitrogen and total phosphorus using appropriate treatment measures, as specified in the New Hampshire Stormwater Manual, Volumes 1 and 2, as amended or other equivalent means.
  - (3) All stormwater treatment areas shall be planted with native plantings appropriate for site conditions in sufficient numbers and density to prevent soil erosion and to achieve LID water quality treatment requirements.
  - (4) The design of stormwater management systems shall incorporate a fifteen-percent increase in precipitation for twenty-five-year storms.
  - (5) A proposed site plan must include erosion and sediment control measures, limits of disturbance, and temporary and permanent soil stabilization measures in accordance with the NHDES Stormwater Manual Volume 3 as amended or other equivalent means.
  - (6) Any required culverts within the WWPO shall preserve the natural stream substrate and not disturb the streambed.
- E. Shoreline and wetland buffer. There shall be a fifty-foot-wide vegetated buffer along the edge of the water or edge of wetland, whichever is farther landward. This buffer serves as a natural filter to protect the waters and wetlands from contaminated surface runoff, provides habitat for terrestrial wildlife, protects aesthetic qualities of the water and wetland environment and helps prevent erosion of the shoreline. The following restrictions shall apply to the buffer:
- (1) One access path across the buffer, up to 10 feet in width (measured parallel to the shoreline), is allowed for each 150 feet of water frontage. Such paths shall be designed to prevent erosion and runoff into the water or wetland. Path installation may occur only after receipt of a zoning permit from the Zoning Officer.
  - (2) Municipal trails on government lands and municipal trails across other lands (for which the Town of Conway has accepted trail easements) may be located within shoreline and wetland buffers, provided that they are designed and maintained to

prevent erosion and runoff into the water or wetland.

- (3) No vegetation less than four inches in diameter, measured at 4 1/2 feet above ground level, shall be cut, trimmed, pruned or removed, except to provide for permitted access paths.
- (4) For vegetation four inches or more in diameter, measured 4 1/2 feet above ground level (hereafter referred to as "trees"), no more than 10% of the basal area of trees may be removed from the buffer (not including the area of permitted access paths) in any five-year period. Before any cutting may occur, the Zoning Officer shall be provided with a plat indicating the size and location of all trees in the buffer, which indicates the total basal area before and after the proposed cutting and which indicates all measures to be taken to prevent destruction of the buffer and protect the water quality. Cutting may occur only after receipt of a zoning permit from the Zoning Officer.
- (5) No cutting or trimming of living tree limbs shall be permitted.
- (6) Dead trees and dead limbs may be cut down only after receipt of a zoning permit from the Zoning Officer.
- (7) For beaches permitted herein, where some clearing of land within the buffer is required, in no case shall such clearing for a beach extend inland more than 10 feet from the normal high- water elevation, and such clearing shall be no longer than the permitted beach.
- (8) Agricultural and timber harvesting activities and operations shall be permitted uses within the buffer area, provided they conform to best management practices established by the United States Department of Agriculture Natural Resources Conservation Service, Cooperative Extension and/or the New Hampshire Department of Agriculture and RSA Ch.227-J.

F. Docks. Docks which are completely removed from the water for the winter season shall be permitted as follows:

- (1) Maximum number of docks shall be one per 150 feet of water frontage, but lots with less than 150 feet of water frontage are permitted one dock.
- (2) A dock shall not extend more than 30 feet into the water.
- (3) A dock shall not be wider than 10 feet in width.
- (4) A zoning permit must be obtained prior to the installation of a dock.

G. Private beaches. Beaches which are not owned by a unit of government shall be regulated as follows:

- (1) Existing beaches may be maintained without the use of any machines or motorized equipment below the high-water elevation. Washed sand shall be the only material which may be added to the beach. The amount of washed sand added shall not exceed one cubic yard per three feet of beach length in any five-year period. A zoning permit and all applicable state permits shall be required before any sand is deposited, and it shall be the responsibility of the Zoning Officer to maintain records to monitor

beach maintenance.

