

*These minutes were approved at the October 13, 2004 meeting.*

**DURHAM PLANNING BOARD MINUTES  
WEDNESDAY, SEPTEMBER 8, 2004  
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL  
7:00 PM**

**MEMBERS PRESENT:** Stephen Roberts; Arthur Grant; Amanda Merrill; Nick Isaak;  
Richard Ozenich; Kevin Webb; Richard Kelley

**MEMBERS ABSENT:** Annmarie Harris

**OTHERS PRESENT:** Jim Campbell, Planner; Victoria Parmele, Minute Taker

**I. Call to Order**

Chair Roberts called the meeting to order.

**II. Approval of Agenda**

*Amanda Merrill MOVED to approve the Agenda, as submitted. The motion was  
SECONDED by Councilor Grant, and PASSED unanimously.*

**III. Report of Planner**

Mr. Campbell said his monthly meeting with Doug Bencks had been postponed for a week.

Mr. Campbell said a company that built student housing in university towns had approached his office. He said he would be meeting with a company representative on September 22<sup>nd</sup>, and would update the Board on this. He noted that other inquiries from similar companies were starting to come in, and said there appeared to be a trend where these development companies were moving away from larger university settings, and toward smaller ones.

Mr. Campbell said there had still been no decision concerning the SPR Grant for the NW/SE Linkage study.

Mr. Campbell said he would be attending the Northern New England Chapter of the American Planning Association conference in Vermont on September 9<sup>th</sup> and 10<sup>th</sup>.

Mr. Campbell said that he, the Director of Public Works and the Town Engineer had recently met with University representatives to review proposals for the Main Street Enhancement Project. He said 24 proposals had been received, and the five firms that were finalists would be interviewed further.

Mr. Campbell said he had met with Conservation Commission Chair Dwight Baldwin, who provided suggestions for the Wetland Conservation Overlay District. He said these ideas had been passed on to planning consultant Mark Eyerman.

Mr. Campbell said the Economic Development Committee had recently met with George Bald, Executive Director of the Pease Development Authority (PDA). He said there had been a good discussion about town efforts to enhance economic development in Durham, as they related to the PDA.

Mr. Campbell said no new applications were scheduled for the September 22, 2004 meeting, and said T Mobile appeared to be planning to come back before the Board on that date. He said he would update the Board on the status of that application.

Mr. Webb encouraged Durham residents to consider joining the Planning Board, noting there were no alternates on the Board at present, with four alternate positions available.

Chair Roberts asked Mr. Campbell whether he believed that the Planning Board, and not just the Technical Review Committee, should hear the application for 8 Old Piscataqua Rd.

Mr. Campbell noted that the planned structure would be located within the wetland and shoreland buffers areas, but should not have a significant impact.

Chair Roberts suggested the Board could hear the application in addition to the Technical Review Committee. He said his interest in the application was from a planning perspective, and whether this was a use that should be encouraged in the area where it was proposed.

Mr. Campbell noted that this would make the process longer and more costly for the applicant.

Mr. Webb said there might be some public input on this application, and since the Technical Review Committee meetings were generally held during the day, the public was less able to attend these meetings.

Mr. Campbell said the application would be going before the ZBA because of some variance issues. He also noted that Robbie Woodburn would be coming to discuss the application later at the meeting, and Board members could ask questions at that time.

It was agreed that there would be further discussion on this later at the meeting.

Mr. Campbell left the meeting at this time, to travel to the NEECAPA conference.

Chair Roberts announced that Item IV - Deliberation on Conditional Use Permit Application submitted by Michael S. Davis, had been postponed.

***Councilor Grant moved that deliberation on a Conditional Use Permit Application submitted by Michael S. Davis, Sumner Properties, LLC, Durham, New Hampshire, be postponed at this time as requested by the applicant. The motion was SECONDED by Nick Isaak.***

Mr. Webb asked if this should be rescheduled, or instead could be postponed indefinitely.

Mr. Campbell said it would be re-noticed as another application at the appropriate time.

