

These minutes were approved at the October 25, 2006 meeting

**DURHAM PLANNING BOARD
WEDNESDAY, AUGUST 9, 2006
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL**

MEMBERS PRESENT: Chair Kelley; Arthur Grant; Kevin Webb; Stephen Roberts;
Richard Ozenich; Councilor Needell; Bill McGowan

ALTERNATES PRESENT: Councilor Carroll; Susan Fuller; Lorne Parnell

MEMBERS ABSENT:

I. Call to Order

Chair Kelley said Mr. Parnell would be a voting member of the Board in place of Mr. Webb.

II. Approval of Agenda

Steve Roberts MOVED to approve the Agenda as submitted. The motion was SECONDED By Bill McGowan, and PASSED unanimously 7—0.

III. Report of the Planner

- Mr. Campbell provided details on updated information received concerning the Cingular application. He noted that the Board had conducted a site walk, and said he had prepared the Draft Findings of Fact and Conditions of Approval for the application. Mr. Campbell explained other information provided to Board members that evening on various Agenda items.
- Mr. Campbell said he had recently met with University planner Doug Bencks, but had not had time to type up his notes from the meeting for the Board. He said the big news concerning the University was that the tracks were being thrown for the southern tunnel, and said hopefully this project would be finished soon.

Mr. Webb arrived at the meeting.

- Mr. Campbell said the Town Council had passed on first reading the citizen petition to change the Table of Uses for mixed-use residential up/office retail down from a permitted use to a conditional use in the Professional Office District. He said the public hearing on this would be held on August 21st, and said it would be appreciated if some Board members could attend the meeting.

- Mr. Campbell said he would be attending the NH Economic Development Association's annual meeting and workshop in Concord on Friday, and said the topic on successful business retention and expansion "Grow with What You Have".
- Mr. Campbell said the Town had applied to ESRI for a GIS grant, but had not received it, noting that there had been stiff competition for the grant. He also said the Town had applied for the third time for a State Planning Research grant to look at the NW/SE transportation linkage issue, but did not receive one. He said he had asked Tim Roach of Strafford Regional Planning Commission to make some inquiries as to why the Town kept getting rejected concerning this. He said such a grant would have offset by \$50,000 the cost of the study the Town had planned. He said there was still some money in the CIP for the study, and said the Town would have to foot the full bill for the study.
- Mr. Campbell said only one of the three Strafford Regional Planning commissioner seats was currently taken, and asked Planning Board members to let him know if they were interested in serving on the Commission.
- Mr. Campbell said he would be off the following week because he would be undergoing surgery.
- Mr. Campbell said the Seacoast MPO had met the previous week. He said he had not attended, but Mr. Roache had said the State was going to start implementing SAFETY, a federal program, ahead of schedule. He said part of this was to make the Transportation Improvement Program 4 years instead of 3 years. He said in doing this, NHDOT had pushed out some projects, among them the Durham project for the shoulders on Route 108 heading to Newmarket. He said this been pushed off beyond 2008, and said no date for when the project would go forward had been given yet. He said he and Tim Roach would meet with Executive Councilor Ruth Griffin to see if there was anything she could do to assist the Town. Mr. Campbell said they were probably looking at 2010 as the year when the roadwork would be done.

Councilor Carroll said it was amazing that so much work had been done on the plans for this project, but nothing had yet been implemented.

- Mr. Campbell said the Draft EIS was available in his office for the proposed widening of the Spaulding Turnpike between Dover and Newington. There was brief discussion on what the plan included. Mr. Campbell said the public hearing on the Draft EIS would be held on Sept. 21st.

IV. Continued 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.

There was discussion on the fact that the public hearing had been continued from the previous meeting, so was still open. Dave Crane, the arborist representing PSNH, explained that it had made sense to continue the meeting to this current meeting, especially because residents had wanted information on exactly what cutting was planned on the roads.

Mr. Crane said trees over 15 inches in circumference had been marked, noting that the contractor who had done this was overly cautious, so about 2/3 of the trees were probably less than 15 inches. He said the cutting that was proposed was part of PSNH's routine maintenance, and said the specifications for this process were the same as with previous cutting operations.

He said the conditions for the PSNH wires were worse than for other recent jobs done in Durham, noting that it had been 8 years since the trees in the area had been trimmed, and that this was the maximum cutting cycle PSNH allowed. He said the cutting would be a little more noticeable than it had been in other places in Town where cutting had been done, and said he thought that everyone on these roads who would be affected had been contacted.

He provided additional details on the specifications of the cutting, also noting that in this instance there were not a lot of dead trees, but instead a higher than normal amount of healthy trees growing under the power lines. He said the tops could be cut off these trees, but said aesthetically it would be better if the whole trees were cut instead.

