

# **D-R-A-F-T**

## **DURHAM BOARD PLANNING BOARD WEDNESDAY, DECEMBER 15, 2004 TOWN COUNCIL CHAMBERS - DURHAM TOWN HALL 7:00 P.M.**

**MEMBERS PRESENT:** Chair Roberts, Amanda Merrill; Councilor Grant; Kevin Webb; Richard Kelley

**MEMBERS ABSENT:** Nick Isaak; Councilor Grant; Richard Ozenich

**OTHERS PRESENT:**

**MINUTES PREPARED BY:** Victoria Parmele

### **I. Call to Order**

### **II. Approval of Agenda**

Chair Roberts asked that the presentation by Gerry Mylroie of SRPC, Item IX, be moved up to become Item IV.

***Kevin Webb MOVED to amend the agenda to move Item IX up to become Item IV. The motion was SECONDED by Richard Kelley, and PASSED unanimously 5-0.***

***Kevin Webb MOVED to amend the agenda by striking the wording "Amendment" from the title of Item V. Richard Kelley SECONDED the motion, and it PASSED unanimously.***

***Amanda Merrill MOVED to approve the Agenda as amended. The motion was SECONDED by Kevin Webb, and it, PASSED unanimously 5-0.***

### **III. Report of Planner**

- Town Planner Jim Campbell said the Omnipoint Holdings, Inc. application would be denied at the meeting that evening, and provided background information on this.
- He also told Board members said the buildout analysis process had stalled somewhat, explaining that there were problems with reading some of the data. He said there probably wouldn't be anything for the Board to look at until February, but said he would keep Board members posted on this.

- Mr. Campbell noted that the public hearings on the proposed Main Street improvements had recently been held.
- He said the Board would have one possible application to review in January, a two lot subdivision located off of Madbury Road.
- Mr. Campbell noted that a work-study student had been hired to do reception work in the Planning and Zoning office, and explained that this would free up administrative assistant Karen Edwards to work on some projects for the Zoning, Planning and Assessor's offices.
- He said that as part of the deliberation process on the proposed 2005 Budget, the Town Council had put in money for upgrading Beech Hill Road, and providing sewer and water there. He also noted that the Economic Development Committee had sent letters to abutters living in this area, and said he had been meeting with some of them, and was getting good feedback. He said he would provide a report on this to the Economic Development Committee and to Board members when the discussions were complete.

Chair Roberts asked Mr. Campbell if the buildout analysis process would have enough sophistication to allow for a "what if" analysis to be done, so if a major initiative came up, the Board could analyze the likely effects on the Town. He said this was part of the reason for setting up this process, so such an analysis could be done in a relatively short period of time.

Mr. Campbell said something could probably be worked out concerning this.

Mr. Campbell said he had received a letter from Strafford Regional Planning Commission regarding possible matching grants for doing master planning. He also noted that some money had been put in the 2005 Budget for upgrading the Master Plan, and remained in there. He said he would be discussing getting possible matching funds with SRPC, so more could be accomplished.

Chair Roberts noted they also had asked for a project list.

#### **IV. Update from Strafford Regional Planning Commission on the Regional Master Plan**

Gerald Mylroie, Senior Planner with Strafford RPC, discussed the role and the mission of the Commission in working on planning issues. He said a key role of the Commission was to help towns identify important issues facing them, and to plan for and take action in order to achieve sustainable development.

Mr. Mylroie discussed some of the key regional issues facing Durham and surrounding towns. He provided details on population growth expected in the region by 2020, noting that approximately 30,000 more people were expected, which would require that about 15,000 more dwelling units to be built.

He explained that the Commission had been working on a regional master plan, and as part of this had been holding a series of workshops entitled VISION 2020 to discuss population and other growth related issues. He said the Commission had recently adopted a vision statement and the State's policy principles on growth management, and went through these principles. He also spoke about Statewide planning initiatives, including the State's Transportation Plan, and spoke specifically about the Little Bay Bridge traffic congestion, and the plans to widen the bridge.

