

**COMMUNITY APPEARANCE BOARD
CITY HALL CONFERENCE ROOM
WEDNESDAY, JULY 25, 2007- 4:00 P.M.
MINUTES**

Present: Jesse Olds, Jimmy Jordan, Franklin Sanders, Barbara Streeter, Duc Watts, Larry Timbes

Absent: Debbie Jenkins

Staff: Joe Henderson, Zoning Administer; Karen Godin, Planning Director; Wanda Lilly, Assistant Beautification Director; Barbara Tessier, Secretary

Others: Ken Senn, City of Conway; Ashley Davies, Conway Main Street; Cyrstal McLaughlin, J. Adams Art; J.P. Anderson, Lazy River Café; Joe Brennand, Haynes Sign Co.; Sharon Jordan, Burroughs and Company; Marsha Crosland, Tyson Sign Company; Bill Strydeski, GiFu Arts; David Piper, My View Beyond; Tom Miller, Miller Design Services; Todd Grinolds, Coastal Grading, LLC

I. CALL TO ORDER

Chairman Olds called the meeting to order at 4:05 p.m.

II. APPROVAL OF MINUTES

After review, Sanders made a motion, seconded by Streeter, to approve the July 11, 2007 minutes as written. The vote in favor was unanimous. The motion carried.

III. DESIGN REVIEWS

Chairman Olds Chairman Olds told the Board that they were going to hear agenda item "I" ahead of the other agenda items.

I. New York Deli – Marsha Crosland of Tyson Sign Company is requesting approval for the installation of a monument sign tenant panel and a rear perpendicular wall sign at 2246 Hwy. 501, Suites A&B.

Henderson said this request had been granted a variance from the Zoning Board of Appeals in June. He said this item had been seen last meeting. Olds said that he had discussed this issue with Staff to review the ruling of the Zoning Board of Appeals. He said it was his understanding that once the ZBA has approved a variance request, the CAB is obligated to approve it unless it is not aesthetically acceptable. Henderson showed the monument sign panel

and the rear entrance sign. Olds asked if the only change was that the sign was being placed higher on the rear of the building. Crosland said that was correct.

After a brief discussion, Sanders made a motion, seconded by Watts, to approve the signs as presented. The vote in favor was unanimous. The motion carried.

A. City of Conway Parks & Recreation Department – Ken Senn of the Parks and Recreation Department is requesting approval for the replacement of Conway’s existing floating docks with aluminum decking located in the Waccamaw Riverfront District.

Senn said that on Monday night, the City Council had given permission for the third phase of the riverwalk to be bid. He said the dock has been built in 1997 or 1978 and they now wanted to replace the dock with aluminum decking and instead of Styrofoam going back to floating pontoons. He said there would be no modifications other than materials. Henderson said within the Waccamaw Riverfront District Design Standards Section 414.10 allows within the riverfront buffer area it allows for docks, but does not give any materials specifications.

After discussion, Streeter made a motion, seconded by Timbes, to approve the request as presented. The vote in favor was unanimous. The motion carried.

B. Lazy River Café – Ashley Davies of Main Street U.S.A. is requesting approval of a parallel wall sign, awning fabric replacement, and window signage at 1022 Third Avenue.

Henderson said what was requested was 18.75 square feet of signage. He said what was allowed was 37 square feet. He said it meets the criteria. He said the window sign did not encompass more than 25% of the window pane.

Watts asked why they were putting the sign where it shown on the building. Davies said there were already existing brackets there. Anderson, who was also sworn in said that the brick below where they intended to put the sign was stronger. Timbes said that very seldom did you get deterioration on the brick in that location. Anderson said the previous owner had told him about the brick and that was all he could go on. Jordon said the anchors could be apoxied in and it would look better up higher. Watts agreed.

Anderson was asked if he was using the existing awning frame. He said he was. The awning color selected was Sunbrella 5704, which is a black and white stripe.

Anderson said he was changing the logo in the window. It will be the same size as what was already in the window.

Sanders made a motion, seconded by Streeter, to approve the request as presented, with the relocation of the sign the area of the center solid course. The vote in favor was unanimous. The motion carried.

C. Jerry Cox – Sharon Jordan of Burroughs and Company is requesting approval of an awning fabric change and paint color at 914 Norman Alley.

Henderson said on April 25, the Board approved a different color for the awning. Sharon Jordan showed a sample of 315 Kingston Street. She said they wanted to go two shades lighter than that. Henderson said the color was 468 U pantone for the paint color and 4996-000 Ashford Cardinal from the Sunbrella series for the awning. Jordan said they were trying to keep in context with the surrounding awnings and colors.

Streeter made a motion, seconded by Timbes to approve the changes to the paint color and awning color as presented. The vote in favor was unanimous. The motion carried.

D. The Clothesline - Joe Brennand of Haynes Sign Company is requesting approval of internally illuminated channel letters on a raceway for 117 Rivertown Blvd.