- (2) New beaches may be created only when the following conditions are met:
  - (a) The lot shall be considered to have an area suitable for a beach if it meets each of the following criteria:
    - [1] The slope of land from the high-water elevation to a line 10 feet inland shall not have slopes steeper than 10%.
    - [2] The slope of the land from the high-water elevation to a line 20 feet out into the water shall have slopes greater than 10%.
    - [3] The proposed beach site shall be determined by an independent wildlife biologist to be of minimal importance as fish habitat and/or spawning area (written report from the wildlife biologist shall be provided to the Town).
    - [4] The area proposed for a beach above the high-water elevation is not on or within 10 feet of poorly or very poorly drained soils or wetlands.
    - [5] All proposed beaches must comply with the requirements set forth in RSA Ch. 482-A and the New Hampshire Code of Administrative Rules, as amended.  
[Amended 4-11-2017 ATM by Art. 2]
  - (b) A beach shall be no longer than 10% of the length of water frontage, except that no beach shall be required to be less than 15 feet in length.
  - (c) No more than one cubic yard of sand per three feet of beach length shall be used to create the beach. Compliance with this requirement shall be documented to the Zoning Officer by means of providing all receipts for beach construction. Only washed sand shall be used for beach construction.
  - (d) Once established, the maintenance requirements listed in Subsection E(1) shall apply.
  - (e) Erosion control measures shall be provided such that runoff shall not run across the beach, with a design certified by a New Hampshire licensed professional engineer and reviewed by the Carroll County Conservation District.
  - (f) A New Hampshire licensed professional engineer shall inspect the site three times: before construction; after grubbing but before sand is added; and when construction is completed. The professional engineer shall certify that all work is completed in accordance with the plans provided to the Town and in accordance with these requirements.
  - (g) All other required permits and approvals are obtained.

H. Shorefront common areas. Shorefront common areas are those areas used for water recreation and/or access by users living off-site. Such areas shall comply with the following:

- (1) Shorefront common areas shall not be located on lots smaller than two acres.

- (2) The lot shall have, at a minimum, 50 feet of water frontage per family or household having rights of use; provided, however, that no more than 500 feet of water frontage shall be required for any one shorefront common area.
  - (3) Parking lots for shorefront common areas shall be set back a minimum of 200 feet from the normal high-water elevation. The parking area shall be screened from view of the water by a strip, at least 25 feet wide, of trees and shrubs.
  - (4) Creation or alteration of shorefront common areas shall be subject to site plan review. [1] Editor's Note: See Ch. 110, Site Plan Review.
- I. Earth disturbance. Prior to any work activity in which digging will occur or the ground's vegetative cover will be removed or substantially disturbed, sufficient erosion and sedimentation control measures shall be installed in accordance with RSA 485-A:17 and the New Hampshire Code of Administrative Rules, as amended. Such measures, which may include hay bales and silt fences, shall be maintained in proper working order until the ground surface is stabilized and no longer subject to erosion. The control measures shall be installed to protect the water, the wetland and the buffer (in order to preserve the buffer's natural filtering capacity). [Amended 4-11-2017 ATM by Art. 2]
- J. Water quality. In order to afford maximum protection to water quality, the application of chemical fertilizer, insecticides or other chemicals shall be prohibited in the district. In addition, drainage shall be controlled and treated as best as is reasonably possible for any construction or activity, or as a result of any land use, such as access paths. Local regulation of pesticide management is preempted by RSA 430:49.
- K. Special exceptions. The following shall be prohibited unless granted a special exception by the Zoning Board of Adjustment. If granted a special exception under this section, a site plan review approval shall be required prior to construction. References to the "shoreline" shall be considered either the shoreline of the water body/watercourse or the edge of wetland, whichever is farther landward. Any special exception shall be granted only after having found that there is no better feasible alternative, in keeping with state and federal standards for the issuance of development permits in 404 jurisdictional wetlands.
- (1) Protective riprap. Riprap to protect shores from erosion shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:
    - (a) All required state and federal permits are obtained; and
    - (b) The shoreline is being eroded by action of the waters and the riprap will protect the shoreline from further erosion without enhancing erosion at another location on the shoreline.
  - (2) Building on undersized lots. Building on pre-existing lots with insufficient acreage shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:
    - (a) There is a state-approved septic system or connection to a municipal sewer.
    - (b) Any building to be constructed shall be configured and located on the lot to create the maximum shoreline setback practical. If appropriate, rear and sideline setbacks

may be reduced by the Zoning Board of Adjustment by up to 50% to facilitate maximum shoreline protection.

- (c) Clearing of lots may be limited by the Zoning Board of Adjustment as a condition of approval so as to prevent erosion runoff problems.
- (3) Municipal and state facilities. Municipal and state facilities, including beaches and boat launches, shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:
- (a) All required state and federal permits are obtained.
  - (b) Sand for a beach shall not be deposited in water which is deeper than 4.5 feet nor farther than 75 feet out from the high-water elevation. For erosion control of the beach area, a barrier shall be constructed between the water and the sand on the beach. The site shall not be normally subject to erosion by action of the water nor by the grade of the shoreline slope.
  - (c) In order to shield the view of parked vehicles from the water and to protect the water from runoff from parking areas, parking shall be located behind a landscaped area of natural or planted vegetation at least 50 feet in depth. Parking areas shall be gravel. Appropriate drainage controls shall be constructed and maintained to protect the Great Pond.
  - (d) Footpaths may be cleared across the vegetated area for access to the beach. They shall be kept at a minimum width which serves pedestrian access to the water.
- (4) Wetland or stream crossing: the construction of a wetland or stream crossing for purposes of streets, roads and other access ways and utility right-of-way easements, including power lines and pipelines. A special exception for these uses may be granted if the following conditions are met:
- (a) The use is essential to the productive use of land not in the district; and
  - (b) The use is so located and constructed as to minimize the detrimental impact upon the wetlands.
- (5) Water storage or impoundment: the construction of a water storage or impoundment.
- (6) Any use not otherwise permitted or otherwise allowed by special exception in a wetland, which may include the erection of a structure, dredging, filling, draining or otherwise altering the surface configuration of a wetland. A special exception may be granted, provided that the following conditions are met:
- (a) The proposed use will not conflict with the purpose and intent of the district. To support this claim, the applicant shall provide proper written evidence, which shall be accompanied by the findings of a review by the United States Natural Resources Conservation Service; and
  - (b) The use is permitted in the underlying zoning district.