Mr. Mylroie said the third VISION 2020 workshop being held in January would focus on how to manage growth and taxes, in order to keep the New Hampshire advantage. He spoke about the rising cost of public services and infrastructure, and corresponding rising property taxes, and said the purpose of the workshop was to look at these costs, and what towns' options were for addressing this. He said an important issue to look at was what school and other growth projections meant in terms of land use policies, and ways there might be to accommodate growth while not creating additional financial burdens. He also said a purpose of the workshop was to set some regional goals in the areas of water and natural resources protection, affordable housing and economic development.

Mr. Mylroie explained in some detail that NH communities could be designed in a way that could manage the location, appearance, timing and cost of the growth that was occurring. He said local towns were being encouraged to start looking beyond individual development projects, and to start thinking in terms of creating viable neighborhoods, with accessible schools, commercial establishments, etc.

He described various growth management design options available to local towns, from conventional development, to clustered growth similar to that of original New England villages, to "concentrated growth". He noted a matrix the Commission had developed which showed the likely impacts of each of these three growth patterns on a wide variety of factors, such as traffic congestion, open space protection, impervious surface coverage, etc.

He noted that the Strafford Regional Planning Commission was the first NH regional planning commission to adopt the growth management policies adopted by the State. He also said the Commission was aggressively pursuing development of model ordinances.

He said the Commission had recently adopted a model open space conservation subdivision ordinance, and said this design approach was a win/win situation. He described other model ordinances the Commission had developed, including site plan review regulations, PUD related ordinances, and also said additional growth management type tools and techniques had been developed for local towns.

Mr. Mylroie said a lot was going on at the Commission, and said hopefully Durham was getting more and more value out of being a member. He said he applauded the Board for being active participants in planning, and said he looked forward to working with the Board in coming to grips with a number of fundamental planning issues, and fulfilling the

vision that the Commission had set forth. He said there was incredible brainpower in the region. He noted these kinds of issues were being looked at around the country, and said if they couldn't be addressed in NH, they were in deep trouble. He said he believed they could be addressed, and said he looked forward to seeing Board members and members of the public at the VISION 2020 meeting on January 20<sup>th</sup>.

Mr. Webb noted that commuting over Little Bay Bridge was currently a nightmare, and asked if anyone was seriously considering enhancing public transportation as an alternative to widening the bridge.

Mr. Mylroie said absolutely, and said a range of options was being discussed. He noted there had been discussion about concentrating employment at Pease as a way to cut down on traffic problems. He said what might be more realistic was providing more opportunities for public transportation, along with creating neighborhoods, so there would be concentrated residential and employment locations, and bus stops could be more efficient at facilitating the movement of people. He said this made more sense than focusing on movement of cars, and noted it would also result in less air pollution. He said they were also exploring other means of transportation, such as bicycle ways.

Ms. Merrill asked Mr. Mylroie what the option "concentrated growth" referred to, as compared to clustered growth.

Mr. Mylroie explained that cluster was a design approach that could be used to fill in clusters of growth in a town that had already been developed, whereas concentrated growth meant actually designing a new town in an undeveloped area, so that a significant amount of population growth could be accommodated there over time. He said the reality was that in 2020, another 30,000 people might possibly be anticipated within the next 20 years, so this kind of planning was realistically needed, as well as being possible to achieve.

He noted that there were towns in NH such as Madbury that were basically the stewards for the water resources of cities, so they probably shouldn't be developed. He also noted this brought up equity issues in terms of sharing revenues, and said perhaps some cooperation needed to occur between communities concerning these kinds of things.

Chair Roberts noted that Durham had been very careful to get citizen input concerning planning issues, and said the Board's decisions were motivated by what the voters were directing them to do. He said there were planning directives from the State that had filtered down to the regions, and now to the Town, and said in most cases they were all on the same path. But he said it was important over time to consider how to understand each other, and to merge the local with the non-local models.