Henderson said the request was for a parallel wall sign. He said what was proposed 37 square feet and what was allowed was 41.25 square feet. He said the sign met the criteria of the Rivertown Commons Special Sign District. He said the signage is not to exceed two-thirds of the storefront width.

Brennand said the building would have a hardy plank siding and would be an earth muted background. Brennand said several other children's clothing stores had similar style signs. He said faces start off with a translucent white acrylic with green and pink vinyl overlay. He said it would have bronze sidewalls and trim as required. Henderson said the raceway would match. Brennand said it would be a sandy beige.

Streeter made a motion, seconded by Sanders, to approve the sign as presented. The vote in favor was unanimous. The motion carried.

E. My View Beyond – David Piper of My View Beyond is requesting approval of two projecting signs and vinyl lettering on the front door at 900 Third Avenue.

Henderson said within the Historic District's design guidelines it was recommended that only one projecting sign be allowed per building (Section 9.40455). He said the window signage did not encompass more than 25% of the window area for the door. He showed the superimposed photos. Piper said the only part of the sign that would be solid was the lettering. He said it was a parody of the name My View Beyond. As this was an add-on, there was no information in the package. Olds asked what the ordinance was. Henderson said each building is allowed to have 3 signs per building; however, within the Design Guidelines, it was recommended that only one projecting sign be allowed. He said the alternative was that the

applicant got a wall sign not to exceed 2/3 of the width of the building on the secondary frontage. He said essentially Piper was requesting a 6 square foot projecting sign off of Kingston as opposed to having the wall sign. Streeter asked what recommended meant. Henderson said it was not a requirement. Streeter asked if that meant he could have two projecting signs. Henderson said it was just a guideline. He said per ordinance the sign could not exceed 6 square feet was a requirement that could not be exceeded. He said within the Design Guidelines it outlines things the Board should consider for each individual site. Henderson said he suggested that the applicant come and present the extra projecting sign because that is what the applicant wanted. Olds asked where the building was. Piper said on the corner of Third and Kingston.

Timbes said the Ordinance did not prevent him from having the two projecting signs; it just made a suggestion to have only one. Henderson said that was correct. Timbes said it was more in keeping doing two projecting signs rather than changing the sign characteristics as you went around the corner. Timbes wanted to be sure that the same font would be used all around. Piper said it would be. Streeter said the projecting signs had to be stationary. It could not be hung by a chain.

Timbes made a motion, seconded by Jordan, to approve as submitted, but with the exhibit showing the font on the door to also be characteristically the font for the two projecting signs. The vote in favor was unanimous. The motion carried.

F. Conway Funeral Services – Paula Crib of Conway Funeral Services is requesting approval of paint color for exterior brick at 3304 Fourth Avenue.

No one was present.

G. Coastal Grading – Kennly Tyler of Coastal Grading is requesting approval for installing fencing and required landscaping at 2025 Hwy. 378.

Henderson said this requirement stemmed from Article 8 of our Supplemental Regulations for Open Air Storage. In the Highway Commercial zone if you are going to be storing raw materials you need a 6' high opaque fence with landscaping and irrigation around the fencing.

Grinolds, who was representing this item, said there had been a fence there and it was in poor condition. He put up a new fence, but did not know that he was required to put in the landscaping. Grinolds said it was not raw materials, but equipment storage. He didn't want anybody to think it was mining storage.

Grinolds said there were about 100 shrubs on the drawing and he thought they were going wax myrtle type of planting. Henderson said the requirement was one (1) tall shrub for every 5 linear feet to screen the fence from the adjacent residential neighborhood. Grinolds said it would be Wax Myrtles, Nandina, Viburnum or Boxwood.

Grinolds said they were going to look at putting the slats on the fence or the fabric over the outside. They were looking at pricing. Timbes asked what color the slats or fabric would be. Grinolds said a hunter green to match the roof on the building. Grinolds apologized for replacing the fencing without prior approval.

Jordan made a motion, seconded by Sanders to approve the landscaping using any of the four type of shrubs attached to the drawing and that the slats or fabric on the fence be hunter green. The vote in favor was unanimous. The motion carried.

Grinolds told the Board that Henderson had been very helpful through the whole process.

H. Parker Plaza – Tom Miller of Miller Design Services is requesting preliminary approval of landscaping, elevations, lighting, materials and site plan for a new commercial construction located at TMS # 122-00-04-012.

Henderson said this was new construction in the Highway Commercial zone across from Rivertown Blvd and adjacent to Aaron's. He said it was currently in Technical Review with just a few minor site changes to be made. Miller asked Henderson what changes needed to be made. Henderson said they had been sent to David Norris, the architect. Henderson briefly went over the changes with Miller.