Chair Kelley asked if there were some tree limbs outside of the right of way that needed trimming, and there was discussion on this.

Mr. Crane said in a situation like this when there were a lot of overgrown trees, they might find some dead trees when they started cutting. He also said that chipping of the trees was done on site whenever possible, and said the chips were available free of charge.

Chair Kelley asked if the PSNH crews were large enough to provide traffic control, and Mr. Crane said personnel were added for this as needed. He said traffic control was certainly needed at the proposed locations because of the narrow roads.

Mr. Webb asked how often PSNH attended scenic roads public hearings, and Mr. Crane said they attended about 30 hearings per year.

Councilor Carroll asked if the procedure of marking trees was typical for PSNH, and Mr. Crane said this didn't happen in every case, but said much of the time the trees were marked.

He noted that one of the trees to be removed near the beginning of Bennett Road had not been marked because it was difficult to get to it on foot. There was discussion about the tree that had not been marked.

Councilor Carroll said when the process was completed, it would be a good idea to have a discussion as to whether the cutting had worked well, and to make sure that the lines of communication really did work.

Mr. Crane noted some similar issues had come up with landowners on Durham Point Road relative to a proposed tree cutting, and said everything had been addressed up front. He said the situation had worked out well. He asked Mr. Campbell if any feedback had been received from residents after this, and Mr. Campbell said he hadn't heard anything on this.

Councilor Needell said there had been an incident a few years back on Durham Point Road where residents were not happy with the tree cutting done by PSNH.

Mr. Crane said this had happened before Durham was part of the area he covered for PSNH, and involved a line feeding electricity to the Transfer Station. He provided some details on the fact that PSNH had decided to do a more aggressive cutting in this instance.

Councilor Needell asked what the options were if a landowner did have an objection to proposed tree cutting.

Mr. Crane said the landowner had the right to say no, and said this would then be evaluated by PSNH. He said it was very unusual that PSNH would have to then use State statute, and say it had to cut a particular tree for safety reasons. He said the company usually was able to get the permission of the landowner, in order to at least do some work on a tree.

Mr. Crane said that the larger trees that were cut, which the chipper couldn't handle, would be cut into lengths and stacked on site or hauled away if requested. He provided details on this, noting that most of the trees to be cut were hardwoods, so given fuel prices, they would not be hard to get rid of.

Theresa Walker, 62 Bennett Road, spoke about the tree at the beginning of Bennett Road that had not been marked, and there was a discussion about the exact location of this tree relative to the shoreland zone.

Mr. Crane said he didn't think there were any trees located within the shoreland zone.

Ms. Walker asked when the work was scheduled, and Mr. Crane said it was planned for late August-early September.

Ms. Walker said she was pleasantly surprised that not that many trees had been marked on Bennett Road, and Mr. Crane said most of the trees that had been marked were on Packers Falls Road.

Ms. Walker read a letter from resident, **Dick Lord, 85 Bennett Road**, which said it was appreciated that the trees had been clearly marked so residents could see what was planned, and thanked Mr. Campbell for his efforts in arranging this. Mr. Lord also said he was pleased to see there were no plans to remove or mutilate trees forming a canopy over the road. He said he appreciated it that there had been a conscious effort to mark trees with sensitivity, and said he was optimistic that the tree cutting would be done in this way as well. He said he was sorry about losing two trees, but realized the need for their removal.

Beth Olshansky, Packers Falls Road, said she too appreciated it that the trees planned for removal had been marked, noting that if it was not PSNH's standard policy to do this, it was a standard policy in Durham, and she highly recommended it.

Ms. Olshansky said it made her a bit nervous that one of the trees to be removed had not been marked, and asked if it would be possible to mark this tree.

Mr. Crane said that wouldn't be a problem.

Ms. Olshansky also noted that she lived on Packers Fall Road, diagonally across from Little John Meadow, and said it looked like clear cutting of trees was planned along the entire stretch along the stone wall there.

Mr. Crane said most of the trees there were less than 5 inches in diameter, and were located directly under the power lines. He said most of these trees had been topped in the past, but said as they got bigger, it was more difficult to make the trees look symmetrical. But he said the trees could be topped if the landowner requested this.

There was further discussion about these trees, and what the wishes of the landowners were concerning what should be done with them.

Ms. Olshansky noted that there were two larger trees that might technically be located within a certain number of feet from a wire, but didn't seem to be jeopardizing them. She said she had marked them herself, and asked that PSNH revisit the necessity of cutting these trees. She said she had a letter concerning this. She explained that she was not a member of the association that owned the property the trees were on, but was a guardian of the property.