## Proposed Changes to the Wetland and Watershed Overlay District

### § 190-28. Wetland and Watershed Protection Overlay (WWPO) District.

The WWPO District is primarily designed to protect the public health, safety and general welfare by protecting valuable wetland and water resources; preventing the harmful filling, draining, sedimentation, or alteration of wetlands and watercourses; protecting unique and unusual natural areas; preventing the development of structures and land uses on naturally occurring wetlands, which could contribute to pollution of surface water and groundwater by sewage; preventing the destruction or significant degradation of wetlands which provide flood and storm control by the hydrologic absorption and storage capacity of the wetland; protecting fish and wildlife habitats by providing breeding, nesting, and feeding grounds for many forms of plant and animal life, including rare, threatened, or endangered species; protect existing and potential water supplies, aquifers and aquifer recharge areas; providing pollution treatment to maintain water quality; preventing expenditures of municipal funds for the purpose of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands; providing for compatible land uses in and adjacent to wetlands or surface waters which serve to enhance, preserve, and protect wetland areas and water bodies as natural resources. Excavation shall be prohibited in statutory wetlands. Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

District boundaries and map.

(1) District boundaries.

(a) The WWPO District shall be comprised of all land within **300** (up from 100) feet from the edge of:

- [1] All water bodies, excluding Great Ponds, which are covered under the Shoreline Protection Overlay District; and certain man-made water bodies, such as fire ponds, agricultural/irrigation ponds, sedimentation/detention basins, and sewerage lagoons;
- [2] All year-round watercourses;
- [3] All wetland areas of three or more contiguous acres, excluding constructed or legally altered wetlands that are not part of a wetland mitigation plan, and vegetated swales and roadside ditches;
- [4] All wetland areas as shown on the Town of Conway 1997 Wetlands Composite Map abutting a water body or year-round watercourse, regardless of the wetland acreage involved; (has this map been located?) How about “all wetlands as shown on the Town of Conway’s online GIS mapping application”)
- [5] All perennial watercourses and hydric areas depicted as having poorly or very poorly drained soils according to the Soils Survey of Carroll County, New Hampshire (approved in 1973, and issued in 1977); and

[6] All wetland areas, except wet woodlands (designated as WW-1 and WW-2), identified and delineated in a report entitled "The Wetlands of Conway, New Hampshire - An Inventory and Evaluation," United States Department of Agricultural Extension Service Wetlands Project, Report No. 1, dated 1979. (maybe it's this one that's missing) (Aso, what about again referencing the town's online GIS mapping?)

(b) Disputed or incorrectly delineated wetlands. When there is a dispute over the delineation of a mapped wetland, or in cases where an unmapped wetland is delineated, it may be resolved with a plan certified by a wetland or soil scientist licensed by the State of New Hampshire that delineates the wetlands in accordance with the criteria established in and defined by the Corps of Engineers Wetlands Delineation Manual Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987 and Regional Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission, 1998.

(2) District map. The WWPO District Map is **included as an attachment to this chapter.** (where's that map?)

B. Shoreline and wetland setbacks.

(1) Each structure shall have a one-hundred-foot (up from 75') minimum setback from the edge of the water or edge of wetland, whichever is farther landward. Boat storage sheds, however, may be set back a minimum of 50 feet from the edge of the water or edge of wetland. In the Residential/Agricultural District, storage sheds shall be set back a minimum of 50 feet from the edge of water or edge of the wetland. Only one storage shed is allowed per lot within the buffer.

(2) Special provisions.

(a) No septic tank or leach field may be constructed or enlarged closer than 100 feet to any wetland.

C. Lot coverage shall not exceed 25% within the WWPO. Lot coverage shall include structures and impervious surfaces, including but not limited to buildings, driveways and sidewalks. Suggest 50%. Lot coverage is currently regulated by percentage of greenspace – yes?

D. Any development within the WWPO which requires Site Plan review shall meet the following performance standards and apply methodologies from the New Hampshire Stormwater Manual Volume 1, 2, and 3 as amended or other equivalent means.