Mr. Mylroie said it was important to develop a regional consensus as well as a local consensus on these issues, because they were in this boat together. He said it would clearly be more expensive if every town sailed its own ship, instead of sailing together in

the same boat, going in the same direction. He said the VISON 2020 workshops were an attempt to develop as much dialogue as possible between local towns on these issues.

Chair Roberts thanked Mr. Mylroie for coming to the meeting. It was agreed that the VISION 2020 maps would be left in Durham for a few days so people could look at them.

#### **IV. Deliberation on a Site Plan Application submitted by Omnipoint Holdings, Inc., East Providence**

Town Planner Jim Campbell explained that the Newmarket Planning Board had denied the Omnipoint application that was before it, and he suggested that the Durham Planning Board do the same. He provided details on the reason for doing so, noting that the reasons for the denial were that:

- 1) The applicant has continued to postpone its presentation before the Planning Board, and did not appear at the Board's December 15<sup>th</sup> meeting, as requested by the applicant.
- 2) The Town of Newmarket has denied the applicant's request to place a personal wireless facility on Newmarket land, with access through Durham town owned property.
- 3) The applicant has failed to provide revised plans as requested by the Durham Planning Board

Chair Roberts asked if the applicant was in violation of the time frame, and there was discussion about this.

Ms. Merrill asked why Newmarket had denied the application, and received clarification that it was because they didn't show up for the meetings.

Mr. Campbell noted that the denial would be without prejudice, which meant that the applicant could reapply to the Town in the future, but this present application would no longer be valid.

Mr. Webb said it should be noted in the paperwork that the Board was acting within the correct time frame.

***Richard Kelley MOVED to approve the Findings of Fact, and Notice of Denial, as amended. The motion was SECONDED By Councilor Harris. The motion PASSED unanimously 5-0.***

#### **V. Public Hearing on an Application for a Conditional Use Permit submitted by Sandy Brook Corporation, Durham, New Hampshire, to change the age restriction on elderly housing from 62 to 55 and older. The property is located at the intersection of Mill Road**

and Packers Falls Road, is shown on Tax Map 13, Lots 14-14 & 14-15, and is located in the Residence B Zoning District, as a Planned Unit Development.

Mr. Campbell explained that the applicant had requested a continuance of the public hearing, due to a matter the Board would discuss that evening under **Other Business**. He suggested that the hearing be continued until the January 26<sup>th</sup> meeting.

***Amanda Merrill MOVED to continue the public hearing on a Conditional Use Permit submitted by Sandy Brook Corporation, Durham, New Hampshire, to change the age restriction on elderly housing from 62 to 55 and older, until Jan 26<sup>th</sup>, 2005. The motion was SECONDED by Richard Kelley, and PASSED unanimously 5-0.***

- VI. Acceptance Consideration of an Application for Subdivision** submitted by David J. Chas a& Malcolm Chase Jr., Hingham, Massachusetts, on behalf of the Estate of Charlotte Chase, Durham, New Hampshire to create two lots from one lot. The property involved is shown on Tax Map 12, Lot 10-4, is located at 177 Durham Point Road, and is in the Residence Coastal Zoning District.

The applicant, David Chase, said he was proposing to take the last remaining parcel of land owned by the estate, containing 7.61 acres, and subdivide it into two lots, one of which contained a house and would have 4.01 acres, and the newly created lot, which would contain 3.60 acres. He said both parcels would have the required frontage on Durham Point Road, and had received septic approval from the State.

Mr. Chase said the only real issue that still needed to be addressed was the distance between the driveways, and said they would be asking for a variance for this. He explained that the required 1200 ft. couldn't be met because of the configuration of the land, and said the Town Engineer would like them to bring the two driveways together. Mr. Chase said he would agree to relocate the existing road on the smaller property next to the property line between the proposed subdivided lot and lot, to provide better site distance, etc.