Mr. Crane said he would look into this, but noted it would be up to a vote of the association to determine what happened to the trees.

There was further discussion about the trees on the association property.

Ms. Olshansky asked that the trees that would be cut during the procedure would be cut as close to the ground as possible, so stumps would not be left along the scenic roads.

Mr. Crane said it was standard policy to cut trees as close to the ground as possible, and provided details on this.

Jamie Calderwood, 179 Packers Falls Road, said he was concerned about the canopy over the street. He asked how much of the canopy was to be cut, and asked that where this canopy was trimmed, it would be done as sensitively as possible.

Mr. Crane said it was a conservative crew that would be cutting the trees. But he said one would be able to see a difference in the canopy, because it had been a long time since the trees there had been cut, and there was more than a normal amount of growth there.

Stanley Wojnowski 15 Packers Falls Road, said that in the past two weeks, he had lost power at his home 3 times, and he noted there had been other power outages in the past. He said he had no problem with PSNH coming in and doing selective cutting and trimming.

Bill Hall, Smith Park Lane, said he did not live in this area of Town, but said he had plenty of experience with power going out. He said if there wasn't a pretty aggressive trimming program on these roads now, PSNH wouldn't be too concerned about how fast it go to this area in the future to deal with a power outage. He said there were impacts now from the trees on the lines during a windstorm, and said he knew there would also be impacts on the lines from ice storms.

Arthur Grant MOVED to close the public hearing. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.

Kevin Webb MOVED that the Town Planner prepare a letter consenting to the cutting on scenic roads as proposed, asking that Mr. Crane and PSNH crews keep in mind the concerns and comments made at the public hearing tonight. Arthur Grant SECONDED the motion.

Chair Kelley said the themes expressed that evening at the hearing could be incorporated into the letter.

It was noted that Mr. Webb would be a voting member on the motion. It was also noted that Mr. Roberts, Mr. McGowan and Ms. Fuller were abutters, so should abstain from the vote. Chair Kelley said Mr. Parnell would be a voting member for this motion.

The motion PASSED 6-0.

There was discussion on when the work would be completed.

- V. Public Hearing** on 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.

Kevin Webb MOVED to open the public hearing on 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. Bill McGowan SECONDED the motion, and it PASSED unanimously 7-0.

Doug Wilkins was present, representing Cingular Wireless, along with Cingular staff Jonathan McNeill. Mr. Wilkins provided details on the proposed cell facility on Williamson Hall. He said the existing site plan had been expanded to show Mill Road and the closest abutters, explaining that a 300 ft. circle had been drawn, and that there were no houses within this circle. He said it had been noted on the recent site walk that there was a good deal of vegetation off the parking lot and along the lot line and houses in the areas, so the houses would not be able to see the proposed installation. He said it was good location for the cell facility, and would not be visible unless one was actively looking for it.

Mr. Wilkins said the applicant had asked for a number of waivers, including having to notify all of the abutters, since this was such large lot. He said he felt the applicant had complied with the regulations by listing these many abutters, although not mapping them.

He provided details on the proposed installation on the top of the roof of the building, stating that there was a proposed 12 ft. by 20 ft. lease area. He said the equipment would be set back 11 ft. from the edge of the roof. He provided details on the three sets of antennas, which would be mounted inside the existing parapet. He said the antennas themselves were about 4-5 ft. high, and He said the whole installation would be no more than 10 ft. above the existing roof level.

Mr. Wilkins explained that air cooled cabinets were being used to house the equipment, so an air conditioning unit was not needed. He also said Cingular would not be putting a generator on the roof as part of the installation, and instead was upgrading the existing indoor generator on the site. He noted that it had been confirmed that noise levels would be substantially below what was permitted under the Town's noise ordinance.

He provided an updated radio frequency chart and map on why the installation was needed. He noted the applicant had been asked to show the existing Cingular sites as well as the sites of other carriers in the area. He said the existing and proposed sites had been shown, and said the State's GRANIT database had been utilized to help determine the sites of other carriers in the area. He said he couldn't guarantee that all these sites had been accounted for. But he said the applicant was asking for a waiver concerning this information because it felt it had met the spirit of the regulations.

Mr. Wilkins demonstrated on a map where Cingular didn't have the coverage it needed, and showed how the coverage that would be provided with the new facility would now cover a good deal of the Town.

He said the applicant had provided liability insurance, so was not asking for a waiver from this.

He said the report written by the Town's consultant had been reviewed, and said it was consistent with Cingular's evaluation of the need for the facility. He said Cingular thought it had addressed the visual aspects, and also said it was felt Cingular had gone pretty far regarding the radio frequency information requirements, so was requesting a waiver concerning these requirements.