***The motion PASSED unanimously.***

**V. Discussion with Ti Crossman, Strafford Regional Planning Commission (SRPC) on Buildout Analysis**

Mr. Crossman, the GIS Analyst for SRPC, described what a buildout analysis was and what it was not. He said that each one was different, and depended on the particular local ordinances and regulations that were used, as well as the quality of available data and other technical matters. He asked Board members what questions and concerns they had about the proposed buildout analysis for Durham.

Chair Roberts explained that the Board had been challenged by a member of the public at the public hearing on the Zoning Ordinance, who came in with essentially his own buildout analysis, and claimed dire consequences for Durham as a result of the revised Zoning Ordinance. He noted that Strafford Regional Planning Commission had done the original buildout analysis for the Master Plan, so he had therefore advocated that Strafford do the current analysis process, in part because this would allow comparability of the two analyses.

Mr. Crossman said that no matter how carefully the data was developed for use in the analyses, the buildout could not be perfect, given the degree of accuracy/inaccuracy of the data. But he said it was a process to at least get a ballpark figure of the number of lots that could be developed. He said the usefulness he saw in the buildout analysis was in land use planning, during the Master Plan process, when a town was trying to decide where it wanted growth to go, and where this would be possible, so that any development would have to fit within the constraints of a piece of land.

Mr. Crossman described the first part of a buildout analysis, - a constrained lands analysis. He said although it was done before his time, he suspected the previous buildout analysis done for the Master Plan was essentially a constrained lands analysis. He also noted this was done before the Town's tax maps were automated. He said in a constrained lands analysis, wetlands (however defined, from whatever source), steep slopes (however defined), a variety of State hydro-buffers, conservation lands and conservation easement lands were combined into one data layer, and erased from the map.

He said a very rough buildout analysis could be done by taking what undeveloped land was left over, and simply dividing it by the minimum lot size. He said more complicated modeling could be done based on more detail from the revised Zoning Ordinance and Zoning Map, Conservation Subdivision regulations, and the overlay districts for Durham. He said this kind of analysis took each of the data layers, such as overlay districts with their restrictions, and combined them in a way that was able to keep track of the separate layers. He said this was then laid over the land that could be developed after the constrained lands

were taken out, and divided this undeveloped land into pieces that were each coded with the specific information as to how they could or could not be developed.

Mr. Crossman said he would like the Board to decide what it saw as the important layers to include in the analysis. He noted that the Zoning Ordinance contained a number of overlays that could be considered. He said the hard part was deciding how to analyze the land that was left over, based on specific provisions in the Ordinance. He noted that the provisions dealing with frontage restrictions were somewhat difficult to model, and should be considered carefully.

Chair Roberts noted that the proposal had said Jim Campbell would work with SRPC to condense a lot of this information. He also said that the Master Plan had a map that showed vacant and current use land without wetland or shoreland constraints, which sounded similar to a constrained lands analysis.

Mr. Crossman said that map had been done before he came to Strafford Regional Planning Commission. He also said that the County Soil Survey data that would be used in the analysis had a minimum mapping unit size of 4 acres, which wasn't great, but was certainly better than nothing. He noted that the county soils information had been used in the Lee buildout analysis to determine things like hydric soils, but also said that the Lee ordinance didn't have soil based lot sizes. He said it would be useful if there were a table of soils types with corresponding minimum lot sizes.

Mr. Crossman provided additional detail on data factors that could affect the quality of analyses. He said the Town's digitized tax map data didn't line up terribly well with the digital orthophotos, which were spatially corrected aerial photos. He said the digital tax maps had been done in a way to make all the data line up with data that already existed, -the GRANIT layer, the NHDOT roads data, etc. He noted that the soils data didn't line up that well with the GRANIT data, with the orthophotos, or with the tax maps. He said it was a mishmash of data, but was unfortunately all that was available. He also pointed out that the tax maps were automated in 1998, but noted that this simply involved digitizing of existing tax maps, and so the data was not geodetic (based on field survey).