Chair Robert asked if Mr. Chase was saying he would accept the proposal by the Town regarding the driveways.

Mr. Chase said yes, and said they wanted to work out the exact location. He said there was a preliminary plan that showed the two driveways coming out pretty much synonymous with one another. He said he would prefer not to have to actually join the driveways on Durham Point Road, noting that he would like to be able to avoid having to take down an old cedar tree. He said the tree was behind the apex of the triangle, so if the driveway could be moved slightly south of it, what the engineer was looking for could be achieved.

Mr. Campbell said the message he was getting from the Public Works Department was that they wanted one driveway. He noted there seemed to be a break in the stone wall,

and said it would be good if the existing driveway could be used, and come off of that somewhere in the break of the stone wall.

Mr. Chase said perhaps the next step would be to discuss this with the Town Engineer.

Chair Roberts explained to Mr. Chase that the State would prefer that there be only one driveway, and Mr. Campbell and the Town Engineer were simply responding to this.

Mr. Chase said he would agree to do whatever had to be done, but said he would appreciate being able to talk to the to the highway engineer about this.

Mr. Campbell said there were safety reasons for requiring the shared driveway, along with the fact that Durham Point Road was a scenic road.

There was discussion about the fact that Durham Point Road was a scenic road.

Mr. Webb asked Mr. Campbell if the application was complete.

Mr. Campbell said it was, and noted that one of the waivers requested concerned the driveway. He said the applicant had provided enough information to look at this issue in detail, and the applicant had agreed to do share the driveway. He said the Board should give the applicant some direction on this. He also provided details on easements related to the driveways, and said it looked like they wouldn't have to be concerned with these.

***Amanda Merrill MOVED to accept the Application for Subdivision submitted by David J. Chase & Malcolm Chase Jr., Hingham, Massachusetts, on behalf of the Estate of Charlotte Chase, Durham, New Hampshire to create two lots from one lot. The motion was SECONDED by Richard Kelley, and PASSED unanimously.***

Mr. Campbell said the public hearing on this application was set for January 26<sup>th</sup>, and suggested that Board members should conduct a site inspection prior to the hearing. Board members agreed to do the site inspection at 9:00 am on Jan 22<sup>nd</sup>.

- VII. **Acceptance Consideration of an Application for Boundary Line Adjustment** submitted by Brian and Armida Geiger, Durham New Hampshire to change the boundary line between two lots. The properties involved are shown on Tax Map 1, Lots 9-35 and 9-36, are located at 6 & 4 Hampshire Avenue respectively and are in the Residence A Zoning District.

**I AM NOT SURE AT WHAT POINT THE BOARD DECIDED IT WAS CONSIDERING BOTH OF THESE ITEMS TOGETHER. THE DISCUSSION BLENDED THEM TOGETHER**

- VIII. **Acceptance Consideration of an Application for Subdivision** submitted by Brian and Armida Geiger, Durham New Hampshire to create two lots from one lot. The property

involved is shown on Tax Map 1, Lot 9-36, is located at 4 Hampshire Avenue and is in the Residence A Zoning District.

The applicant, Brian Geiger, explained that he was trying to increase the lot size of 1/9-36 by taking some property from 1/9-35, and then planned to split property 1/9-36 in half. He said the road frontage of lot 1/9-36 would increase by approximately 30 feet, creating a total of 202 feet, and to the lot frontage of lot 1/9-35 would decrease from 160 ft to 130 ft. He said subdividing lot 1/9-36 into two lots would provide each lot with approximately 101 feet of road frontage, and said the two lots would share a driveway. Mr. Geiger also noted that the wetland acreage was 1747 sq. ft.

Mr. Webb asked for clarification concerning the existing driveway which would have an easement on the new 1/9-36-1, so there would be a shared driveway. It was clarified that this was the driveway that served the existing home. There was discussion about the buildings on the property.