Mr. Wilkins provided photo simulations of how the facility would look, and said he felt the applicant had met the requirements of the Ordinance. He said this would be a low impact installation, compared to other installations proposed, and said it would be well screened. He said the cell facility would provide coverage for Durham, and asked that the Board approve it.

In answer to a question from Chair Kelley, Mr. Wilkins explained how the facility would provide better coverage of some areas in Durham that already had some coverage, and would also provide new coverage to a portion of the Town. Chair Kelley asked where the current Cingular facility was located, and why it didn't provide enough coverage.

Mr. Wilkins explained that the existing facility was designed to cover intense use in a more limited area, the UNH campus, and said the coverage proposed now would work better because it was up high, and would use antennas that covered a wider area.

Chair Kelley noted the C-2 Roof plan, and the conduits coming up through a hole in roof, and asked for details on this. Mr. McNeill of Cingular provided these details.

Chair Kelley asked if roof access would be needed, and was told that technicians generally would go up there once or twice a month. There was discussion on safety issues related to this.

Mr. Webb asked if Cingular had similar installations elsewhere in the seacoast area, noting the letter received from the Town's consultant had spoken about the visibility of the installation, among other issues.

Mr. McNeill said in the Portsmouth area, there normally were not 10 story buildings. He noted that consultant's letter had spoken about the idea of putting a pole in the middle of the roof on the building. But he explained that a cell facility there would have to be placed higher in order to work because otherwise the signal would be blocked by the edge of the building. He also said that any screening put up would look a lot more obtrusive than the antennas would. He said Cingular didn't object to putting up screening, but didn't think this would work in this particular situation.

There was discussion about this. Mr. Webb asked if anything close to what Cingular was proposing in this application could be looked at so the Board would have a better idea of what was proposed. He was told that Portsmouth Hospital had a cell facility with a similar design.

Chair Kelley asked if any members of the public wished to speak concerning the application. Hearing no response, he closed the public hearing.

Arthur Grant MOVED to close the public hearing. The motion was SECONDED by Richard Ozenich, and PASSED unanimously 7-0.

There was discussion about how soon the applicant hoped to start construction. Mr. Wilkins and Mr. McNeill said it was hoped that construction could start fairly quickly, after getting the building permit, but said they didn't think it would be possible to complete the structure before UNH opened for the fall semester. He said the generator would have to be ordered, but said the site could be put on line without it, if necessary.

Chair Kelley said in the past, when there was a facility to be placed on a University building in Durham, a University representative was present at the Planning Board's public hearing.

Mr. Wilkins said there was a permission letter from UNH, and said he would be happy to include as a condition of approval that this letter would be provided to the Planning Board.

Mr. Campbell noted there was a letter from UNH in the original application that stated that Cingular was more than welcome to go through the approval process with the Town.

There was discussion about any financial arrangements concerning the cell facility between Cingular and the University, and any possible arrangements between Cingular and the Town.

Chair Kelley asked if there had been discussion with Code Enforcement Officer Tom Johnson in regard to the building permit, and Mr. McNeil said Cingular had realized it needed Planning Board approval first, and would be speaking again with Mr. Johnson.

Mr. Campbell asked if the applicant had spoken with anyone about a letter allowing the Town to inspect the cell facility.

Mr. Wilkins said a letter that had been provided addressed this, but said the applicant was still seeking a waiver because the letter wasn't quite what the Town was looking for.

There was discussion about the fact that the property in question was located within 3 different zoning districts

There was also discussion on the fact that if the antennas were put on the roof closer to the center of the building, and higher, they would be even more noticeable. Mr. Campbell said because they would be 10 ft. above the height limit if this were done, a variance would be needed.

Councilor Needell said from the roof of Christiansen Hall, one couldn't see residential structures. He also said that from the photo simulations, these would be the most noticeable antennas in Durham, but said nobody would really be able to see them, unless they were looking for them.

Mr. Webb noted that the consultant the Town had hired to look at the broadcast signal lab report had said the wrong PCS license had been included, and had said the Board should ask Cingular to submit the correct one.

Mr. Wilkins said Cingular would be happy to do this as a condition of approval.

Chair Kelley noted that the Planning Board was seeing the letter from the consultant and other updated information on the application for the first time that evening. He asked Mr. Wilkins if Cingular needed approval that evening.

Mr. Wilkins said that would be appreciated, and noted the items provided that evening to the Board were in direct response to what had been talked about when the application was accepted at the previous meeting. But he said it was up to the Board to decide on this.

