

D-R-A-F-T

**DURHAM PLANNING BOARD
WEDNESDAY, JULY 26, 2006
COUNCIL CHAMBERS, DURHAM TOWN HALL
7:00 PM**

MEMBERS PRESENT: Arthur Grant; Stephen Roberts; Bill McGowan; Richard Ozenich;
Councilor Needell

ALTERNATES PRESENT: Susan Fuller; Lorne Parnell; Councilor Carroll

MEMBERS ABSENT: Chair Kelley; Kevin Webb

I. Call to Order

Arthur Grant said he would be filling in as Chair because of the absence of regular Chair Richard Kelley. He noted that Chair Kelley might arrive later at the meeting. He also said because of the absence of some regular Board members, all Board members present would serve as voting members, with the exception of Councilor Carroll (who was the alternate Council representative to the Board).

II. Approval of Agenda

Susan Fuller MOVED to approve the Agenda as submitted. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.

III. Report of the Planner

- Mr. Campbell said PSNH had requested that Agenda Item IV, the public hearing concerning removal of trees along a portion of Bennett Road and Packers Falls Road, be continued to the August 9, 2006 meeting. He said the Town had received a list of the trees to be cut and corresponding poll numbers to help people find them. He noted that the trees would be marked by PSNH.
- He said the Town Council would hold a public hearing on the conditional use issue in regard to the Professional Office district at its August 7th meeting, and said if it passed on first reading, he assumed the public hearing on this would be held at the August 21st Council meeting.
- He provided details on the recent Zoning Rewrite meeting, noting among other things that the discussion on the timber harvesting issue had gone well. He said Chair Kelley wanted to be present for the discussion on that issue at the present meeting, but said he probably wouldn't be arriving in time for this.

He said that at the request of the Zoning Rewrite committee, he had met with Goss International. He provided details on this, and said there would be a request to change the zoning of a parcel from rural to light industry at a future meeting

- He said the Housing task force had met twice and had had some good discussions, concerning student rentals, professional property management, and possible changes to the Zoning Ordinance in the future. He said one possible change was to add a definition for professional property management, and another was to allow an increase in density to 300 sf for properties that were professionally managed. He provided details on this.

He said the task force would also be discussing affordable housing and other issues.

- Mr. Campbell said he had met with representatives for the Gangwers to discuss options for the Greens property as well as the property north of Route 4 near Pendexter Road. He said the Gangwers were looking to subdivide the Greens property, tear down the existing buildings on the site and do a mixed use development that would include some underground parking.
- Mr. Campbell said the Board had received a request from ZBA Chair Jay Gooze to have a discussion with the Planning Board on the spirit and intent of the shoreland protection overlay ordinance. He said a lot of variance applications currently involved the shoreland zone, and said Chair Gooze felt the spirit and intent criterion was key in their decisions on these applications.

Chair Grant suggested that Mr. Campbell ask Chair Gooze to come to the next Board meeting. He noted that this would be an involved discussion, and that it would occur later at that meeting.

There was discussion on how to schedule this, and also whether the Town Attorney should be present, given the significant ramifications of the issue.

Councilor Needell said he was somewhat concerned about this matter. He noted that the ZBA was charged with interpreting the Zoning Ordinance. He said it was fair to have a discussion on it with the Planning Board, and the Town Council, but questioned whether it was of any use from a legal perspective to be able to say what the intent of the Planning Board and Town Council were concerning the shoreland zone. He noted that it might not even have been the current members of those boards who had written this part of the Ordinance.

Chair Grant said the ZBA had been seeing a number of applications, especially on Cedar Point Road and on Durham Point, which had raised issues regarding runoff into Great Bay, setbacks, and buffers. He said the ZBA was trying to interpret the variance criteria based on the Ordinance, but was asking what the Planning Board was really trying to accomplish with the present requirements. He said he liked the idea of having a preliminary discussion on this to see what questions arose, and then consulting with the Town Attorney. He said there could then be a follow-up discussion.

Mr. Campbell said the ZBA also wanted the Board to take a look at the purpose statement of the shoreland provisions, and wanted guidance on this.

Councilor Needell asked if a legitimate response of the Board would be that it needed to clarify the language of the Ordinance. He said it might not be appropriate for this Planning Board to interpret what the intent of the Ordinance was. He said he wanted to make sure the Town was on firm ground, and agreed a discussion was the first step. He said the Board could then decide where to go from there.

- Mr. Campbell said there was an opening for a commissioner position on the Strafford Regional Planning Commission, because Chair Kelley was unable to continue in that capacity.
- He said the first use of bio-diesel by UNH fleets would take place on August 2nd, and said there would be a ceremony to announce this that Governor Lynch and NHDOT Commissioner Carol Murray would be attending. He noted the existing UNH pumps would be used to dispense the fuel.
- Mr. Campbell reminded Board members that he would be away from July 31-Aug 4, and would be out for surgery the week of August 16th.