(1) Low-impact development (LID) site planning and design strategies must be used to the maximum extent practicable. LID strategies must maintain pre-development site hydrology, reduce stormwater runoff volumes, and protect water quality. The applicant must provide justification when LID strategies are not appropriate to manage stormwater.

(2) Runoff from impervious surfaces shall be treated onsite and achieve at least 80% removal of total suspended solids and at least 50% removal of both total nitrogen and



total phosphorus using appropriate treatment measures, as specified in the New Hampshire Stormwater Manual, Volumes 1 and 2, as amended or other equivalent means.

- (3) All stormwater treatment areas shall be planted with native plantings appropriate for site conditions in sufficient numbers and density to prevent soil erosion and to achieve LID water quality treatment requirements.
- (4) The design of stormwater management systems shall incorporate a fifteen-percent increase in precipitation for twenty-five-year storms. A 25-year storm is 5.7" in 24-hours. 15% increase will be 6.6" which is a 100 year storm. Why not just design for the 100-year storm? The design of stormwater management systems shall be based on the 100-year storm as indicated in the most recent edition of the NH Stormwater Manual as published by the NH Dept. of Environmental Services.
- (5) A proposed site plan must include erosion and sediment control measures, limits of disturbance, and temporary and permanent soil stabilization measures in accordance with the NHDES Stormwater Manual Volume 3 as amended or other equivalent means.
- (6) Any required culverts within the WWPO shall preserve the natural stream substrate and not disturb the streambed. The placement of any required culverts within the WWPO shall be performed using methods that will minimize impact to the natural stream substrate and minimize disturbance to the streambed. All such methods shall be indicated and described on plans that are to be considered for approval by the Planning Board.

E. Shoreline and wetland buffer. There shall be a fifty-foot-wide vegetated buffer along the edge of the water or edge of wetland, whichever is farther landward. This buffer serves as a natural filter to protect the waters and wetlands from contaminated surface runoff, provides habitat for terrestrial wildlife, protects aesthetic qualities of the water and wetland environment and helps prevent erosion of the shoreline. The following restrictions shall apply to the buffer:

- (1) One access path across the buffer, up to 10 feet in width (measured parallel to the shoreline), is allowed for each 150 feet of water frontage. Such paths shall be designed to prevent erosion and runoff into the water or wetland. Path installation may occur only after receipt of a zoning permit from the Zoning Officer.
- (2) Municipal trails on government lands and municipal trails across other lands (for which the Town of Conway has accepted trail easements) may be located within shoreline and wetland buffers, provided that they are designed and maintained to prevent erosion and runoff into the water or wetland.
- (3) No vegetation less than four inches in diameter, measured at 4 1/2 feet above ground level, shall be cut, trimmed, pruned or removed, except to provide for permitted access paths.
- (4) For vegetation four inches or more in diameter, measured 4 1/2 feet above ground level (hereafter referred to as "trees"), no more than 10% of the basal area of trees may be removed from the buffer (not including the area of permitted access paths) in any five-year period. Before any cutting may occur, the Zoning Officer shall be

provided with a plat indicating the size and location of all trees in the buffer, which indicates the total basal area before and after the proposed cutting and which indicates all measures to be taken to prevent destruction of the buffer and protect the water quality. Cutting may occur only after receipt of a zoning permit from the Zoning Officer.

- (5) No cutting or trimming of living tree limbs shall be permitted.
  - (6) Dead trees and dead limbs may be cut down only after receipt of a zoning permit from the Zoning Officer.
  - (7) For beaches permitted herein, where some clearing of land within the buffer is required, in no case shall such clearing for a beach extend inland more than 10 feet from the normal high- water elevation, and such clearing shall be no longer than the permitted beach.
  - (8) Agricultural and timber harvesting activities and operations shall be permitted uses within the buffer area, provided they conform to best management practices established by the United States Department of Agriculture Natural Resources Conservation Service, Cooperative Extension and/or the New Hampshire Department of Agriculture and RSA Ch.227-J.
- F. Docks. Docks which are completely removed from the water for the winter season shall be permitted as follows:
- (1) Maximum number of docks shall be one per 150 feet of water frontage, but lots with less than 150 feet of water frontage are permitted one dock.
  - (2) A dock shall not extend more than 30 feet into the water.
  - (3) A dock shall not be wider than 10 feet in width.
  - (4) A zoning permit must be obtained prior to the installation of a dock.
- G. Private beaches. Beaches which are not owned by a unit of government shall be regulated as follows:
- (1) Existing beaches may be maintained without the use of any machines or motorized equipment below the high-water elevation. Washed sand shall be the only material which may be added to the beach. The amount of washed sand added shall not exceed one cubic yard per three feet of beach length in any five-year period. A zoning permit and all applicable state permits shall be required before any sand is deposited, and it shall be the responsibility of the Zoning Officer to maintain records to monitor beach maintenance.
  - (2) New beaches may be created only when the following conditions are met:
    - (a) The lot shall be considered to have an area suitable for a beach if it meets each of the following criteria:
      - [1] The slope of land from the high-water elevation to a line 10 feet inland shall not have slopes steeper than 10%.
      - [2] The slope of the land from the high-water elevation to a line 20 feet out into

the water shall have slopes greater than 10%.

