

CONWAY PLANNING BOARD

MINUTES

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CONWAY PLANNING BOARD

MINUTES

FEBRUARY 22, 2024

A meeting of the Conway Planning Board was held on Thursday, February 22, 2024, beginning at 6:06 p.m. at the Conway Town Office, Conway, NH. Those present were: Chair, Benjamin Colbath; Vice Chair; Allie Byers (joined at 6:31 p.m.); Selectmen's Representative, Steven Porter; Secretary, Erik Corbett; Eliza Grant; Alternate, Ted Phillips; Alternate, Deb Haynes; Town Planner, Ryan O'Connor; and Assistant Planner, Holly Whitelaw.

APPOINTMENT OF ALTERNATE MEMBERS

Chair Colbath appointed Mr. Phillips and Ms. Haynes as voting members.

WORK SESSION

Bear Hill Development, LLC (PID 219-243.1) – Request to extend conditional approval (File #FR21-03 & #S21-04): Fran Parisi of Parisi Law Associates appeared before the Board with a request to extend the conditional approval for constructing a cell tower. Mr. Parisi commended the Planning Department on their assistance as they work to resolve minor issues. The conditional approval expires this month, so an extension is needed, as they cannot complete the project until the weather improves.

Mr. O'Connor noted the application has been in litigation for quite a while and they are making good progress in meeting the conditions.

Mr. Porter made a motion, seconded by Mr. Corbett, to extend the conditional approval until August 8, 2024. Chair Colbath asked for public comment; there was none. **Motion carried unanimously.**

The Residences at Saco River, LLC – Request to amend conditional approval (File #FR23-07 & #S23-08): Mark Lucy of Horizons Engineering and Michael Mitchrone of OVP Management appeared before the Board with a request to amend the conditional approval notice of decision to require conditions #15, a performance guarantee for all on-site improvements, and #16, a performance guarantee for all off-site improvements [if necessary] be conditions subsequent to final approval but prior to issuance of any project building permits or site disturbance at 1552 White Mountain Highway, North Conway (PID 246-23).

Mr. Lucy explained the bank financing the project will be the bonding agent. However, the bank is disinclined to bond the sitework until the Town grants final approval. He said this does not affect the project in any way; it moves these particular conditions to after final approval. He said they hope to begin construction in 2024.

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Mr. O'Connor noted this has been done in the past. He would recommend adding the condition that bonding shall be submitted prior to the issuance of building permits or any site disturbance.

Ms. Grant said she understands that bonding has been problematic for other local businesses. She suggested looking at how bonding is being done, if the Board is willing to change the requirements for a developer. The Board agreed to examine the zoning ordinance and consider streamlining it to make it more palatable for everybody. Mr. Mitchrone noted the requirements from lenders are more stringent than they have been in the past.

Ms. Grant asked Mr. Lucy if he's experienced other towns not requiring bonding for on-site improvements, only off-site improvements. He said most towns require bonding for on-site **and** off-site improvements. However, some towns only require bonding for off-site improvements, to protect the Town's interest and infrastructure. He said in his experience, bonding for on-site improvements has never been an issue.

Mr. Colbath made a motion, seconded by Mr. Porter, to amend the conditional approval notice of decision to require conditions #15, a performance guarantee for all on-site improvements, and #16, a performance guarantee for all off-site improvements [if necessary] be conditions subsequent to final approval but prior to the issuance of any project building permits or site disturbance. Motion carried unanimously.

Innovative Land Use Controls

Mr. O'Connor explained managing commercial development has been discussed throughout the Master Plan. Hopefully, the moratorium will be in place for another year; if so, they will have to examine what it looks like on the other side of that. To begin that conversation, he introduced and defined innovative land use controls, which are broad techniques that allow for more site-specific zoning controls.

He suggested instituting a development of transfer credit ordinance and described how it would function. The Board discussed this ordinance and agreed it would be of benefit to the town. Mr. Porter said it is evident they need to consider limiting the size of buildings being constructed in town, per public opinion. He noted there are locations in town that cannot support commercial development.

Mr. O'Connor said they will need to determine a reasonable square footage and additional conditions for the ordinance. He noted it could push developers to focus on redeveloping sites instead of developing new ones. He said if a developer wants to build a large structure, they will have to mitigate the impacts to the community.