Chair Roberts and Mr. Campbell provided clarification that the Application combined both the boundary line adjustment and the Subdivision of 1/9-36. Chair Roberts asked if the application was complete.

Mr. Campbell said there were a few issues to be resolved, and noted that the applicant was looking for a number of waivers. He said the Public Works Department had some serious concerns about one of the waivers, concerning stormwater engineering issues, even though this was a minor subdivision. He said the concern here was that the wetland on the property was already at capacity, and there was also concern about the culvert in the vicinity and down the road.

He said the Department would like the applicant to perform a stormwater analysis and develop a stormwater management plan, and at the very least create a wet well at the back of one of the properties. He said the Department was asking that the requested waiver concerning stormwater runoff not be granted. He said if the Planning Board agree that this waiver should not be granted, it should tell the applicant this at present, so he could hire an engineer to develop the analysis and plan and get it to the Board before the next Board meeting.

Mr. Campbell also said that if the Board granted the boundary line adjustment, the applicant would have to get rid of one of the existing curb cuts, on lot 35. He said the applicant was aware of this, and had agreed to do this.

Mr. Campbell told Board members that there was also an issue concerning the fact that the lot line boundary between parcel 1/9-36 and 1/9-37 on the survey map was different than the one on the tax map. He said he spent a good deal of time researching this, and had asked the surveyor to do so as well. He provided details on this, and said there was no record of any boundary line change between the two properties, and provided additional historical details concerning this. He said it had been in the deed for over 40 years that the small jut of land belonged to 1/9-36, and not 1/9-37. He said the Town



Assessor was correcting the boundary line on the assessor's map. He said he had reviewed past minutes on this, as well as earlier subdivision regulations, and provided details on this.

Chair Roberts said if both abutters agreed on the deeds, the boundary line adjustment would be the ultimate adjustment needed, so no further research would be needed.

Mr. Campbell said he had discussed this issue with the Town Attorney, and they agreed the deeds for the two properties were legal documents, had been in existence for some time, and the boundary line was the way each owner thought it was, a straight line, not a curved line. He also noted there had been some discussion in the minutes of past meetings about what had happened, although it was sketchy. He said the Town Attorney believed this information was sufficient to move on with the acceptance.

Mr. Campbell said that if the Board didn't feel comfortable with this, it should not accept the application, and there should be a boundary line adjustment through the Planning Board.

Chair Roberts said this could simply be a condition of acceptance.

Mr. Campbell said given the language in the deeds, it didn't appear to be an error in the deeds. He said the surveyor believed that based on this, the straight-line boundary was correct.

Mr. Webb asked whether, if the crooked line was correct as reflected in the tax map, whether that meant that the lot that resulted might not meet the lot size requirement, so that the subdivision couldn't take place. There was additional discussion about this.

Chair Roberts said if the abutters agreed that what was shown was the real line, that would trump all of the other data, and this could be part of the condition of approval. There was discussion about this.

Board members agreed that the owner of parcel 1/9-37, Richard Ager, should be allowed to speak, and asked him if he agreed with the boundary line on the survey map.

Mr. Ager spoke before the Board, and explained that he had purchased the property the previous year. He provided details about the purchase, noting they had been presented with the tax map, which showed the boundary line. He said that right before the closing, they found that the bite of land would not be conveyed to them. He said there was not really an agreement about the boundary line, based on the history of the conveyance of the property. He said they accepted the deed conveyed to them, but said this was because they were under some duress at the time of the closing because they had already sold their other property.

Chair Roberts said if the Board accepted this, they were putting this on a time clock, which might work to the applicant's disadvantage. He asked if there were perhaps some solutions that could be achieved first, legally or technically.

Mr. Kelley asked whether, if the application were denied because of the stormwater issues, if this would prevent the applicant from returning to the Board within a few months.

Mr. Campbell said he would be comfortable accepting the application with the direction that the clock not be set yet. He also said the Board could decide not to accept it because they were not 100% certain of the ownership of the land in question.