Chair Roberts asked how it was possible to do such a complicated analysis in only 68 hours.

Mr. Crossman said that Strafford already had much of the data it needed, noting most of the constrained land layers already existed. He said it would take longer if he had to start creating data, noting as an example that steep slopes data was available from the soil survey data, but creating a new data layer using LANDSAT digital elevation data to identify slope, although more accurate, would take quite awhile to do.

Richard Kelley asked how the analysis would incorporate SCS soil data and equate this with the Town's HISS Mapping standards and hydrological soil groups.

Mr. Crossman said that the soil types found in a HISS would be the same types as in the SCS data layer, and noted that hydrological groupings were available to go with the SCS County Soil Survey data. But he noted the minimum mapping units for the SCS data would be much

larger than for HISS data. He said that soils data would be incorporated in the buildout analysis process as part of the constraints analysis for wetlands, slope, etc.

But he said that if soils data were also used as part of soils based lot sizing to help determine the number of lots that could be developed, this would be part of the second portion of the model. He said some assumptions had to be made when dividing up the remaining land, and described some ways this might be done.

Chair Roberts said the minimum lot size was a constant, and was the amount of lot that was usable as determined after constraints were subtracted out. He said this might make the analysis somewhat easier.

Mr. Crossman said the soils that were restricted from building would therefore be subtracted out in the constraints analysis, leaving only the soils that could be built on, and the analysis would proceed from there.

Mr. Kelley noted that the County SCS soil layer had associated hydrologic soil groups attached to it determine if the soil was very poorly drained or poorly drained.

Mr. Crossman said that SCS had their own designations for this, but said the analysis would use whatever Durham used to group soil types.

Mr. Webb noted there had been opposing accusations concerning the impact of the Conservation subdivision approach, with one saying it would represent an unconstitutional taking, and the other saying the regulations would be giving the Town to developers. He said the main question to be answered was, relative to the old Zoning Ordinance, what the new Ordinance had done to development rights in Durham. He asked Mr. Crossman whether the build-out analysis using GIS techniques was the right tool to determine this with any confidence.

Mr. Crossman said yes, given a few things. He said if used to compare past zoning to new zoning, the proper thing to do was to do the same kind of analysis on the old data as on the newer data.

Chair Roberts noted that this type of analysis appeared to have been done for the Master Plan.

Mr. Crossman said he had not seen this, but said it was good that it existed. He said if he could get this information, there could be a more proper comparison. He noted that using a buildout for this kind of purpose was different than some other buildout analyses, which were focused more on land use planning objectives. He also said that given the relatively mediocre accuracy of the data, he would be reluctant to use the analysis to settle some kind of legal argument.

There was additional detailed discussion about how the analysis could still provide useful perspective for the Town.

Mr. Isaak said that comparing the old buildout map to the new one, for conservation subdivisions, one could get an idea of change, but said the wildcard would still be the HISS information, because the data didn't exist. He asked Mr. Crossman if there was any source to find out if HISS data had a significant impact compared to SCS information.

Mr. Crossman said he did not know where such an assessment could be found.

Mr. Roberts said the question was, knowing what the Board knew when the ordinance was drafted, what did the revised ordinance do to a landowner's ability to use his land, town wide.

Ms. Merrill noted that the scope of work for the buildout analysis included time for addressing modifications later on in the process, and asked Mr. Crossman what these modifications might include.

Mr. Crossman explained that this was to allow time for fine-tuning of the analysis based on criteria that the Board wished to be considered. He provided some examples of what these might be.

Mr. Kelley said the calculation of usable area looked at the hydrologic condition of the soil, as well as depth to bedrock, etc., and noted that this information was available in the SCS County Soil Survey data. He asked whether, given the level of accuracy of SCS soils mapping, whether it was possible to make some assumptions. He said if there was a soil group on a lot that said depth to bedrock was 20 inches, and they knew that HISS mapping would show areas where bedrock was greater than 20 inches, would it be possible to make an assumption that 75% of that soil group would in fact have depth to bedrock within 0-20 inches. He said this would recognize the limitations of SCS soils data.