Mr. Campbell noted that resident Rob Keefe was present, in anticipation of the discussion planned for that meeting on the timber harvesting issue. He said Chair Kelley was not expected to arrive until 8:30, and said the Board would probably have completed most of the meeting by then. He said he therefore didn't think the Board would be getting into the timber harvesting discussion that evening, given that Chair Kelley wanted to be part of that discussion.

Chair Grant said Susan Fuller would be a voting member in place of Kevin Webb, and said Lorne Parnell would vote in place of Richard Kelley unless or until he arrived.

IV. Public Hearing on a petition submitted by Public Service of New Hampshire, Manchester, New Hampshire, to remove trees along a portion of Bennett Road and Packers Falls Road which are considered scenic roads in accordance with RSA 231:158.

Chair Grant recommended that the even though this Agenda item was going to be continued to the next meeting, he would like the Board to open the hearing and then continue it, so the meeting would not have to be re-advertised.

Steve Roberts MOVED to open the public hearing on a petition submitted by Public Service of New Hampshire, Manchester, New Hampshire, to remove trees along a portion of Bennett Road and Packers Falls Road which are considered scenic roads in accordance with RSA 231:158. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

Councilor Needell MOVED to continue the public hearing until the August 9, 2006 meeting. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.

Chair Grant received clarification that the list of trees proposed to be cut was available at Mr. Campbell's office.

V. Acceptance Consideration for a Site Plan Application submitted by Douglas H. Wilkins, Anderson & Kreiger, Cambridge, Massachusetts, on behalf of New Cingular Wireless PCS, Cambridge, Massachusetts

and the University of New Hampshire, Durham, New Hampshire. The application is for a Personal Wireless Service Facility located on Williamson Drive on the University of New Hampshire campus. The property is shown on Tax Map 13, Lot 7-2, is located on Williamson Drive and is within the Residence A, Rural and Multi-Unit Dwelling Office Research Zoning Districts.

Doug Wilkins, spoke before the Board, and provided details on what was proposed concerning construction of the personal wireless facility. He provided photo simulations of the proposed facility, noting it would be located on the top of a very tall building on the UNH campus. He said the applicant believed what was proposed was consistent with the spirit of the personal wireless provisions of the Ordinance, and was designed to be as unobtrusive as possible.

He said the applicant was not proposing a generator for the roof, explaining that the building already had a generator, and said the plan was to replace and upgrade it. He said noise problems were therefore not anticipated. He also said air cooled cabinets, but not a shelter were proposed as part of the construction, and said an HVAC system was therefore not needed, which would reduce noise as well.

There was discussion with Mr. Wilkins about the memo from Mr. Campbell concerning the waiver requirements.

Mr. Wilkins provided some details on waivers being requested. Among other things, he noted that the applicant was still requesting a waiver from having to identify the personal wireless facilities of other carriers in the area, but was willing to identify its own facilities.

He provided details which explained that Section 9.13 was substantially met, noting that the applicant had provided the Board with a Radio Frequency Report developed by a Radio Frequency Specialist who was an expert in this area, although he was not a registered engineer. He said a report had also been provided by a radiation safety specialist.

There was discussion as to whether any of the existing antennas would be removed as part of the installation, and Mr. McNeill of Cingular explained that only some small antennas would be removed.

Chair Grant asked if the application was complete, and Mr. Campbell said it was, other than some things relating to the waivers being requested.

There was discussion on when to have a site walk, and when to have the public hearing.

Councilor Needell MOVED to hold a site walk on Wednesday, August 9th at 4 pm, followed by a public hearing at the regularly scheduled Planning Board meeting that evening. Steve Roberts SECONDED the motion, and it PASSED unanimously 7-0.

The Board agreed it would be good if someone from UNH could be at the hearing.

Councilor Needell noted there were some additional issues concerning the site plan, and asked if the Board wanted to take action on any of these things that evening.

Mr. Campbell said if the Board felt it needed to send the Radio Frequency report out to an independent consultant, he would prefer that it decide to do this sooner rather than later. There was detailed discussion on this by the Board.

Mr. Roberts said there should be an independent review of the report, noting that this shouldn't pose an obstacle because there were an infinite number of solutions to potential problems. He said he was not in favor of waiving the requirement, and also noted that the Board had been consistent in asking for an independent review of these reports, so it was a matter of a precedent that had been set.

Mr. Grant said the Planning Board had generally asked for independent verification of information from these reports, as a measure of protection.

There was additional discussion about this issue.

Steve Roberts MOVED that the Planning Board request that the applicant, Cingular, provide a statement of the noise emitting potential of their proposed development, and the means to curb it, as per Section 9.12 of the site plan review regulations. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.

Councilor Needell noted the waiver being requested concerning the co-location requirement, and asked if Cingular was saying that it didn't own the property, so couldn't control co-location there.