Miller circulated some other handouts Miller said he was using the existing Aaron's as a visual reference, but he would be making improvements such as introducing breaks into the front instead of having a flat face, giving some areas to landscape. He said it was a bit longer plaza, but didn't have anchor like Aaron's, but they were looking into some combined tenant spaces. He said the parapet height would be the same as Aaron's and he would use similar colors to Aaron's. He said Parker Plaza would have brick masonry that comes out forward for setback about 7 or 8 feet. He said one of the protective covering over one particular shop was 6 or 7 feet. He said there would be smaller, flat awnings and protect the door area above each tenant space. He said he was not using the blue trim that was used on Johnson Plaza, and would be going with a green. He said it would be the same Catawba brick produced by Waccamaw Brick. He said they would use the same gray stucco. He said they had a little more play in the rhythm rather than just stucco and brick on three sides. He said he preferred to see the doors match the brick, except the door on the stucco would be white.

Miller said the landscaping appeared to be red maples and perhaps dwarf yaupon even though they were listed as Indian Hawthorn. He said it looked like there was a pretty good mix of red maples and Indian Hawthorn in pretty straight rows, but when you got to the back side there were Wax Myrtles and a combination of Wax Myrtles and red maples in the buffer area and also showing a hedge of holly/oleander. Miller said it must be one or the other because there was no combination of a holly and an oleander. Miller said he thought they'd have to shorten the number of cars or add another island to make

the landscaping in one particular area. He said if one of the tenants is a restaurant, they would probably want an outside cooler, which would need to be fenced in. Henderson said their parking was more than adequate so that losing a few spaces would not be a problem.

Miller said he welcomed comments and that he didn't understand what a preliminary approval was. He said if there was a vote or just comments. Olds said both.

Timbes said the elevations showed the center portion and indicated that it would be forward. Miller said that was correct. Timbes said you could literally walk behind it. Miller said there would be two freestanding columns that lined up with the forward end of the brick. He said the flat awnings receded. There was some discussion about signage, but Miller was not involved with the signs.

Timbes said he would rather see a different light fixture used. He said something contemporary and not like the lighting at Aaron's.

Timbes made a motion, seconded by Watts, to approve the preliminary plans as presented with the consideration of changing the light fixtures on the front face and bring back lighting suggestions. The vote in favor was unanimous. The motion carried.

J. City of Conway Tree Protection Ordinance – The Conway Beautification and Planning Departments are requesting review and approval of a revised Tree Protection Ordinance.

Godin said City Council had asked Staff to take a good look at the tree preservation ordinance. She said one of the major concerns with Council and from the Comprehensive Plan workshops was the clear cutting of large tracts of land for residential developments. She said the current ordinance was written in 1990 and at that time they were looking for protection for live oaks, redbud and dogwood. During the last 10 years, the City has grown a lot and there are many more residential developments. Godin said the City had gotten a grant to do a tree survey of trees in the public right-of-ways. She said that survey was done and the next step was to revise the ordinance. She said the Board received the draft. Normally they would have gotten a strike through version, but this was a very in-depth rewrite. She asked if they wanted to start with the major differences or go section by section.

Jordan said he wanted to make a comment up front. He said there was going to be a conflict. He said there were grading requirements on how high the grade of the lot has to be above the street and as a practical matter if a developer goes in and has to do the amount grading and fill that it takes to get the grade for the lots, it's almost impossible to do that on a lot by lot basis to clear just a pad and fill just that pad and slope everything off and leave trees in the buffer. He said it makes more sense to clear cut and then go

back and regrade because of the grading requirements. He said this is going to be real hard for anybody to do if they have to do it on a lot by lot basis. Godin replied perhaps they should go section by section. She said when they are talking about clear cutting a development, they are talking about the entire tract of land for the development. She said the ones that will happen on a lot by lot basis are the ones that are already cut out or the smaller developments. Jordan said he was talking about someone develops a whole subdivision. Godin said it refers to the setback area of the entire tract. The perimeter.

Timbes said there was a tract that had left the perimeter trees for a while and then took them out. He said they took out way more than necessary. Godin said that Staff was finding that that happened in just about every residential development. She said a lot of trees get removed, but there was an exemption in the tree ordinance that exempts all lots that are proposed for residential development. She said that was a huge loop hole in the current regulations that all you have to do is keep the landmark trees and the protected trees.

Godin said she wanted to give a lot of credit to Henderson and Lilly for all the work they did on the ordinance. She said they did a lot of research on other ordinances. She said this was not something they just came up with. She said the Strom Thurman Institute did a real in-depth study of tree protection ordinances for the State of South Carolina – who has the best, etc. She said they read dozens of ordinances including Myrtle Beach, Hilton Head, Beaufort, Georgetown County, Columbia, Bluffton, McClellanville and Fulton County, FL. She said they tried to stay local to keep the topography and the situation here in to account. She said they wanted to tailor the ordinance for Conway.

She said she would talk first about the clear cutting. She said Conway has no protection for any of the residential developments. You can clear cut and only need to put back the street trees every 50 feet. That's the only requirement. She said they tried to come up with a reasonable request to have developers still be able to develop the lots but still satisfy the needs of the residents. She said they were getting a lot of calls from residents asking when the developers were coming back to plant their trees. She said what they came up with, knowing that there are some cases where you will have to regrade the lot to make the drainage work. She said if you have to bury the bottom of a tree in 2 feet of dirt, it won't live. She said in some cases there wouldn't be much grading. She said this was a timbered county and there lots of tracts that were planted for tree harvesting. She said you'd see rows and rows of skinny 40' pine trees that you wouldn't want one of those in your backyard.