There was discussion as to whether such an assumption could be developed for this. Mr. Crossman said this could be included in the analysis, but one would have made an assumption without data to back it up. He said some sampling data might be useful.

Mr. Webb said that with snapshot HISS data of sites in Durham, perhaps a fudge factor could be built in.

Mr. Crossman noted that the soils layer would be applied town wide, so this would be hard to do, unless the Town had a lot of HISS data, or it was very well distributed, and there was data for every soil type, each with its different geologic history.

Mr. Crossman said he would leave it up to the Board to determine whether it thought the buildout analysis was worthwhile. He described again the various inaccuracies that could creep in, in part because of the different scales of the different data.

Chair Roberts thanked Mr. Crossman for speaking with the Board.

Councilor Grant suggested that because Ms. Woodburn was present, the Board should move the discussion with her up on the agenda, and Chair Roberts agreed with this.

Ms. Woodburn explained that she was a member of the Board of Great Bay Rowing. She said that the rowing club was growing fast, so that the club was running out of storage space at its present location, a portion of a boat house located on Town-owned land. She said the Club was asking for permission to construct a tent, noting that the Code Enforcement Officer felt this might qualify as structure, so would have to go before the ZBA. She said a site plan might be needed for the structure, and said the Club was hoping its application could be handled through the Technical Review Committee.

Ms. Woodburn showed the proposed layout for the tent, noting that deciduous trees hid most of the existing boathouse, and also that the mass of the existing building would essentially hide the tent from view.

Chair Roberts asked if this would be a permanent tent.

Ms. Woodburn said the goal was to relocate to a new site on the river eventually, but said this would take some time, so the Club was asking for permission for a temporary structure. She explained that the tent would be used for longer than what was considered temporary in Durham's Zoning Ordinance, approximately five years, noting this time was needed in order to raise funds for the new building.

Mr. Isaak asked if the boats would be stored at this location in the winter, and Ms. Woodburn said yes.

Mr. Kelley asked who the abutters were, and Ms. Woodburn provided details on this.

Mr. Webb said that if there were any concerned abutters, it would be more convenient for them to attend a public hearing that was held at night.

***Kevin Webb MOVED that the application for review submitted by the Great Bay Rowing Club for construction of a temporary storage tent for boats be submitted to the Technical Review Committee.***

Council Grant suggested the motion should be amended to say that the Technical Review Committee would hold the public hearing at night in order to accommodate members of the public.

***Richard Ozenich SECONDED the motion as amended, and it PASSED unanimously,***

## **VI. Introduction of CIP by Town Administrator and Business Manager**

Business Manager Paul Beaudoin explained to Board members that he and Administrator Selig were working to get Town boards and departments more involved with the Capital Improvement Plan (CIP) process, earlier on in that process, in order to generate ideas and discussion that Administrator Selig could use in developing his final proposal for the Council.

He explained that the draft CIP that Board members had in their hands contained information received from the Town departments, committees, and boards, for buildings, equipment, etc.

He stressed that the numbers were rough, and represented various ideas that were being floated.

Board members looked through the numbers in the CIP with Mr. Beaudoin. Councilor Grant spoke about community improvement funding which had been discussed by Mr. Beaudoin, and said there were those who felt this was supposed to be a nest egg for economic development. He said this was virtually the only reserve available for that type of activity.

Mr. Beaudoin listed the various projects relating to planning in the draft CIP.

Administrator Selig said the Budget proposal had not been assembled yet, and said the idea was to start the dialogue now, and come back at the next Board meeting to answer questions on planning related issues.

In answer to a question from Chair Roberts concerning economic development possibilities, Administrator Selig said he was waiting for information concerning the development of Beech Hill Road. He said the idea was to create infrastructure to allow economic development there, in the vicinity of Heidelberg Harris.

Administrator Selig listed all of the projects in the CIP that appeared to have relevance to the Planning Board, and spoke in some detail about some of these projects.