Mr. Campbell said he would prefer it if the process could be completed that evening, and suggested that if time permitted, the Board could deliberate on the application later that evening. He noted that the draft Findings of Fact and Conditions of Approval had been developed, and were in Board members' packets.

Chair Kelley said the Board would recess for 10 minutes

VI. Acceptance Consideration on an Application for Boundary Line Adjustment submitted by Van Rich Properties, LLC, Durham, New Hampshire to change the boundary line between two lots. The properties involved are shown on Tax Map 9, Lots 20-0 & 20-1, are located at 277 and 279 Mast Road respectively, and are in the Multi-Unit Dwelling/Office Research Zoning District.

Chair Kelley said Mr. Roberts had left the meeting, and said Mr. Parnell would fill in for him for the remainder of the meeting.

Mr. Campbell provided details on how a boundary line adjustment application was generally handled by the Planning Board. He said the Board could accept and vote on such an application in the same evening, and said no public hearing or site walk were required. He recommended that the Board act on the application that evening, and then run the next two applications, by the same applicant, concurrently.

Dick Gottschneider, of Van Rich Properties, LLC, said that with the boundary line adjustment, he wanted to take a small piece of land and move it from one of his lots to another. He explained that the reason for the boundary line adjustment was that he had a subsequent proposal to build some apartment units on one of the lots, and couldn't meet the setback requirements unless the boundary line adjustment were done. He said this would not affect anyone because he owned both lots, and he noted that the abutter was fine with what was planned.

He said the boundary line adjustment would keep both lots the same size, noting that both of them conformed to the square footage requirements, and said this would allow him to put a building in without having to get a variance.

There was discussion about a strip of land that would be left on Lot 20. Mr. Gottschneider said this was simply needed in order to meet the square footage requirements, and was not a frontage issue. He said the land couldn't become a driveway, or anything else.

Chair Kelley noted a discrepancy concerning the address of the owner of record on the site plan was different than the address on the application. He also said the documents said the properties were located in the OR District, when they were actually in the MUDOR District. He said the road frontage requirement would have to be changed on the site plan.

Chair Kelley also said that a bound to be set which was the same bearing as another on the survey, and questioned why it was needed. There was discussion about this. There was also discussion about the fact that the boundaries line distances being abandoned needed to be on the plan.

Kevin Webb moved to accept the Application for Boundary Line Adjustment submitted by Van Rich Properties, LLC, Durham, New Hampshire to change the boundary line between two lots, as submitted on July 14, 2006. The properties involved are shown on Tax Map 9, Lots 20-0 & 20-1, are located at 277 and 279 Mast Road respectively, and are in the Multi-Unit

Dwelling/Office Research Zoning District. Councilor Needell SECONDED the motion, and it PASSED unanimously 7-0.

Findings of Fact

1. The applicant submitted an Application for Boundary Line Adjustment with supporting documents on July 14, 2006.
2. The application submitted on July 14, 2006, a Boundary Line Adjustment Plan entitled “Boundary Line Adjustment for Van Rich Properties, LLC (Tax Map 9, Lots 20 & 20-1), Mast Road & Spinney Lane, Durham, New Hampshire” prepared by Doucet Survey Inc, Newmarket, NH, dated May 30, 2006
3. The applicant submitted a letter of intent on July 14, 2006.
4. Copies of the deeds for the properties were obtained from the Assessor’s Office on August 9, 2006.
5. The Board accepted the application unanimously on August 9, 2006.

Conditions of Approval – to be met prior

1. The applicant shall supply two mylar plats and one paper copy for signature by the Planning Board Chair.
2. A certificate of monumentation must be provided to the Planning & Community Development Office.
3. All final plans must be stamped by appropriate surveyor seal.
4. Additional bearings, distances and locations for markers for property line to be abandoned must be shown on the final plan.
5. Corrections to the notes must be made to the final plans, as discussed on August 9th.

Chair Kelley said the fact that the additional bound was shown made no difference to him, but said the surveyor might want to check this.

Conditions of Approval - to be met subsequent

1. The referenced Boundary Line Adjustment Plan and these Findings of Fact and Conditions of Approval shall be recorded with the Strafford County Registry of Deed, at the applicant’s expense, within seven (7) days of the Chair’s signature on the Plan.

Arthur Grant MOVED to approve the Findings of Fact and Conditions of Approval for an Application for Boundary Line Adjustment submitted by Van Rich Properties, LLC, Durham, New Hampshire to change the boundary line between two lots, located at 277 and 279 Mast Road respectively, in the Multi-Unit Dwelling/Office Research Zoning District. Kevin Webb SECONDED the motion, and it PASSED unanimously 7-0.