She said they had come up with several options for major developments, which are five (5) lots or more or any residential zoned lots two (2) acres or greater or all commercial lots. The City will require a certain number of inches of tree per acre. She said the setbacks of the lots will be that of the zone. She gave an example that if you were in an R-1 zone even if you have a 100 acre tract, the setback is 20' in the back, 10' on the front and on the sides. She said that buffer area would remain along the perimeter

of the tract. For the interior of the lot, the City proposes that a developer keep a minimum of 10 trees at least six (6) inches d.b.h. or a total of sixty (60) inches d.b.h. per acre. She said that was option 1. She asked if there were any comments. Jordan said that would be leaving the buffer around the perimeter, which would be equal to the setbacks of the lots that are backing up to the perimeter. Jordan said the natural setback. Godin said then for each acre, you would have to leave at least 60" or 10 trees of at least 6" d.b.h. She said if you had a 30, a 20" and a 10" d.b.h. on one lot that would be your 60". You can do 10 trees that are 6" d.b.h. She said this will make developers look a little harder at their land.

The second option would be tree mitigation, which means if you can't keep the trees on the lot, you will have to go back and plant 60" d.b.h. per acre once it's developed. She said if a developer built 4 house lots on an acre, he would have to replant at least 60" of at least 2" trees across that acre. She said someone might get a tree in their back yard or front yard. If you have to completely clear and regrade a site, you have to go back and plant new trees. She said there would be shade and some energy savings. Timbes asked if there should be a statement to the say that if you had 4 lots on an acre that one lot didn't get all the trees and three lots have nothing. Godin said they tried to keep a consistent measure and that was per acre. She said if a developer had 150 acres and he was going to turn it into 300 lots. Before they could take one tree off the lot, they would have to go through and mark the trees they were going to keep. She said they would be physically marked so that whoever was cutting down the trees would know not to cut down those particular ones. She said the developer would tell the Planning Department how many trees they were keeping per acre and Planning would go look. If the trees were not up to 60" on that same survey, they will go through and show Planning where they would be going back to replant trees. Jordan said the City would have to go out and locate the trees by survey. Godin said not the City; the developer would do the survey. She said they were not requiring a full tree survey. All that will have to be shown is what the developer intends to keep and what will be replanted. She said there are still species that can't be cut down.

Godin said this was a big change from the way things were being done in Conway presently, but it wasn't a big change from other municipalities. Godin said if there were wetlands on the acre, they would count for that particular acre. There was no extra credit for wetlands otherwise. There would be no density transfer. She said the way the ordinance is written that it's for every actual acre of property will have to have 60 actual inches of trees. She said a density could be talked about later. She said wetlands were not helping where the people actually lived.

Jordan asked if this was just for residential. Godin said it was for residential and commercial. Jordan asked if that included PSI. Godin said it did. Jordan said this would be really tough in PSI. Godin said they could talk about it. She asked for an example. He said grading in an industrial area. He said you wind up with most of the area that's not building is lay down yard and perimeter landscaping. He said by the time you get your

water retention in and the grading, with the smaller setbacks, it's hard to plant trees. He said he wasn't sure industrial areas wanted trees. Godin said that brought her to option 3.

Option 3 is if you can't keep the trees on the site or it is not conducive to replanting, there is an alternative fee. You take the number of inches that you would have put back and you pay the equivalent nursery value of 2" d.b.h. trees times the number of inches you would have had to replant. This would be paid into the City of Conway Tree Fund and the City would then plant trees on public property. Timbes said that in Industrial areas, the property owner might not want trees, but does the community at large. Jordan said about all you could do in Industrial was buffers. Jordan said in PSI they jam everything they can onto the lot and then have to squeeze the landscaping in. Godin said if you need to use option 3, you come before the Conway Tree Board, which is the CAB, and make their case why they have a legitimate hardship for not putting the trees back. The Tree Board would listen, look at the plans and say they agreed, if they did, here's another option.

Timbes brought up another scenario. He said what if a person bought just enough property to build his building and parking and didn't have enough space for the trees per the ordinance. Godin said this is a case where they would come before the Tree Board. Timbes asked as a general rule the expectation should be that you get perimeter landscaping on any industrial site. He said from a community standpoint that should be the general rule. He said putting trees in the interior could be a serious problem. He said the industrial sites should be softened up and an attempt to screen. Godin said say a developer had a piece of property zoned PSI with a 25' setback and the developer decided to leave the entire setback area wooded, he would come before the Tree Board and explain what his product is and how he stores his materials and that it's not conducive to have trees in the middle of my site and this is what I plan to do instead. She said the appeal for the Tree Board is the City Council. Streeter asked what if the developer wanted to get a variance. Godin said it can't go to the Zoning Board because it is not a zoning issue. Godin said this was per City Code, not the Zoning Ordinance.