Councilor Grant asked what the Capital improvement bonding was for 2004, and Mr. Beaudoin said it was \$3.4 million.

Councilor Grant said the Board should think of what could possibly be taken out of the CIP, not just what additional might be put in. He said the level of funding that was proposed was very high, and said it was important clarify the projects that the Town absolutely ought to be doing, and those that were not essential.

There was discussion about how long the bonding would be spread out for some of the proposed projects. Mr. Beaudoin said that generally, the Town tried to spread the bonding over the life of a project.

Councilor Grant noted that the approximately \$800,000 that would be required for the Beech Hill improvements was not in the CIP yet.

Administrator Selig said the draft CIP represented the first round of funding requests from department heads, and said the next step would be to ask if these amounts would really be needed.

Chair Roberts noted that this was essentially a planning document, and suggested the Board should approach it that way.

Mr. Kelley asked if the funding proposed under the wastewater fund was a mandated improvement, and was told that it was.

Chair Roberts said that Mr. Campbell should look through the Master Plan to see if there were other items that perhaps should be included in the CIP. He also noted that the idea of



the purchase of Smittys was in the Master Plan, and asked how the current proposal to use the Town Hall site as a Town Hall/Library fit with the purchase of Smittys.

Administrator Selig said this issue was complex, and there was no easy answer. He provided details on past and current negotiations concerning the Smittys property. He noted that there previously had been discussion with Mr. Mitchell about a possible land swap to get frontage for the Town between the Town Hall and the Court House. He said at that time, Mr. Mitchell had said it was important to have a right of way, for egress and ingress, onto Route 108 South, and also requested an easement for the back portion of the Town property.

Administrator Selig said the Council had expressed interest in the land swap at the time, but was also interested in purchasing the land between the Court House and Town Hall. He noted that talks had subsequently broken down. He said that the Council recently had again expressed interest in doing the land swap, and Mr. Mitchell now wanted essentially what he had wanted previously, but was now willing to forego the easement across the back portion of Town land.

Administrator Selig said he had recently asked Town Engineer Bob Leveque to superimpose the proposed library layout on the current configuration for the Town parcel, as well as on the configuration of the site with the landswap.

Administrator Selig said there was significant concern as to whether parking would be sufficient, noting specifically that he didn't believe there would be sufficient space for parking if the right of way onto Route 108 remained. He also said that if the library was put behind the Town Offices, there would be much less parking, and said parking would therefore have to be put between the Court House and Town Hall, or would have to displace someplace else.

Chair Roberts asked if it made sense to have the library at the Town Hall site without the land swap, and there was discussion about this.

Administrator Selig said Mr. Mitchell had made it clear that he did not need the land swap, - he did not need the right of way in order to move forward. Administrator Selig also noted that some Councilors were interested in possibly using this area of Town for economic development, and considering whether the site would be better used as a commercial site than as a Town center site. He said there would be input from the public on all of this at the hearing on September 20<sup>th</sup>.

Chair Roberts said that the idea of relocating the Town center was a significant planning element for Durham, and said he hoped the Planning Board would be involved with the evaluation process.

Administrator Selig said the idea of transforming the present Town Hall site to a commercial center had been brought forward for consideration by some members of the Council, but said the Council as a whole had not moved in that direction yet.

Councilor Grant said the charge to the Economic Development Committee was to get data concerning the value of the Town Hall site for commercial purposes as compared to as a Town center.

Mr. Kelley asked who was in charge of coming up with improvement plans for the Town's water system.

Administrator Selig noted that the Town water system was a combined system – with some components owned by Durham, some by the University, and some jointly owned. He provided further details on this, and among other things, noted that the Spruce Hole analysis had been moved up in time.

Mr. Kelley noted that the water system improvements went out to 2007 in the CIP, and there was discussion about this. Mr. Kelley asked if this included the recommendations included in the recently completed water report, and Administrator Selig said he did not know since he had just received the draft CIP.