[3] The proposed beach site shall be determined by an independent wildlife biologist to be of minimal importance as fish habitat and/or spawning area (written report from the wildlife biologist shall be provided to the Town).

[4] The area proposed for a beach above the high-water elevation is not on or within 10 feet of poorly or very poorly drained soils or wetlands.

[5] All proposed beaches must comply with the requirements set forth in RSA Ch. 482-A and the New Hampshire Code of Administrative Rules, as amended.

[Amended 4-11-2017 ATM by Art. 2]

(b) A beach shall be no longer than 10% of the length of water frontage, except that no beach shall be required to be less than 15 feet in length.

(c) No more than one cubic yard of sand per three feet of beach length shall be used to create the beach. Compliance with this requirement shall be documented to the Zoning Officer by means of providing all receipts for beach construction. Only washed sand shall be used for beach construction.

(d) Once established, the maintenance requirements listed in Subsection E(1) shall apply.

(e) Erosion control measures shall be provided such that runoff shall not run across the beach, with a design certified by a New Hampshire licensed professional engineer and reviewed by the Carroll County Conservation District.

(f) A New Hampshire licensed professional engineer shall inspect the site three times: before construction; after grubbing but before sand is added; and when construction is completed. The professional engineer shall certify that all work is completed in accordance with the plans provided to the Town and in accordance with these requirements.

(g) All other required permits and approvals are obtained.

H. Shorefront common areas. Shorefront common areas are those areas used for water recreation and/or access by users living off-site. Such areas shall comply with the following:

(1) Shorefront common areas shall not be located on lots smaller than two acres.

(2) The lot shall have, at a minimum, 50 feet of water frontage per family or household having rights of use; provided, however, that no more than 500 feet of water frontage shall be required for any one shorefront common area.

(3) Parking lots for shorefront common areas shall be set back a minimum of 200 feet from the normal high-water elevation. The parking area shall be screened from view of the water by a strip, at least 25 feet wide, of trees and shrubs.

(4) Creation or alteration of shorefront common areas shall be subject to site plan review. [1] Editor's Note: See Ch. 110, Site Plan Review.

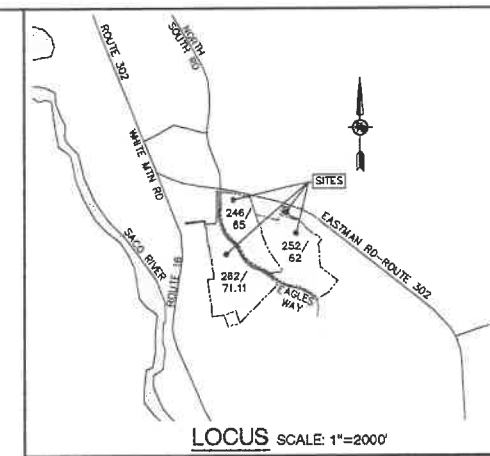
I. Earth disturbance. Prior to any work activity in which digging will occur on the ground's

vegetative cover will be removed or substantially disturbed, sufficient erosion and sedimentation control measures shall be installed in accordance with RSA 485-A:17 and the New Hampshire Code of Administrative Rules, as amended. Such measures, which may include hay bales and silt fences, shall be maintained in proper working order until the ground surface is stabilized and no longer subject to erosion. The control measures shall be installed to protect the water, the wetland and the buffer (in order to preserve the buffer's natural filtering capacity). [Amended 4-11-2017 ATM by Art. 2]

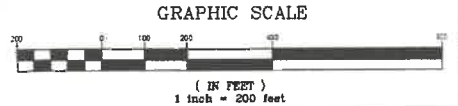
- J. Water quality. In order to afford maximum protection to water quality, the application of chemical fertilizer, insecticides or other chemicals shall be prohibited in the district. In addition, drainage shall be controlled and treated as best as is reasonably possible for any construction or activity, or as a result of any land use, such as access paths. Local regulation of pesticide management is preempted by RSA 430:49.
- K. Special exceptions. The following shall be prohibited unless granted a special exception by the Zoning Board of Adjustment. If granted a special exception under this section, a site plan review approval shall be required prior to construction. References to the "shoreline" shall be considered either the shoreline of the water body/watercourse or the edge of wetland, whichever is farther landward. Any special exception shall be granted only after having found that there is no better feasible alternative, in keeping with state and federal standards for the issuance of development permits in 404 jurisdictional wetlands.
  - (1) Protective riprap. Riprap to protect shores from erosion shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:
    - (a) All required state and federal permits are obtained; and
    - (b) The shoreline is being eroded by action of the waters and the riprap will protect the shoreline from further erosion without enhancing erosion at another location on the shoreline.
  - (2) Building on undersized lots. Building on pre-existing lots with insufficient acreage shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:
    - (a) There is a state-approved septic system or connection to a municipal sewer.
    - (b) Any building to be constructed shall be configured and located on the lot to create the maximum shoreline setback practical. If appropriate, rear and sideline setbacks may be reduced by the Zoning Board of Adjustment by up to 50% to facilitate maximum shoreline protection.
    - (c) Clearing of lots may be limited by the Zoning Board of Adjustment as a condition of approval so as to prevent erosion runoff problems.
  - (3) Municipal and state facilities. Municipal and state facilities, including beaches and boat launches, shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:
    - (a) All required state and federal permits are obtained.
    - (b) Sand for a beach shall not be deposited in water which is deeper than 4.5 feet nor