Jordan said he was just worried about the clear cutting. Watts said they did a good job in Charlotte. Timbes said a picture was worth 1,000 words. He said it might be a good idea to get some photographic examples of industrial areas that were working. Timbes said he thought that the landscaping is an essential part of the total environment. He said it's not just the building; it's the lighting, the landscaping, the total package. He said you can put a good design and put it in an asphalt or concrete landscape and it can be an eyesore. But if you put it in the total environment, you can raise the bar for your city.

Godin said they tried to find the middle ground. She said they tried not to make it so restrictive that it cost much on the bottom line. She said not all developers did clear cutting. She said she knew it would not be an easy transition. She said it's an ordinance and it can be changed. She said Council was not trying to keep people from wanting to do business in Conway or live in Conway. She said Council will know if it's not working because there will be many appeals on their agenda. She said she feels the ordinance is

an amendable document and this is just the first try. She said for residential developments, she felt that the developers needed to look at the natural features and plan around them. She said that was the way the country was moving as far as residential developments instead of clearing and cramming in the lots and pretending that they never knew what was there to start with. She said Forest Glen inventoried their site, their natural features. They brought in their natural feature map and said here's what we want to keep and we're thinking about this kind of development around these features. She said it was a great design, great open space, great connectivity on their roads and paths. She said this was the first developer who had come in with this type of plan. She said every other developer comes in with a full layout and she has to ask where the open space is that is required by the ordinance and they say they don't have room for open space so the development won't work. Godin said it was a philosophy change.

Olds asked what type of requests the City got from homeowners to cut trees. Godin said they didn't want a huge burden on the individual homeowner so for individual lots there are the 4 protected species which are Live Oak, American Holly, Dogwood, Redbud and the landmark real big Live Oaks. Godin said that Lilly had done a tree inventory to see what trees were native to Conway, what species were in abundance and what ones weren't. She said they added some species and one went away. Wanda then would talk about the protected species. Lilly said the Redbud was going to be removed just because there are only 4 of them and only one fit the d.b.h. requirement. Lilly said the Crepe Myrtle was added at a 4" d.b.h., the Southern Magnolia, Red Maple, Bald Cypress, River Burch, Sycamore at 8: d.b.h. and all Oak species at 14" d.b.h.

Olds asked if there were a lot of requests to cut down trees from homeowners. Lilly said there was. Olds asked what kind of impact she saw from the changes. She said there would be a lot more work for the arborist. Olds said he thought there would be a publication sent out to homeowners. Godin said the CAB was the first stop for the new ordinance, then the Planning Commission and then to City Council and then through Public Hearings. She said this would not take affect the day of the second reading. She said there had to be public education targeted to the right companies, developers, etc. Jordan said if they pushed the date out too far, the whole county would be clear cut. Godin said this was the type of attitude the City was trying to remedy with this ordinance. Timbes said ultimately this would improve the City. Godin said Staff and Council have had discussion pertaining to the Council goals, which always included the beautification of the major corridors. She said they discussed upgrades to the thoroughfares if there was a more landscaped or natural looking 501, it wouldn't give the same impression as you get when you drive down 501 now.

Godin said the last thing was preservation which should be kept was, of course, required landscaping. The protected tree and landmark tree permits remain the same. She said they talked about the mitigation. Tree protection during construction stayed pretty similar to what it was now. There is a tree pruning section, which going forward would require a tree pruning permit for landmark trees. Godin then addressed exemptions. She said right now they had the huge exemption for residential

developments, which was being removed and there were exemptions for emergencies such as hurricanes. She said there was also an exemption for live trees on tree farms or commercial nurseries that grow trees to sell as landscape, and silvaculture, which is active, responsible forestry management. She said because there is an exemption for commercial timbering what they see now is someone with 100 acres to turn into a commercial development hire a commercial timber company to come timber it, they are exempt because it's commercial timbering. She said that will not apply anymore. If you come in under an exemption for silvaculture, which is forestry, you have to be a legitimate forestry operation with at least five (5) acres, you have to be devoted to the production of marketable forest products, you must have a 50' perimeter to leave around the edge of the whole tract, you have to be in compliance with the South Carolina Best Management Practices for Forestry, you have to submit with your permit how you are going to use silt fencing in buffer areas. Godin said there was one last big criteria that would close the loophole for people who are pretending to be silvaculture. She said if you file for an exemption under the silvaculture permit, you may not pull a building permit on that property for three (3) years. She said you would be expected to timber that property and replant that timber for your forestry operation. She said this was right out of the Strom Thurman Institute recommendation. She gave an example that if she clear cut a property under the silvaculture permit and then sold that property the next week to another person and that person is going to build a residential subdivision, that will be treated as a violation. She would have to come in and replant or pay the fee as if he clear cut it without a permit.

Godin then went into violations. She said a person cut down a protected or landmark tree without a permit, the person would come before the Tree Board (CAB) and a fine would be set. She said the fine structure had been changed a little. She said it was the same thing as the mitigation of trees, but doubled and tripled. She said if someone cut down a 9" Oak, you'd have to put back 6 - 3" trees. Godin said the fees were a guide for the Board to follow and were based on nursery value of certain trees.