Mr. Kelley said they were probably sure about this ownership. He said the fact that the property was conveyed in that fashion made him believe this was the case. He asked how the Board could determine anything else, and noted that the applicant had presented it this way, the surveyor had followed up with an explanation of why the boundary line was correct, and the abutter, although noting he didn't like it, also believed it was correct.

Mr. Campbell referenced the earlier documents, and said there had been a variety of changes to the property over the years. He said the 1957 plan did not have the jag in the line, but had a straight line, but said that somewhere between 1957 and 1964, the jagged line appeared again. There was additional discussion about this.

Mr. Geiger presented some additional deeds information to Mr. Campbell.

Mr. Webb noted that the Board had two applications from the applicant, and asked if they were presently considering just the boundary line adjustment or both of them.

Mr. Campbell said they were essentially considering both of them. He said the Board could approve the boundary line adjustment application, noting that the issue regarding the boundary line between 1/9-36 and 1/9-35 was not related to the question concerning this other boundary line.

There was discussion on the plans that had been provided, and how to proceed on this.

Chair Roberts said the surveyor needed to make it clearer for the Board what the boundary line was, and said the Board could accept the application for subdivision with the condition that this be made crystal clear. He said the Board could also decide to wait to accept the application.

Mr. Campbell said the issue kept coming back to the deeds. He provided details from the records that had just been provided by Mr. Geiger.

Ms. Merrill said Mr. Campbell was trying to clarify the situation, but said there was too much information on this issue to review at the meeting.

Chair Roberts said the applicant needed to present a clear trail of what the boundary line actually was, perhaps with the help of the surveyor. Other Board members agreed with this.

Mr. Campbell said it sounded like the Board did not want to recommend acceptance of the subdivision application that evening.

Mr. Webb said he didn't feel comfortable moving ahead with the application when there was a boundary line dispute.

Chair Roberts said Mr. Campbell should not have to be responsible for clarifying this situation, but could assist Mr. Geiger.

Mr. Webb asked Mr. Geiger if he would prefer taking up both of the applications at the same time.

Mr. Geiger said he would prefer to have the Board take up the two applications together, but asked if there were any other issues he should be aware of, in addition to the stormwater analysis.

Mr. Campbell noted that the applicant had requested a waiver of underground utilities. He said that under the current subdivision regulations, the Board had the right to require all utilities, existing and new, to be located underground. He said the Board would have to make a decision on this, and said it would be a good idea to give the applicant some direction on this. He noted that the utilities were above ground at present.

Ms. Merrill said she would prefer to do a site visit before deciding on this.

Mr. Campbell said this was something that could be revisited later.

Board members said that generally speaking, they were comfortable with the utilities being located above ground.

***Kevin Webb MOVED that the Planning Board DENY, without prejudice, the Acceptance of an Application for Boundary Line Adjustment, and the Acceptance of an Application for Subdivision submitted by Brian and Armida Geiger, Durham New Hampshire, to be reconsidered Jan 26<sup>th</sup>, 2005, assuming submission of materials in a timely fashion. Amanda Merrill SECONDED the motion.***

Mr. Campbell suggested that Board members look at the letters from abutters outlining some of their concerns.

***The motion PASSED unanimously 5-0.***

## **X. Other Business**

### **A. Old Business**

#### **Determine posting date for Public Hearing on Non-Residential Zoning Provisions and direct the Planner to post.**

Mr. Campbell explained that the Board needed to officially ask him to post these dates. He said the Board was scheduled on January 5<sup>th</sup> to have the public hearing on the nonresidential district provisions, including the table of uses, and dimensional requirements, and was scheduled to have the hearing on the Overlay Districts on January 12<sup>th</sup>.

Councilor Harris said she was concerned that the first public hearing scheduled for January 5<sup>th</sup> would be held too close to New Years, and also noted that the University would still be closed at that time.