There was discussion about the proposed regional outfall project. Administrator Selig said this had been initiated by the Strafford and Rockingham Regional Planning Commissions, and provided details on the project. He said that theoretically, the project was supposed to be cost effective for the regional towns involved, and would result in higher quality effluent. He noted one of the Town's concerns about the project was that the present wastewater treatment system had a limited capacity, and opening up a vast pipeline could facilitate growth.

He said Town Engineer Leveque was tracking this proposed project, and as part of this was taking into consideration improvements needed to Durham's wastewater treatment plant. He said the Town's options included: improving the plant itself; doing less internally but extending the effluent pipe out farther into Great Bay, which would result in a higher dilution rate. He said this would be costly to do, so rather than extending the pipe, the Town had also considered dredging the area closer to the treatment plant in order to get the desired dilution there, while at the same time getting some recreational benefits. He said the third choice was the regional outfall.

In response to a comment from a Board member, Administrator Selig noted he had some concerns about using UDAG funds for the joint Town Office/library, and said it was important to talk about these kinds of things.

Chair Roberts noted the Board had recently learned that there were companies looking for sites on which to develop student housing, and suggested that this could be looked at as part of the CIP process.

Administrator Selig said it was possible that the School Board would have a proposal for ball fields for the CIP, and said it was important that the Town link improvements it might make concerning ball fields with this proposal. He noted that the Town hadn't been looking at the ball fields issue recently, while the School district had been responding to its own needs for space. He noted the Town had been doing other recreation related projects such as upgrading the tennis courts and developing the playground.

Mr. Isaak asked if the Master Plan has been done for the Town's gravel pit area.

Administrator Selig said the Public Works Department didn't like the idea of transforming the gravel pit into ball fields, noting that they valued the gravel resource from an operational perspective. He said some ideas had been put forth for developing that area, which would still allow the pit to remain active for several years. He noted that in a previous town he had worked for, a ball field had been placed near a stump dump, and resulted in safety issues for young people.

### **Discussion of Elderly Housing Density and Lighting Ordinance**

Board members agreed to postpone discussion on these two issues relating to the Revised Zoning Ordinance.

***Kevin Webb MOVED to postpone discussion on the Elderly Housing Density issue and the Lighting Ordinance. The motion was SECONDED by Richard Ozenich and PASSED unanimously.***

### **Discussion on Build out Proposal**

Mr. Kelley said he generally supported this proposal.

***Richard Kelley MOVED to hire the Strafford Regional Planning Commission to conduct a buildout analysis. Kevin Webb SECONDED the motion.***

PLEASE CHECK VIDEO. AUDIO DID NOT RECORD SECOND SIDE OF TAPE.

He said the proposed analysis wasn't perfect, but was the best the Town could do with the information that was available. He said there was certainly no way the Board could accomplish this on its own in 68 hours.

Other Board members agreed that if nothing else, the buildout would be a valuable planning tool. Mr. Webb said this was the distinction he was trying to make when he had asked if this was the proper tool for the question the Board was trying to answer. He said that given the budget, and the time constraints, this analysis would at least provide the Town with additional information.

Mr. Ozenich asked if perhaps this analysis was something the Board should have done before putting in the HISS requirements.

Chair Roberts said yes, and said it probably should have been done before writing the Master Plan. There was additional discussion about this.

Mr. Kelley said the SCS soils groups would be hard to fit into the Town's somewhat poorly drained category, and said if the buildout analysis tried to fit it in, they would see that limited residential development was allowed. He said that perhaps the buildout analysis could provide a worst-case scenario, and it could then be asked whether in the field, experience

showed from using HISS data that the soils were better. There was additional discussion about how the SCS soils data related to HISS data.

Chair Roberts asked Mr. Kelley if he would work with Mr. Campbell on assisting Strafford Regional Planning Commission with the buildout analysis. Mr. Kelley said that he would do so.

***The motion PASSED unanimously.***

***Nick Isaak MOVED To adjourn the meeting. The motion was SECONDED by Richard Kelley, and PASSED unanimously.***

The meeting adjourned at 9:30 pm.

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Amanda Merrill, Secretary