Godin gave an example of someone clearing 100 acres without a permit that would be a \$.10 per square foot fine. She said that is a current fine in the Ordinance. She said it would be a \$4,350 per acre fine or \$435,000 for the entire tract.

She then talked about appeals. She said Lilly would be issuing the protected tree removal permits, the tree cutting, and silvaculture permits as she does now. If Lilly denies a permit, the recourse for the individual is the Tree Board. If the Tree Board denies, then the person goes to Council.

Olds asked if they needed to vote on this today. Godin said it was going to the Planning Commission on August 2 and to Council on September 10. Godin said the Board could take the next two weeks to mull these changes over, but at the next meeting, they would have to take action. She told the Board to take a good serious read and go through everyone's comments and tweak the language and then send it with a recommendation. The Board decided to take the two weeks.

IV. PUBLIC INPUT

There was no public input.

V. BOARD INPUT

Timbes brought up the signs on 315 Main Street. He said one of the signs was not a real estate sign and that they were just nailed on the building. Watts said he looked at that, too. Godin asked if it was a sign for the contractor. Watts said it was. Godin said the contractor is allowed to have a sign during the work. Henderson said it shouldn't be tacked to the building itself. Watts said the brick should be cleaned. Henderson said he thought cleaning the brick was one of the conditions of finishing the project façade. Henderson said they needed to talk about the signage for the tenants for that building as well.

Streeter brought up the building on the corner of 4th and Laurel Street. She said she had brought it up before. She said there were still no windows or plywood on the windows. Henderson said he had talked to the Building Official, Billy Sawyer, and that Sawyer was working with Mr. Galloway to restore the windows. He said he would be doing a full restoration of all the windows. He said he is taking windows out and boarding them up temporarily while he is fixing them. Henderson said he thought he was also working on the interior as well. Henderson he would ask the Building Official about any code violations and to get a progress report. Streeter said she heard this all the time. Godin said if it's a code issue, and she knew it took time, but Sawyer really tries to work with the people to give them time to get things done. She said there is a lot of work that gets done that we don't see. Streeter said if he's replacing windows, he'll have to come before the CAB. Henderson said from what he knew, they were refurbishing the existing windows, but if he did plan to put in new windows, he would have to come before the CAB. Henderson said they were constantly working with the downtown building owners. Streeter said the building was going to fall in. She said the roof was leaking. Henderson said they were doing what they could do. Jordan said a lot of people are using the spaces as warehouse space. He said they are trying to work through the Chamber and Conway Main Street.

Watts brought up the New York Deli. He didn't think they approved the monument sign. Henderson said it was a part of the request. Streeter asked about the awning. Henderson said that Dahaner Construction Company was going back with a sample of the awning that they put up. Jordan said they didn't need to see samples. He said they needed to know why they put up what they put up. He said they were supposed to come back to present the awning samples and never came back. Henderson said they would be at the next meeting.

Watts asked about the ground cover. Watts didn't think rock was permitted. Henderson said ground cover could consist of pebbles, wood chips, bark, mulch, straw.

Streeter said pebbles were different from rocks. Henderson said any similar materials could be used. Watts said he thought the Board had decided to not allow red mulch to be used. Streeter said she knew the Board said something about not liking the red and then it was all over town.

VI. STAFF INPUT

Olds said he had met with Godin concerning the Zoning Board of Appeals authority over the CAB in regard to the University Commons signs. He said the bottom line is it went to the ZBA and their request was approved, the CAB could then change the look of the signs if they didn't like them, but the fact that they can have three signs is a done deal. He said he would have Godin to go from that point to give some background on the ZBA. Godin said the ZBA is the only authority who can allow someone to vary from a requirement of the Zoning Ordinance. She said not even City Council may grant a variance from the Ordinance. She said the ZBA would hear requests for variances for dimensional requirement, a height requirement, parking, etc. If the ZBA makes the findings that they have to make in order to grant a variance, they can approve a variance request. She said whether or not the CAB agreed with the ZBA's finding was not relevant. For example, she said if the CAB approves a sign and someone from the ZBA drives by and thinks the sign is an ugly color, it's a personal opinion and not the authority of the ZBA to critique the action of the CAB. Nor is it the authority of the CAB to critique the action of the ZBA. The CAB members can have a personal opinion, but not critique the ZBA's decisions as a CAB member.

She said she and Olds had discussed, which she thought would go a long way in helping with the situation. She said she knew the Board was told when something was going before the ZBA for something that would later on becoming before the CAB. Instead of just bringing it up, it will become a CAB agenda item, and at that meeting the Board will discuss the variance and make recommendations that they want to send to the ZBA. She said they could say something like the sign aesthetically won't work in this location, we think they have enough visible signage. The ZBA can read the recommendation and say thanks but no thanks or they could see the issue from a different viewpoint. She said it is again the ZBA's prerogative to disregard the CAB's recommendations. Henderson said there will be a variance for a sign on the next CAB agenda. Godin said stated that when the CAB looks at the variance for a sign, the CAB can only look at things that would affect the design of or the aesthetics of the sign. She said the CAB shouldn't give the recommendation that they don't believe the variance requests meets the four findings required to permit a variance. Godin said hopefully this would help with some of the issues.