Mr. Campbell said comments could be submitted in writing, and also noted that the hearing on January 19<sup>th</sup> would provide an opportunity for discussion of the issues addressed at the two previous meetings. He said if necessary, there could be additional hearings in February. He also told Board members that postcards had been sent to every landowner in Durham.

***Richard Kelley MOVED to approve the dates of January 5<sup>th</sup>, 12<sup>th</sup> and 19<sup>th</sup> for Public Hearings on Non-Residential Zoning Provisions, and to direct the Planner to post. The motion was SECONDED by Kevin Webb, and PASSED unanimously 5-0.***

Mr. Webb told Board members that he had discussed the overlays with the Conservation Commission the previous week, and they would like to comment on them. He said he would like to get the latest copies of the overlays for them. He also said the Commission as a whole wouldn't be able to draft anything on the overlays until the January 19<sup>th</sup> meeting.

Chair Roberts said there might be more comments from the public this time because the proposed Zoning Ordinance changes were more complex. He asked if the Board might need to allow itself more time to redraft the Ordinance before giving it to the Town Council.

Mr. Campbell said there would be time for this, and noted that the presentation on the zoning changes had been broken into sections so that it could redraft the sections, and these sections could be looked at by the Council. He said February was the earliest that any of the sections would go to the Council.

## **B. New Business**

### **1. Discussion of Conditions of Approval for Baker Subdivision, Map 18, Lot 12-6.**

Mr. Campbell noted the previous paperwork concerning the application, and said one of the Conditions of Approval had not been completed. He explained that the applicant was still working on some of the wetland issues, the 6-month period had lapsed, and the applicant had not filed an extension. He said under the Conditions of Approval, if the work was not completed by 6 months, the applicant needed to come back and review the plan and the conditions. He noted that the remedial action part of the condition had been taken care, but the work on the dam had not.

Larry Morse of NH Soil Consultants provided background information on why one of the Conditions of Approval had not been completed. He said the weather had impacted the wetland restoration work, but said it had finally been completed, and had been signed off on. He explained that one of the conditions with the Attorney General's office was that the dam be registered. He said after study to determine if modifications were needed, including putting in a spillway, it was decided that instead of doing the dam restoration work, the top of the dam would be lowered by two inches, so that it wouldn't qualify as a dam. He said the work was scheduled to start the following week, and noted that the delays were not because of the applicant, but because of site issues.

Mr. Campbell suggested that the Board grant the applicant until the end of January to complete this work, and said this should give them plenty of time. He noted that this was the only condition that had not yet been met, and said that once the permit was received from NHDES, the condition would be fulfilled.

Mr. Webb questioned whether giving the applicant to the end of January would give him enough time to get the required paperwork back from NHDES, and suggested that giving him 60 days, to the end of February, made more sense.

***Councilor Harris MOVED to extend until Feb 28<sup>th</sup>, 2005, the Conditions of Approval for the Baker Subdivision. The motion was SECONDED by Amanda Merrill.***

Mr. Kelley asked if the NHDES time grant for the extension was in reference to the work on the dam, and was told that was correct.

Mr. Morse said there had been additional correspondence with NHDES, and said they were fully aware of the situation.

***The motion PASSED unanimously 5-0.***

**2. Request for Technical Review by Sandy Brook Corporation for driveways on Britton Lane, Map 13, Lot 14-14.**

Mr. Campbell explained to the Board what the applicant was looking for. He said the Board had previously approved a Conditional Use Permit for the PUD, and the development was going through the site plan review process. He said the approval contained six driveways, and the applicant had now come up with a plan that had 12 driveways. He said the driveway permit application was brought to Town Engineer Bob Levesque, who saw it had changed, and didn't want to automatically approve it.

Mr. Campbell said Town staff had discussed this, and said they wanted to make sure the process was correct. He said there was a letter from Bob Levesque on this, which indicated that he didn't have a lot of problems issuing it, but wanted to make sure he had the proper authority to review the driveway permits.