He clarified this would go into the zoning ordinances.

Ms. Haynes said a hospice house is needed in town. Mr. Porter suggested presenting this idea to the Select Board. Mr. O'Connor noted that as regulations are crafted, the Board needs to be mindful they do not take away from such efforts.

The Board discussed the definition of square footage and the importance of being clear as to what is meant by this term.

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Mr. O'Connor said Staff will start drafting language to bring to the Board. He would like to involve the public in this conversation. This ordinance would go on the Warrant next year.

Housing Opportunity Planning Grant

Mr. O'Connor said the group is focusing on reviewing current zoning ordinances and what might need to be adjusted to align with the Master Plan. He suggested forming a committee to review those changes, consisting of three Board members and two members of the Housing Coalition. Mr. Corbett, Ms. Byers, and Ms. Grant expressed interest in participating in this committee. Chair Colbath appointed Ms. Byers as chair of this committee.

Mr. Porter made a motion, seconded by Mr. Colbath, to create a committee consisting of three Board members and two members of the Housing Coalition. Motion carried unanimously.

State of NH Zoning Board of Adjustment Decision (PID 235-93)

Mr. O'Connor reported the project involving the Common Court and Puddin Hill properties has been finalized. The Puddin Hill properties will be conserved and the density will be focused on the Common Court property. Chair Colbath commended Mr. O'Connor for his work on this issue.

Mr. Porter addressed the importance of preserving the North-South Road. He offered kudos to the ZBA, the Planning Board, and the Select Board for making this a priority.

Minor Site Plan Review

Mr. O'Connor stressed it was important to ensure they are providing small businesses an easier route to approval. He reviewed the qualifications for minor site plan review, and said these reviews would be conducted by a minor site committee. The Board agreed with the need for this. Mr. O'Connor clarified the review would be a public meeting and abutters would be noticed. If a project was determined to exceed the minor site plan review the qualifications, it could be reviewed by the full Planning Board.

Mr. O'Connor said the next step would be to draft site plan regulations and review them in the next couple of months.

Next Work Session

Mr. O'Connor reviewed the topics that will be covered in the next work session.

Miscellaneous

Mr. Porter announced he is running for a fourth term as a Selectman, as he cares about the people of the town and believes he has more to contribute. Chair Colbath offered his support of Mr. Porter continuing to serve as the Selectboard representative on the Planning Board. Mr. Porter expressed his respect for the members of the Planning Board and the work they do.

Mr. Corbett plans to run for the Planning Board again. Mr. Phillips filed his paperwork to fill the seat vacated by Mr. Hounsell. Mr. Colbath will file in the next week, as he wants to ensure zoning is recodified and do what's right for the community. Mr. Porter said his goal was to facilitate the Planning Board and ZBA working together, and he believes this has happened. Ms. Haynes would like to continue as an alternate.

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Media Question

Tom Eastman of the Conway Daily Sun verified that Mr. Colbath, Mr. Corbett, and Mr. Phillips plan to run for the Planning Board.

Mr. Eastman asked about the event planned for February 28, 2024. Chair Colbath explained this will be the final public engagement session for the Master Plan. Ms. Byers noted there is no set presentation, so anyone can arrive at any time between the 4:00 and 7:00 p.m. timeframe. She described the format of the meeting and noted that all materials are online.

The Board discussed some of the issues being considered in the process of updating the Master Plan.

Mr. Phillips gave kudos to the Board members and Staff for their hard work and dedication.

Meeting was adjourned at 7:28 pm.

Respectfully submitted,
Beth Haggeli



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: February 15, 2023

Re: Innovative Land Use Controls

One of the focuses of the updated Master Plan has been to more effectively manage commercial development. In an attempt to strike a balance of housing which supports the community as well of the management of infrastructure and Town services, all weigh into our considerations of future zoning.

The building moratorium in place has given the Planning Board the opportunity to prioritize how to address the concerns with large scale development. Looking toward the other side of the moratorium, we'll need to consider what zoning changes need to be in place to protect the community and ensure future development is inline with the Master Plan and our community goals.