Godin then addressed a way that the CAB could word their motions on these requests that had been given variances by the ZBA. She said the motion could read "I make a motion because the Zoning Board gave a variance for this sign, to approve the sign design." She said this was appropriate.

Godin said making recommendations would help keep communication open between the Boards.

Jordan said it looked like people were thinking if they could get the ZBA to approve their variance, then they could get by the CAB. Godin said there might be some of that, but she said there are certain issues that that would not be the case. She said there has been an exceptional amount of developing in the last year and the ZBA has in the past year had the number of variances come before them triple. She said there is just more going on and she doesn't think it's because people think they can circumvent the CAB. Godin said the applicant's first reaction when Staff tells them they can't do something is to ask how they can get another decision and Staff has to tell them that they can apply for a variance. She finished by saying that the Zoning Board did turn people down.

Olds then said that there was a visitor to the CAB meeting from the State representative a few weeks ago. Godin said the person who came was Jennifer Revels, from the Certified Local Government Coordinator for the State Historic Preservation Office. Olds said Ms. Revels had sent a critique of the Board. Olds asked Godin to go over the critique. Godin said every five years the CAB is required to have an on-site inspection by someone from the State to be sure that we are operating according to their rules and that we run a good meeting. Godin then read from Revels' letter. Godin mentioned that the Board does not have any notice that someone is coming to observe a meeting.

Revels started by congratulating the Board on a job well done and she hoped to see the Board at some of their training sessions. She said she had made a few comments, but was overall she was pleased with the Board's progress. Godin said anyone could have a copy. Godin said she would cut to the chase and get to the suggestions for the future. Ms. Revels comments are listed below.

A. It appears as though the Community Appearance Board (CAB) is becoming too involved with the design of projects that come before the board. You need to remember that your job is to ensure that the proposed projects presented comply with your ordinance and should be very careful not to regulate your personal taste or opinion. In the annual reviews for this period, you have prohibited a business owner from having her logo on her sign because "it didn't fit with downtown" and required applicants to change their sign colors with no explanation as to why they violated the ordinance. Keep in mind that all decisions should be based on your ordinance and you should not make decisions that would be viewed as being vague and arbitrary.

Godin said that was a pretty harsh criticism. Timbes said that was what they did. Godin said that also meant designing things for people or making drawings for people. Godin said she knew it was sometimes hard to get their point across, but they needed to explain and not being doing other things. Godin said in the case of the logo that didn't fit in downtown, she said there were a lot of design guidelines so they should have said the logo didn't belong on the sign because the historic nature of downtown Conway as listed in Section whatever. She said it then becomes a reaction to the ordinance and not to the Board's tastes. Jordan said they couldn't then say anything that they couldn't reference. Godin said they are looking at the aesthetics based on the guidelines. Godin said no one would argue that the Board didn't have some subjectivity

leeway. She said there are times when someone will come in with something unattractive, but legal or a bad looking thing that you tell them why. Olds said that if someone appealed the CAB's decision, the Board will only be asked if they followed the outline procedures and if the CAB can't show that they did, then the CAB's decision can be overturned, but if the CAB did follow the guidelines, then the decision would stand.

Timbes said when you critique a building and you start talking about scale and proportion, detail all of these are well-based comments. He said he didn't know if you could find that in the ordinance. Henderson said that you could. He said it's under the section called Architectural Design Guidelines. He said you follow that section. Timbes said he was talking about column diameter, height to width ratios. Jordan asked if that was scientific. Timbes said it never was scientific and never would be. Godin said again that no one was saying there was no subjectivity. Olds asked Godin to read from the ordinance Article 9.2030 Architectural Design Standards. She read, "The architectural design, color, and material of a proposed structure, or structures, shall conform to community standards of good taste and design as expressed by the Community Appearance Board and Sections standards set forth herein." Timbes said that was a big window. Godin said it was not the only window. She said if they look at the Commercial Design Review Overlay section, which is the broadest of all the sections, and you just look at the Site Design Standards that go from A to F and Architectural Design Standards that go from A to Q, and Sign Design Standards that go from A to E, almost any comment that the Board would make would be covered by one of those letters. She said if the Board didn't want to approve something, they just need to focus on that page and a half. She said if they said the colors of a sign were not complimentary with the building, they can deny the colors using Article 9.2030 (I). Godin said Staff could make the Board a cheat sheet that would help them. Godin said Staff would also make each member a copy of the Zoning Ordinance. Henderson said they would also be separating the Design Guidelines from the Ordinance and he thought that would be helpful.