- VII. Acceptance Consideration on an Application for Site Plan Review** submitted by Van Rich Properties, LLC, Durham, New Hampshire for the construction of 4-unit apartment building and a 2-bedroom apartment addition. The properties involved are shown on Tax Map 9, Lots 20-0 &

20-1, are located at 277 and 279 Mast Road respectively, and are in the Multi-Unit Dwelling/ Office Research Zoning District.

Mr. Gottschneider said there was an existing office building on Lot 20, and said he proposed to build a 4-unit apartment building on it. He also said he proposed to build a one two bedroom apartment onto an existing apartment building on the site.

He said sewer was available at the site, and said there were new wells for both lots. He said he realized that he presently could not get a sewer permit, but said he anticipated that if the application were approved, this would be conditional upon getting the sewer permit.

Chair Kelley asked if Mr. Gottschneider if he had seen the reviews on the application from department heads.

Mr. Gottschneider said he had not seen them, but had met with Mr. Johnson and the Fire Chief after he submitted his application. He said there had been minimal feedback, and said the main issue was that he would have to put sprinklers in, also noting that he was told he wouldn't have to install sprinklers in the building on Lot 20 if there was a firewall between some of the units. He said he would have to put sprinklers in the building on Lot 20-1.

Councilor Needell said the recommendation of the Public Works Department was that it would prefer if the buildings were hooked up to Town water. He asked if the water quality and quantity information would be provided, and there was discussion on this. Mr. Gottschneider said he too wanted to be sure this was done right.

Mr. Campbell said it was appropriate for the Board to accept this application that evening, even if there might be some additional changes to it.

Chair Kelley said he could convey to Mr. Gottschneider the Board's initial thoughts that evening on the site plan application, if that would be useful.

Kevin Webb MOVED to accept the Application for Site Plan Review submitted by Van Rich Properties, LLC, Durham, New Hampshire for the construction of 4-unit apartment building and a 2-bedroom apartment addition, at 277 and 279 Mast Road respectively, located in the Multi-Unit Dwelling/ Office Research Zoning District. Bill McGowan SECONDED the motion, and it PASSED unanimously 7-0.

There was then discussion of the application itself.

Chair Kelley noted that the impervious surface ratio for both lots would need to be calculated.

Mr. Gottschneider said he would get this information for the Board.

Chair Kelley said there was ample parking out there, and said if there wasn't the need for this parking, the applicant had the potential to reduce some of it.

Mr. Gottschneider noted that if he did this, some of the Town's tax base would be reduced, because he rented some of those spaces. But he said he was not opposed to doing this.

Chair Kelley said it looked like the three parking spaces to be designated for handicap parking were not large enough. There was discussion about this, and about what Mr. Johnson was likely to ask the applicant to provide. Chair Kelley noted that the buildings themselves were not handicap accessible.

Chair Kelley said that looking at the catch basin along Mast Road, with a rim elevation of 86.5 ft. to the left of the driveway. He said there were 3 pipes coming into that catch basin, and said he was not sure if each one terminated where the lawn terminated, and there was simply an open-ended culvert draining the area, or whether it was unknown where the pipes terminated. There was discussion about this Mr. Gottschneider. He said as far as he knew, there was only one line, and said the existing drainage system was there when he bought the property.

There was further discussion about this.

There was discussion on the existing and proposed lighting for the properties.

Chair Kelley said that typically, one would see more attention paid to grading in a site plan than what was shown in this instance. He said he realized this was a preliminary plan, but said it would be good if for the next meeting, more detailed grading could be shown for the area where the new addition was being put in.

Mr. Gottschneider asked whether, if he decided to downsize the project and just put in a duplex, he would still need a grading plan and a lighting plan.

Mr. Campbell said if the applicant only did a duplex, this would no longer be considered a multi-unit development, so only a conditional use permit would be required. He said a site plan would not have to be done.

Mr. Gottschneider said he had not been aware of some of the requirements, and said he was increasingly thinking of just doing a duplex, to make things simpler. He asked how he could keep the current process going if he decided to do the duplex.

There was discussion as to how this would be handled, including whether a new application would be needed. There was discussion on the idea of amending the existing application. Mr. Campbell and Board members said they didn't have a problem with this.

Mr. Gottschneider said he would either proceed with the current application, or submit an amended application.

There was discussion on the following additional items concerning the application as currently proposed:

- Location of parking on the lot (The Zoning Ordinance says in this district, it shall be located on the side or rear of the building)

- Recreation space requirements
- Impact fees as they related to the proposed development
- Drainage pipes on the property and where they are going.
- Stone wall on property
- Impervious surface ratio

Mr. Campbell said he developed a list of items to be addressed, which included some of the things Board members had mentioned that evening.