farther than 75 feet out from the high-water elevation. For erosion control of the beach area, a barrier shall be constructed between the water and the sand on the beach. The site shall not be normally subject to erosion by action of the water nor by the grade of the shoreline slope.

- (c) In order to shield the view of parked vehicles from the water and to protect the water from runoff from parking areas, parking shall be located behind a landscaped area of natural or planted vegetation at least 50 feet in depth. Parking areas shall be gravel. Appropriate drainage controls shall be constructed and maintained to protect the Great Pond.
  - (d) Footpaths may be cleared across the vegetated area for access to the beach. They shall be kept at a minimum width which serves pedestrian access to the water.
- (4) Wetland or stream crossing: the construction of a wetland or stream crossing for purposes of streets, roads and other access ways and utility right-of-way easements, including power lines and pipelines. A special exception for these uses may be granted if the following conditions are met:
- (a) The use is essential to the productive use of land not in the district; and
  - (b) The use is so located and constructed as to minimize the detrimental impact upon the wetlands.
- (5) Water storage or impoundment: the construction of a water storage or impoundment.
- (6) Any use not otherwise permitted or otherwise allowed by special exception in a wetland, which may include the erection of a structure, dredging, filling, draining or otherwise altering the surface configuration of a wetland. A special exception may be granted, provided that the following conditions are met:
- (a) The proposed use will not conflict with the purpose and intent of the district. To support this claim, the applicant shall provide proper written evidence, which shall be accompanied by the findings of a review by the United States Natural Resources Conservation Service; and
  - (b) The use is permitted in the underlying zoning district.



<b>PROJECT PARCEL</b> TOWN OF CONWAY TAX MAP 248, LOTS 1 & 65 TAX MAP 252, LOT 62 TAX MAP 262, LOT 71.11
<b>APPLICANT/OWNER</b> CONTINUUM AT NORTH CONWAY, LLC 250 GODDARD ROAD LEWISTON, ME 04240 BK 3748 PG 001
<b>TOTAL LOT AREA</b> 128.47 ± ACRES 5,806,833 ± SQ. FT.



Design: ISM Date: EJB Date: 12/14/23  
 Checked: WGM Scale: AS NOTED Project No.: 17241  
 Drawing Name: 17241-EXHIBIT-WWPOchanges.DWG  
 THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM JONES & BEACH ENGINEERS, INC. (JBE). ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO JBE.

REV.	DATE	REVISION	BY
0	12/14/23	ISSUED FOR REVIEW	ISM

Designed and Produced in NH

**J/B Jones & Beach Engineers, Inc.**  
 Civil Engineering Services  
 85 Portsmouth Ave. PO Box 219 Stratham, NH 03885  
 603-772-4746 FAX: 603-772-0227 E-Mail: JBE@JONESANDBEACH.COM

Plan Name:	<b>EXHIBIT - WWPO DISTRICT CHANGES</b>
Project:	<b>RIDGELINE COMMUNITY EAGLES WAY &amp; EASTMAN ROAD, NORTH CONWAY, NH</b>
Owner of Record:	<b>CONTINUUM AT NORTH CONWAY, LLC 250 GODDARD ROAD, LEWISTON, ME 04240</b>

DRAWING No.  
**WWPO**  
 SHEET 1 OF 1  
 JBE PROJECT NO. 17241



# TOWN OF CONWAY

23 MAIN STREET + P.O. BOX 2680 + CONWAY, NEW HAMPSHIRE 03818

(603) 447-3811  
WWW.CONWAYNH.ORG

## MEMO

To: Planning Board

From: Planning Staff

Date: December 05, 2023

Re: Parkway Protection Overlay District

On behalf of the Ad-Hoc Parkway Committee, the language below is for your consideration of a Parkway Protection Overlay District.