B. As a Board, you need to make a commitment to training and education of commissioners and staff. According to your annual reports, you have only attended 4 educational meetings in the last 6 years, 3 of those in 2001. Please remember that we provide continuing education and training opportunities not only one-on-one with commissions, but also at our Statewide Preservation Conference each spring and with networking events throughout the year. Your participation in those events could not only serve to benefit your commission, but your insights and experience could prove beneficial to others as well.

Godin said that Watts had just attended a seminar and had thought it was helpful. She said Planning would put funds in their budget for the CAB to attend some of these sessions. She said they would be given enough notice. Godin said there was a one-day session coming up September 21 in Columbia for Preservation Commissioners and Staff. She said if anyone wanted to go, the City would pick up their registration fee. Godin said this would serve as their 3 hours mandated training.

C. You should consider partnering with the local Main Street program and offer public education workshops on the history and architecture of the historic districts,

and the design guidelines and design review process. It might help expedite the process and prevent unnecessary denials or changes to projects coming before the Board.

Godin said there was a perfect opportunity coming up with separating out the design guidelines. She said once that was done, they should invite everyone come in and look at them together. Have a workshop with Main Street.

D. Finally, I would encourage you to think about making your meeting minutes more detailed. It would be very difficult to defend some of your decisions if you had to appear in court for an appeal because there is very little description of either the project or the reasons the decisions were approved or denied. I have enclosed an example of another CLG where they cite the relevant sections of the Zoning Ordinance in all decisions made. This might be a good format for you to consider.

Godin said the minutes were detailed during the last year and that Revels must have meant the four years prior. Godin said referencing the ordinance sections when making a motion would help.

Godin said overall it was a great review.

Olds asked to talk about the recusal issue that had come up. He asked the Board to be very careful that when they recused themselves that they do not speak. He said when he first came to the Board, when you recused yourself, you left the room. He thought it was a good process to implement again. He asked for comments. Everyone said they thought it was fine. Timbes said several other municipalities did have the person recusing themselves had to leave the room. Godin said she and Olds had talked about when a person recusing themselves, they can't roll their eyes or sigh or sit back hard in the chair or point to the renderings. She said that is participating in the discussion. Sanders asked for a separate sheet to be put in the next package as a notice of change. Godin said if you participate once you recuse yourself, it is grounds to have your decision thrown out for violating the Rules of Procedure. If you are recusing yourself and presenting, you can, of course, participate. Godin said a non-verbal signals to the presenter is not acceptable.

The last item Godin said was the Business Review Procedure Committee that adjourned in May had suggested that the CAB brochure be prepared and mailed out. She said it would outline CAB procedures and deadlines, etc. It went to Council for approval. Council had one issue on the CAB application that said all signs must be produced by a licensed sign contractor. Council said that it did not belong on the application. Godin said she knew it came back to the CAB for discussion and went back to Council. Council made a motion on July 23 to have that requirement removed from the CAB application. Godin said she would explain how that happened and how they could be assured that it would be okay. She said she understood that they don't want some builder to come in and say they designed their own sign and were going to scotch tape it to the wall. She said it did not affect the CAB's ability to deny the materials or aesthetics of sign art. She said as long as the CAB was making decisions based on the guidelines, they could still deny sign and sign materials. She said

even if a person designs their own sign, they still have to show it superimposed on the building. They will still have to meet the same criteria as anyone else. Godin said the production side should take care of itself because the Board can govern the materials. As for installation, anyone who wants to install a sign must have a building permit. In addition, there is a section in the ordinance that says you have to have a certain amount of liability insurance to be in the sign industry and you have to have a business license. She said they were taking those two things, which were the two things that were the crux of what the concern was and saying they have to have someone install the sign who meets that criteria. She said most of the time it will be a general contractor. Henderson said there would be a separate form that anybody who comes to pull a permit for a sign will have to sign off on to meet the criteria. Godin said they would have to attach proof of insurance and hold the City harmless shall something be defective with the way the sign is installed.

Olds asked if everybody felt good about it. Timbes said no, but it was what it was. He said he was concerned about public safety if electric was installed. Godin said they would have to have an electrician because a permit would be needed. She said if a sign needed footers, it would have to be engineered. Timbes said this put more pressure on the CAB and Staff, but it was what it was.

Henderson said there had been concern about the Rivertown Bistro's awning color. Coastal Awning gave him the code and what was put up matches what they said it would be at the meeting when it was approved. Tuscan 4677 was approved and that was what was up there.

Henderson said another thing was a project on the corner of Third and Laurel. He said the owner wanted to do some maintenance to the building. He said he wanted to sand down and restain to the same color. Henderson said he took pictures. Henderson said it was considered maintenance to the structure. He said the building was already being sanded, but he had explained that he couldn't restain until he ran it past the Board. Henderson said he was replacing some of the rotting pieces around the windows. Timbes said it was just maintenance. Henderson said he had the owner sign a note that he would not make changes to the storefront. Sanders asked what was going there. Godin said another deli.

VII. ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 6:50 p.m.

Approved and signed this 8th day of August, 2007.

Chairman

Minutes prepared by Barbara Tessier, Secretary.