Councilor Carroll noted the size of the existing parking lot spanning lots 20 and 20-1. She said the footprints for both the existing buildings and the proposed buildings on these lots were much less than the square footage for the parking lot, and questioned whether this was a good use of space, and land. She said the Planning Board would be looking at the parking/impervious surface issue. She also noted that there was a UNH shuttle that stopped across the street from the properties in question.

Mr. Gottschneider said he rented spaces to commuters who took that shuttle to campus.

There was discussion on this issue.

Chair Kelley asked Mr. Gottschneider how much time he needed in order to make a decision on his application, and there was discussion about this.

It was agreed that the public hearing on Mr. Gottschneider's application would be held on August 23rd.

Mr. Gottschneider said he would submit additional information/modifications to the application to Mr. Campbell.

A site walk of the property was set for 8:00 am on August 18th. Mr. Gottschneider was asked to mark out the site with stakes if possible.

Mr. Gottschneider said he would make decision by the end of week on how he wished to proceed.

Chair Kelley said he hoped the procedure the Board had outlined hadn't scared Mr. Gottschneider away from his development intent. He said the Planning Board would do its best to expedite things.

Mr. Gottschneider said he had no complaints, and appreciated the feedback.

VIII. Acceptance Consideration on an Application for Conditional Use Permit submitted by Van Rich Properties, LLC, Durham, New Hampshire for the construction of 5 apartment units on two adjacent lots. The properties involved are shown on Tax Map 9, Lots 20-0 & 20-1, are located at

277 and 279 Mast Road respectively, and are in the Multi-Unit Dwelling/Office Research Zoning District.

Mr. Campbell said the application was complete.

Arthur Grant MOVED to accept the Application for Conditional Use Permit submitted by Van Rich Properties, LLC, Durham, New Hampshire for the construction of 5 apartment units on two adjacent lots located at 277 and 279 Mast Road respectively, in the Multi-Unit Dwelling/Office Research Zoning District. The motion was SECONDED by Richard Ozenich, and PASSED unanimously 7-0.

- IX. Conceptual Consultation on a Subdivision Application** submitted by MJS Engineering, PC, Newmarket, New Hampshire, on behalf of Patsy Collins, South Newfane, Vermont for the building of either single family homes or multi-unit elderly housing on a piece of property. The property involved is shown on Tax Map 1, Lot 15-0, is located at the corner of Edgewood Road and U.S. Route 4 and is in the Residential A Zoning District.

Michael Sievert of MJS Engineering explained that the applicant could not be present at the meeting. He said he was there to get some feedback from the Board concerning the development of the property. He said it was a 14 acre parcel located off Emerson and Edgewood Roads, with Route 4 located to the north of it. He said there were some wetlands, ledge outcrops, uplands, and various other soils on the property. He said some wetland delineation had been done, at a medium intensity soil mapping level.

Mr. Sievert stated that at a public hearing held as part of the Zoning Ordinance rewrite process, he had pleaded the case for this type of parcel, which was located in the RA district. He noted that the Master Plan said the RA district was an intensely developed district, and should stay that way because utilities were available.

He said one could clearly see that of the 14 acres in this parcel, if high intensity soils mapping was applied, and the somewhat poorly drained soils and other soils the Ordinance said were not developable were taken out, the parcel would only be able to support 4 single family homes. He said the Master Plan didn't seem to say that this level of density would be a good thing. He said the RA district was an infill area, where development was a higher priority.

He said septic systems and wells were not needed for development in this area, so taking out somewhat poorly drained soils didn't make sense here. He showed a map of the property that demonstrated what would be left if these soils were taken out, and said if setbacks were also considered, this pretty much eliminated most of it from consideration. He said to fit even 4 single-family lots would be difficult because of the setbacks.

Mr. Sievert next showed the Board some possible options for developing the property, given the limitations. He showed an elderly housing option, and said the only reason it was elderly housing was to show the actual number of units could be clustered together and fit on the property. He said this plan would need a variance from 175-55 F:4, and provided details on this, and on why the provision didn't make sense.

Mr. Campbell provided details on how this had happened, and agreed that it didn't make sense. He said that as currently written, the Ordinance said that with sewer, one could count all of 0-20" to bedrock soils and 0-40" to bedrock soils as usable area, but one could only count 50% of 20-40" to bedrock soils as usable area, even though this was better soil.

In answer to Councilor Needell, Mr. Sievert said if the Ordinance were changed concerning this depth to bedrock factors, this would change the density, and said a variance wouldn't be needed.