The goal is to create an overlay district to preserve the viewshed along the North-South Road. This ordinance is a model for considering other roads in Conway that may be chosen for preservation in the future. Upon passage, a map would be created to identify the district along the North-South Road. The Committee has asked that the language below be reviewed and considered for a public hearing. A final report from the Committee is attached to this document.

### § 130-30 Parkway Protection Overlay District

Purpose and intent:

The Parkway Protection Overlay District (PPO) is primarily designed to preserve scenic parkways, including but not limited to the North-South Road. Land uses permitted in this district are represented in the Permitted Use Table.

A. District boundaries.

- a. The PPO District shall be comprised of a two-hundred and fifty foot (250) protective buffer from the centerline of any Parkway, designated by the Board of Selectmen, extending on both sides of the road.
- b. District map. The PPO District Map is included as an attachment to this chapter.

B. Definition:

- a. **PARKWAY.** A landscaped thoroughfare, most commonly a road or portion of a road with no curb cuts and or crossroad access, that has a protected vegetated buffer along either side for the purpose of maintaining scenic beauty. Vehicles with more than 2 axles are prohibited from driving on parkways.

C. Restrictions:

- a. Within the PPO District, no cutting of trees or land disturbance is permitted. A Special Exception may be granted for the cutting of trees which are deemed hazardous. No approval for a Special Exception under this section shall be granted unless the ZBA makes a finding that the removal trees or vegetation is necessary to prevent a hazard to life or safety.
- b. Prior to development or redevelopment of a parcel which contains any portion of the PPO District, the entirety of the overlay within that parcel shall be deed restricted as open space. The deed must indicate a vegetative buffer be established and maintained; and no disturbance, development, or alteration of terrain be permitted.
- c. Previously disturbed areas within the PPO District shall be restored with adequate trees and vegetation to fully screen any proposed development within a parcel containing any portion of the overlay.
- d. No curb-cut or driveway shall be created onto a designated Parkway.
- e. Nonconforming uses. A pre-existing use which is nonconforming with respect to the protective PPO District restrictions shall not be entitled to the same rights as are established in § 190-30A. The nonconforming use shall be eliminated or changed to a conforming use which improves the vegetated buffer prior to any redevelopment of a parcel within the PPO District.



Conway Planning Board  
Parkway Committee  
Final Report

Members: Eliza Grant, (Committee chair), Ben Colbath (Planning Board Chair), Steve Porter (Selectmen's representative to the Planning Board)

The Parkway Committee was formed to explore codifying the North South Road's designation as a Parkway in the Town of Conway (previously this road was designated as a Parkway by the Board of Selectmen) and to institute zoning protections that would allow this transportation corridor to remain scenic and functional.

The committee started by writing a definition of Parkway and recommending that language to the Planning Board for placement on the 2024 warrant.

**PARKWAY.** A landscaped thoroughfare, most commonly a road or portion of a road with no curb cut and or crossroad access, that has a protected vegetated buffer along either side for the purpose of maintaining scenic beauty. Vehicles with more than 2 axles are prohibited from driving on parkways.

The committee then worked to create a Parkway Protection Overlay District to be recommended to the Planning Board for placement on the 2024 warrant. Goals of this district include creating and protecting a vegetated buffer around the Parkway, limiting cutting around the Parkway, and preventing curb cuts and driveways from connecting to the Parkway.

### **§ 130-30 Parkway Protection Overlay District**

Purpose and intent:

The Parkway Protection Overlay District (PPO) is primarily designed to preserve scenic parkways, including but not limited to the North-South Road. Land uses permitted in this district are represented in the Permitted Use Table.

**A. District boundaries.**

- a. The PPO District shall be comprised of a two-hundred and fifty foot (250) protective buffer from the centerline of any Parkway, designated by the Board of Selectmen, extending on both sides of the road.
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**C. Restrictions:**

- a. Within the PPO District, no cutting of trees or land disturbance is permitted. A Special Exception may be granted for the cutting of trees which are deemed hazardous. No approval for a Special Exception under this section shall be

granted unless the ZBA makes a finding that the removal of trees or vegetation is necessary to prevent a hazard to life or safety.

- b. Prior to development or redevelopment of a parcel which contains any portion of the PPO District, the entirety of the overlay within that parcel shall be deed restricted as open space. The deed must indicate a vegetative buffer be established and maintained; and no disturbance, development, or alteration of terrain be permitted within the district.
- c. Previously disturbed areas within the PPO District shall be restored with adequate trees and vegetation to fully screen any proposed development within a parcel containing any portion of the overlay.
- d. No curb-cut or driveway shall be created onto a designated Parkway.
- e. Nonconforming uses. A pre-existing use which is nonconforming with respect to the protective PPO District restrictions shall not be entitled to the same rights as are established in § 190-30A. The nonconforming use shall be eliminated or changed to a conforming use which improves the vegetated buffer prior to any redevelopment of a parcel within the PPO District.