In consideration of future zoning changes to address these concerns; the follow is an introduction of Innovative Land Use Controls and how Conway may use this tool, outlined in RSA 674:21, to manage commercial development and other more intensive land uses. This Statute allows Ordinance language which creates "voluntary" incentives to encourage developments to meet specific goals of the community and enables the following to be considered for Site Plan and Subdivision applications:

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| (a) Timing incentives. | (i) Flexible and discretionary zoning. |
| (b) Phased development. | (j) Environmental characteristics zoning. |
| (c) Intensity and use incentive. | (k) Inclusionary zoning. |
| (d) Transfer of density and development rights. | (l) Impact fees. |
| (e) Planned unit development. | (m) Village plan alternative subdivision. |
| (f) Cluster development. | (n) Integrated land development permit option |
| (g) Impact zoning. | |
| (h) Performance standards. | |

These types of zoning controls are only permitted when supported by the Master Plan, which will soon be completed, and must contain standards to carry out each of the regulations. The above options focus on encouraging clustered development, and a broader view of the community when

considering land use. For example, how we consider a developments impact to transportation, infrastructure, or community services; should be considered in the size and conditions of an approval.

To utilize these regulations, the Planning Board would need to adopt Innovative Land Use Controls into the Town's Zoning Ordinance. Typically, this is done by amending the Authority section of the Chapter to note the applicable RSA citations. Following the adoption of the controls, the Board would need to consider what specific tool could be utilized and the applicable conditions which would take the form of a Conditional Use Permit. This type of permit is similar to a Special Exception where specific criteria must be met prior to permitting a certain use. The difference is that a Conditional Use Permit is approved by the Planning Board as part of a Site Plan or Subdivision review.

In an effort to prioritize the management of large-scale development, Transfer of Development Rights may offer an option to balance commercial growth with attainable housing. This could be accomplished by creating a "Development Transfer Credit" ordinance.

A Development Transfer Credit ordinance could allow for commercial developments which are looking to build above a certain square footage, to purchase "credits" which the Town would utilize at a future date to obtain property which would hold an affordable housing deed restriction in perpetuity.

Funds deposited from qualifying commercial developments would be placed in a revolving fund and used for the sole purpose of creating affordable housing and facilitating those transactions.

A Density Transfer Credit is just one tool the Board may consider to approach managing commercial development. The creation of this language would take careful work of Town to ensure the proper measures are in place to effectively enact and manage these regulations.

Attached is a summary of other Innovative Land Use Control tools that could be considered. This is only one option as we look to better manage commercial land use. No matter what tools the Board chooses to consider, we should start be discussing who and how these changes may affect the community and ensure whatever regulations we create are inline with the Master Plan. The use of Density Transfer Credits is a new technique and something the Town is reviewing with New Hampshire Municipal Association to ensure any proposal fits within current State Statutes and the goals of Innovative Land Use Controls.



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MEMO

To: Planning Board
From: Planning Staff
Date: February 15, 2023

Re: Minor Site Review

Considering the adoption of a Minor Site Review to our Site Plan Regulations may be an avenue to help local businesses through the Planning Board review process. The goal is to assist small and medium scale businesses that have a minimum impact, obtain approval when a full Site Plan review may not be necessary. This would include many of the proposals the Board currently reviews as a non-applicable request.

The review process would not include a surveyed plan, unless necessary, but would still be heard at a public hearing. The plan submittals would need to clearly represent the project but may not require certain items, like a drainage analysis, unless deemed necessary depending on the proposal. A future ordinance would establish a Minor Site Review Committee made up of Town staff and a member of the Planning Board. If at any time a determination was made that a project may have a significant impact, the application would be referred to full Board. The following are suggestions for what proposals and changes-of-use could qualify for Minor Site review:

- The establishment of a three (3) to five (5) unit multifamily development;
- A reduction of greenspace of greater than 2,000 but less than 10,000 square feet;
- An increase in structural floor area of greater than 1,000 but less than 5,000 square feet or no greater than a 35% increase from current square footage;
- Lot-line adjustments;
- Lot mergers;
- Changes of use which may require a waiver from Site Plan Regulations or a Zoning Board of Appeals decision but are determined to not increase site intensity beyond current capacity.

Following a decision from the Board on if the above criteria is satisfactory, Staff would propose a Site Plan Regulations amendment for review by the Board.