Chair Kelley said the somewhat poorly drained soils subtraction from usable area would still have a dramatic impact. He said this was what he had feared as well. He noted that he had fought to have this removed from the list of soils types to be subtracted from usable area.

Mr. Sievert said it didn't make sense to take somewhat poorly drained soils out of usable area, given what the Master Plan said about this district. He said he didn't feel the Ordinance supported the Master Plan in this instance.

Chair Kelley asked if the applicant would still need a variance from the wetland setbacks to develop the property, and Mr. Sievert said yes.

Mr. Sievert described another possible layout, for a more traditional subdivision that he said would fit with the surroundings. He said they tried to make this work without including the somewhat poorly drained soils, but gave up for the reasons previously stated.

Councilor Needell said there was a continuum of soils, and said even if there were not a soils issue concerning septic systems, there could still be a drainage issue. He asked what the impact on drainage was from building on somewhat poorly drained soils.

Mr. Sievert said homes could be built without basements. He said the key soil issue was in regard to septic systems, and said the road issue was another one involving soils considerations. He noted that the HISS mapping had not yet been done, and said there might not be as much somewhat poorly drained soils on the property as the medium intensity soils map indicated. He said he was pretty clear where the wetland boundary on the property was, but said this had not been physically surveyed yet.

Mr. Sievert provided details on another option for the site. He noted that the configuration of the lot and the setbacks still constrained things somewhat.

Chair Kelley said the client needed to decide, with Mr. Sievert's advice, which variances to go for.

There was discussion on whether having just four lots would actually be an option for the client, and that achieving even this would be difficult because of the wetland setback issue.

Mr. Sievert noted that the Ordinance didn't say one couldn't build on somewhat poorly drained soils, but did say these soils had to be subtracted from usable area. He said it wasn't clear to him if this was true, and also said that because sewer and water were available, it didn't make sense.

There was discussion with the Board about this, and it was noted that a desire during the Zoning Rewrite process had been to keep an immense amount of open space.

Mr. Sievert said he could see this in the rural areas of Town, but not in the RA district.

Councilor Needell noted that if this were all well drained soil, one would still have to do a conservation subdivision on the property in question, in the RA district.

There was detailed discussion on exactly how many lots could be obtained from the property.

Mr. Sievert said the client most likely would seek a variance, and not go for 4 or 6 lots.

There was discussion that the purpose of a variance was to argue there was hardship because of the uniqueness of a particular lot or lots, so there was this alternative for the client.

Chair Kelley said in terms of uniqueness, there were many lots like this in Durham with somewhat poorly drained soils, and shallow to bedrock soils.

Mr. Grant said that had been the argument when they were drawing up the Ordinance.

There was discussion on how the wording in the Ordinance concerning soils had turned out the way it had.

Chair Kelley referred back to Planning Board and Town Council votes on this issue, and said it would have been good to have something like this for people to see at the time. He noted a recent citizen petition to change another aspect of the Ordinance.

Mr. Webb noted one of the development configurations presented by Mr. Sievert, which would have to involve upgrading of the road and utilities. There was discussion about this, and about the fact that the top of Edgewood Road was part of an historic trail.

There was discussion on water and sewer availability to the property.

Mr. Sievert said separating out the property into individual lots might not be the best way to develop it. He said perhaps a true conservation subdivision out there, with units, might be better. Mr. Sievert said he would be talking with his client more about which way she wanted to go with the development.

Pete Ventura said he owned the property at the end of Edgewood Road, and said his main concern was that he didn't want Route 4 coming to the property. He provided details on this.

There was discussion that this probably wouldn't be allowed anyway, given the proximity to Madbury Road and the signalized intersection.

Mr. Ventura also asked if water and sewer would also be readily available to him if he wanted to hook up to it at some point.

Chair Kelley noted that the recommendation of the Zoning Rewrite committee and the Planning Board had been to remove somewhat poorly drained soils from the list of soils that could not be considered in usable area calculations. He said the Council didn't agree with this. He said it wasn't the intent of the Planning Board to have this kind of situation.

Mr. Sievert said he was not saying that the decision to remove somewhat poorly drained soils was a bad decision for all districts in Durham, but was concerning the RA district.

X. Other Business

A. Old Business:

Councilor Carroll asked if the forestry issue would be addressed in an upcoming Board meeting.

Chair Kelley said the Zoning Rewrite committee still needed to finalize this, and it was agreed there should be a Zoning Rewrite meeting on August 30th to do so.

B. New Business:

C. Next meeting of the Board: August 23, 2006

XI. Approval of Minutes

July 12, 2006

Postponed

XII. Adjournment

Arthur Grant MOVED to adjourn the meeting. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.

10:30 pm adjournment

W. Arthur Grant, Secretary