The representatives of Cingular said the company was leasing space, and said UNH could do what it wanted with the remaining space.

Mr. Ozenich said that when the Board had asked a wireless carrier about the possibility of locating on Stoke Hall, it was told that this wasn't possible because of security reasons, - yet this proposed facility was now possible.

Chair Grant suggested that Mr. Ozenich could ask that a UNH representative be present at the public hearing, and said this person could perhaps answer that question at that time. He said UNH could also be asked about the possibility of cost sharing.

Steve Roberts MOVED to accept the Site Plan Application submitted by Douglas H. Wilkins, Anderson & Kreiger, Cambridge, Massachusetts, on behalf of New Cingular Wireless PCS, Cambridge, Massachusetts and the University of New Hampshire, Durham, New Hampshire, for a Personal Wireless Service Facility located on Williamson Drive on the University of New Hampshire campus, within the Residence A, Rural and Multi-Unit Dwelling Office Research Zoning Districts. Bill McGowan SECONDED the motion, and it PASSED unanimously 7-0.

VI. Other Business

A. Old Business:

Mrs. Harris noted she had been out of Town in recent weeks, but about a week ago had seen the yellow clapboards being put up at the Irving station, and had expressed her concern about the particular yellow color of the clapboards, which was still too bright. She noted there had been lengthy discussion about this color during the review process, and that the Board had specified

verbally that a muted, pale yellow color should be used. She said this recommendation had apparently not found its way into the conditions of approval. She noted recent emails sent around by a minority of Board members that said they agreed with the color that had been chosen.

There was detailed discussion about the color, and how bright it was compared to Irving stations in other locations.

Mrs. Harris also noted that brick colored clapboard had been put up on the Hotel NH, instead of actual brick. She said in the future, these kinds of things should be written into the conditions of approval, for projects that were incredibly prominent in the community.

Mr. Roberts said he had tried to get the Board to pick the specific color number. He said Irving generally used two yellow colors, one bright yellow, and the other that was the color of the Durham station. He said he would have been happier if the color there was about half as bright as it currently was, and said perhaps this could be corrected in the future. He suggested that in the future, the Board pick specific color # and put it in its conditions.

Mr. Grant said the idea of making the specific color a part of the conditions of the original was a good idea. But he said he felt Irving had generally been quite willing to accommodate the Board, and said comparing this yellow color to the color yellow on an Irving station on Route 108, he thought this one was much better.

Mrs. Harris said the Board had wanted to go lighter than the yellow color on the Stratham Irving station, but it got that color.

Mr. Campbell said he hadn't seen anything that said the brick colored clapboards at the Hotel NH should instead be all brick.

Mrs. Harris said the original drawing from the applicant showed brick, and said the Board had even asked for a copy of this drawing. She said she didn't think the Board had ever gotten that copy back.

Councilor Carroll said she would like to discuss the issue of private ways. She said a number of people were coming forward who lived in developments on private ways, and were unhappy that even though they paid taxes, they had to pay for trash pickup, and could not participate in recycling or spring cleanup.

She said she realized that these people knew they would be living on private ways when they bought their property. But she said this issue seemed to be causing a certain amount of tension, and said she didn't think this was good for the community. She said she didn't know what the possible solutions were, but said she didn't think having private ways was working.

Chair Grant said Mr. Ozenich had pointed this out on many occasions. He asked if it could be required that all roads be public roads.

Mr. Campbell said yes, noting the Public Works Department had discussed this. He said this tended to cause a loss in flexibility in design, because it worked against the idea of having narrower roads. But said there were ways to address this, and said it probably came down to negotiating with the Public Works Department on how wide the roads had to be.

There was discussion about the idea of having a drop off place for garbage at the location where the private road abutted a public road, and about who would be responsible for this if such a thing were done.

Chair Grant suggested that the Board send a letter to the Town Administrator on this, and ask him to consult with Town staff concerning what could be done about this issue. There was discussion about the fact that this had been done in the past.

Mr. Roberts said in Colorado, planners had solved the problem by making the standards for private roads identical to a town's road standards. He also noted the importance of sidewalks as part of such standards.

Councilor Needell noted the fact that the Board had previously discussed the idea of visiting some developments in Town.

Mr. Campbell said they should probably do this some time in August.

VII. Next meeting of the Board: August 9, 2006

VIII. Approval of Minutes –

June 28, 2006 (Please note pg. 5)

Chair Grant said the Board would postpone review of the Minutes until the August 9th meeting, so he could have the chance to review them.

Ms. Fuller noted the upcoming Municipal Law Lecture series, and there was discussion on this, and the fact that for those who could not attend, there were lecture notes available from the lectures.

IX. Adjournment

Richard Ozenich MOVED to adjourn the meeting. The motion was SECONDED by Bill McGowan, and PASSED unanimously 7-0.

8:15 pm Adjournment

W. Arthur Grant, Secretary