Chair Roberts said he had asked for documentation from the applicant for Mr. Levesque.

Mr. Campbell said the Town Attorney had suggested that this be run by the Planning Board.

Mr. Schuster, the applicant, explained that some additional driveway cuts had been proposed for units of the PUD on Britton Lane. He said the approved plan had notes that said the footprint could be changed by the contractor at the time of construction, if the intent of the PUD was met. He said they relied on that note, and said they had been anticipated that the drainage and building envelopes would be articulated in this way. He said this had been done, and they had come to the point where were considering driveway permits. He said the permit applications were started, and said the issue of authority had come up. Mr. Schuster said if the Board believed this met the intent of the approved PUD plan, including the notes, they were all set.

Chair Roberts noted the letter from Bob Levesque said he didn't have objections to most of the proposed additional driveway locations, although details had to be worked out on these. He said what was not clear was if he had the authority to review the permits.

Mr. Campbell noted that the notes on the PUD plan had not been discussed with the Town Attorney.

Councilor Harris asked some questions about the planned design for the buildings.

Mr. Schuster said there were essentially two different types of building units planned, which was the rationale for the driveway changes. He also noted grading issues had started the consideration about the driveways.

Ms. Harris said these proposed driveways made the units seem more like single-family houses, as compared to condos with shared driveways. She also noted the applicant's request for a change in the age of residents, and said this would make single-family homes more desirable, for families.

Mr. Schuster provided details on this.

Chair Roberts said Councilor Harris' point was whether the concept of the building was being changed. He asked Board members if they agreed that they should give the developer the option of modifying the driveway plan per the acceptance of the Town engineer.

Ms. Merrill asked Chair Roberts to read the letter from engineer Bob Levesque, and Chair Roberts did so.

Mr. Kelley said the intent was that in the future, this might become a town maintained road, and asked whether the segment near the northern most two units would be a private drive. Mr. Schuster said it would be.

Mr. Schuster said that the property was a planned unit development (PUB), and said the master plan for the development had anticipated this kind of articulation of the plan. He said what was involved was a point of clarification, and said that if the Board authorized Mr. Levesque to review the additional plans, he would move forward in that vein. He said part of the uncertainty regarding this issue was that there weren't a lot of planned unit developments where this kind of thing might come up, so the procedures weren't clear.

Mr. Kelley noted that when the master plan for the development was approved, the ratio of open space to impervious area was also approved, and asked if it were so large that the increased impervious cover from the additional driveways would be inconsequential.

Mr. Schuster said the ratio was huge.

Ms. Merrill said she wanted to be clear that in order to say Mr. Levesque should meet with the applicant, the Board had to believe there was sufficient flexibility in the original approval to allow for this.

Mr. Campbell said that was correct, and said if the Board was comfortable with this, it could give Mr. Levesque the authority to go through the permitting process with the applicant.

Councilor Harris asked if there was any elevation data to indicate what the driveways would look like. She said it seemed like they would change the character of the development, and the units would seem more like single family houses.

Mr. Schuster said the elevations of the buildings under both scenarios were very similar, other than that the entrances to the garages would be at a different location.

Mr. Kelley said that with the split drives, the living quarters would be closer together.

Mr. Schuster said the other component was that once this determination was made, he could come back and do the fiscal analysis, based on knowing what product he would be able to have out there.

***Richard Kelley MOVED that Town Engineer Bob Levesque to look at the driveway permits for driveways on Britton Lane, Map 13, Lot 14-14. Kevin Webb SECONDED the motion, and it PASSED unanimously***

**XI. Approval of Minutes – October 13, 2004  
October 27, 2004**

The Board postponed review of the minutes.

**XII. Adjournment**

***Amanda Merrill MOVED to adjourn the meeting. The motion was SECONDED by Kevin Webb, and PASSED unanimously.***