The committee also liaised with the Board of Selectmen, NH DOT, Town of Conway staff, and NHHFA about land adjacent to the Parkway that has been deemed surplus.

The committee has recommended that the Planning Board explore other roads that might need parkway protection, other scenic byway designations that would be available to the North South Road and other roads, and continue to work with the Town, DOT and NHHFA on bypass land that is going to be sold in the future. The committee is recommending that a separate bypass land committee be formed to help the town to assess additional bypass parcels and work with appropriate agencies to ensure they are appropriately stewarded.

Eliza Grant  
Parkway Committee Chair  
Conway Planning Board Member



# TOWN OF CONWAY

23 MAIN STREET + P.O. BOX 2680 + CONWAY, NEW HAMPSHIRE 03818

(603) 447-3811  
WWW.CONWAYNH.ORG

## MEMO

To: Planning Board

From: Planning Staff

Date: December 05, 2023

Re: Crematoriums & Funeral Homes

It has been brought to our attention that the use of funeral homes and crematoriums may need to be addressed in our Ordinance. Crematoriums are allowed only in the Industrial-Two zone and funeral homes are absent from regulations. The expansion of both uses may be appropriate to address the needs of the community.

Staff recommends crematoriums be expanded to the Highway Commercial Zone; the use is currently only permitted in the Industrial-Two zone. Crematoriums are highly regulated by the State and require systems and precautions which result in minimum impacts to abutting properties. The units that are acceptable for operation are self-contained and emit minimal exhaust, noise, or risk to existing structures.

Staff would also recommend the addition of Funeral Homes be considered for the Permitted Use Table; this use currently does not exist in our regulations. Funeral Homes may be considered a reasonable use in all Commercial and Industrial Zones.

Since a definition does not currently exist for Crematoriums or Funeral Homes, the language below would be suggested along with the amendments to the Permitted Use Table.

### **§190-31 Definitions:**

**FUNERAL HOME:** An establishment with facilities for burial or cremation preparation of the deceased and for memorial services.

**CREMATORIUM:** An establishment or structure in which human remains are cremated in a cremation retort.

### **§190 Attachment 2; Permitted Use Table:**

Crematorium: Permitted in I2 & HC

Funeral Home: Permitted in all Commercial Zones



# TOWN OF CONWAY

23 MAIN STREET + P.O. BOX 2680 + CONWAY, NEW HAMPSHIRE 03818

(603) 447-3811  
WWW.CONWAYNH.ORG

## MEMO

To: Planning Board

From: Planning Staff

Date: December 05, 2023

Re: Kennel Definition and Regulations

Following our discussion at the August 24, 2023 Planning Board meeting regarding Kennels, the language below outlines the proposed changes.

The amendment would include the addition of a definition and restrictions to limit potential noise for abutting property owners. The noise level is suggested to be limited to 70 decibels at the property line. This level of noise is often compared to a vacuum cleaner but less than noise produced from a lawn mower or heavy traffic.

The proposed amendments are outlined below in **Red**.

### **§190-31 Definitions:**

**Kennel** – An establishment or domicile which houses 10 or more Domestic Animals for any period of time. Kennels shall include any establishment as defined by RSA 466:4.III, Commercial Kennels; and are subject to RSA 466:6, Group Licensing.

The proposed amendments below would alter the Special Exception criteria in the Residential Agricultural, Center Conway Village Residential, and Recreational Resort Districts. Kennels are permitted by right in all Commercial and Industrial Districts.

(11) Kennels. A special exception may be granted to permit kennels for transient (fewer than 30 days) housing of domestic animals or commercial breeding facilities for domestic animals, provided that:

(a) The minimum lot size is two acres.

(b) Animal housing areas, if indoors, shall be set back 40 feet from side and rear property lines and 60 feet from rights-of-way. Pastures/Outdoor exercise areas shall be set back 15 feet from any property line.

(c) A written plan for the disposal/removal of animal waste must be submitted along with the application requesting the special exception from the Zoning Board of Adjustment. This plan must be approved by the Board as a condition of the special exception approval, if granted.

(d) All animals shall be kept in an indoor area between the hours of 6:00 p.m. and 8:00 a.m.

(e) The values of surrounding properties are not diminished.

[Added 4-11-2023 ATM by Art. 11]

(f) There will be no nuisance to abutters and/or neighbors preventing the peaceful enjoyment of their property and home.

[Added 4-11-2023 ATM by Art. 11]

(g) Additional conditions may be attached to this special exception by the Board of Adjustment consistent with the intent and purpose of this chapter to protect the health, safety, and general welfare of the Town's residents.

[Added 4-11-2023 ATM by Art. 11]

(e) At no time shall noise from a Kennel operation exceed 70 decibels at a property line. Adequate barriers or buffers must be in place to limit impacts to abutting property owners. At any time, the Town may demand noise levels be verified by a qualified engineer.