

These minutes were approved at the October 25, 2006 meeting

**DURHAM PLANNING BOARD
WEDNESDAY, SEPTEMBER 13, 2006
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL
7:00 PM**

MEMBERS PRESENT: Chair Kelley; Arthur Grant; Kevin Webb; Richard Ozenich
Councilor Needell

ALTERNATES PRESENT: Susan Fuller; Lorne Parnell; Councilor Carroll

MEMBERS ABSENT: Stephen Roberts; Bill McGowan; Annmarie Harris

ALSO PRESENT: Victoria Parmele, Minute Taker

I. Call to Order

Chair Kelley said alternates Lorne Parnell and Susan Fuller would be voting members in place of absent regular members Bill McGowan and Stephen Roberts respectively.

II. Approval of Agenda

Kevin Webb MOVED to approve the Agenda with an amendment to create Item II A – “Approve Minutes for June 14 and 28th, 2006.” The motion was SECONDED by Richard Ozenich, and PASSED 5-2, with Arthur Grant and Councilor Needell voting against it.

Councilor Needell MOVED to postpone approval of the June 14th 2006 and June 28th 2006 Minutes until the October 11th 2006 Planning Board meeting. The motion was SECONDED by Arthur Grant, and PASSED unanimously 7-0.

III. Report of the Planner

- Mr. Campbell said the following items were discussed with UNH planner Doug Bencks at their monthly meeting:
 - September 15th will be the closing for the Highland House. Mr. Campbell said he would continue to update the Board on this property, and about a possible site plan review application in the future.
 - There was discussion about the Durham CIP.
 - Mr. Campbell said he and Mr. Bencks discussed the current construction of the new residential community at Forest Park, and also discussed progress on the Southern tunnel.
- Mr. Campbell said Town of Durham department heads had submitted their CIP requests, and said Business Manager Gail Jablonski was in the process of assembling them. He said discussion of the CIP would be the Planning Board’s quarterly planning meeting agenda, and said Administrator Selig and Ms. Gail Jablonski would attend that meeting.

- Mr. Campbell said other topics to be covered at the quarterly planning meeting included the Zoning update hit list; “Subdivisions 101” - an educational presentation for both the Planning Board and the public on how to read various plans; and a 3-D visualization by Nick Isaak regarding possible redevelopment of the Mill Plaza area.
- Mr. Campbell noted that the Town Council had reappointed him to the Technical Advisory Committee of the Seacoast MPO, at its September 11th meeting.
- He said the Council’s work session on the library would be held on Sept 18th.
- Mr. Campbell said he and Code Administrator Tom Johnson had recently met with a person who was interested in purchasing the Cumberland Farms property.
- Mr. Campbell said the Technical Review Committee would meet on September 14th regarding extension of the canopy for the Holiday Inn hotel. He also noted that the TRC had met concerning a temporary tent for the Stagecoach Inn. He said the FOF and COA would come back to the Board, and said there were 3 conditions placed on the application. He said one condition was that no parking would be allowed on Stagecoach Road for the event, and another was that this would be a one-time event, so that future use of a temporary tent would have to come back to the Board for approval.

IV. **Public Hearing on a Site Plan Application** submitted by Joseph Caldarola, Portsmouth, New Hampshire for the building of 21 multi-family units of elderly housing. The property involved is shown on Tax Map 10, Lot 7-0, is located at the corner of Bagdad Road and Canney Road and is in the Residential B Zoning District.

Mr. Ozenich recused himself for this application.

Susan Fuller MOVED to open the public hearing on a Site Plan Application submitted by Joseph Caldarola, Portsmouth, New Hampshire for the building of 21 multi-family units of elderly housing, at the corner of Bagdad Road and Canney Road, in the Residential B Zoning District. Arthur Grant SECONDED the motion, and it PASSED unanimously 7-0.

Reuben Hull of Civil Design Engineering Consultants spoke before the Board. He noted that he had not been able to attend the site visit, but said Mr. Caldarola had been present. He said Mr. Caldarola was not yet at the Board meeting, but was expected. He then reviewed the proposed project for the Board and members of the public.

- The project is a 21 unit elderly housing condominium; there will be seven buildings, with 3 units per building; each building has two 2-3 bedroom units and one smaller one bedroom unit.
- The buildings are grouped mostly along Bagdad Road, along a circular driveway that will be treated as a private road, and will have two entrances on Bagdad Road; there will also be one building that will front on Canney Road.
- There is wetland (somewhat poorly drained and poorly drained soils) located for the most part to the back of the site, and the 75 ft. wetland setbacks will be respected.
- Water and Sewer: Will be extended to the site and constructed to Town standards. There will be an easement to allow further extension of water beyond the site in the future. The

applicant will construct the piping to the end of the private road on the property. The existing well and septic system on the site will be abandoned.

The applicant has created an offsite management plan concerning the sewer extension, which shows the pickup of sewer at the intersection of Bucks Hill Road. The sewer piping will serve the six units on Bagdad Road by gravity sewer. The units on Canney Road will be serviced by a pump station. An easement will be granted to allow for maintenance of utilities and possible future extension of sewer.

- Grading will generally flow with the existing terrain, respecting the topography as much as possible. There are low spots at the back corner of the site, and there is a small amount of runoff that flows toward the front of the site.
- Building design: there will be front doors and garages at the front of the buildings, with possible walkout basements for some of the units.
- Drainage – It is proposed that water on the site will be reintroduced into the ground on the site, through a chambered system that will be located in front of the buildings, under the driveways; the chamber will contain geo-textile filtering which will contain and slow runoff, letting it slowly filter into the ground or enter natural drainage systems. Modeling that has been done shows that runoff to the properties will be reduced as result of this system. Revisions to the design will be made based on discussion with the Town engineer and Town planner, who are on board with the general philosophy of the system. The applicant will have to show how the system will work for this site.
- Sidewalk – The applicant proposes to add sidewalk to the driveway location on Bagdad Road and on the east side of Canney Road.
- Traffic count – Mr. Hull said the current level of service for the intersection was Level A, although there are now times when there were backups at the intersection. He provided details on the traffic count data, and said based on this data, what was proposed would quantitatively have a minimal impact on traffic.
- Landscaping and lighting - Mr. Hill said a package on this would be submitted separately. He summarized that a 30 ft. strip of land across the front of the property would remain in its natural state, except for the driveway and a 20 ft perimeter around it. He also said each unit would have landscaping, which would be more extensive than what the Planning Board would require. He said the lighting that was proposed was very similar to the lighting at Fitts Farm, and provided details on this.

Mr. Hull said there had been a good discussion with the Town planner and Town engineer on all of these issues, and said drainage, off site sewer, and Bagdad Road repairs were among issues that were highlighted.

Joe Caldarola next spoke about the buildings and their elevations. He explained that the exact floor plans for each building would be decided on when they were built, based on the market, but said he would never build anything larger than what was generally proposed, and might actually build something smaller.

He provided some designs that were representative of what was generally planned, and noted the similarity of the designs with buildings at Fitts Farm. He noted that two bedroom units would have two car garages, and one-bedroom units would have a one-car garage.

Denise Day, 89 Bagdad Road, said her well directly abutted the proposed development, and said her main concern was drainage off of the proposed development, and the integrity of her well's water quality. She said a second concern was traffic, noting that there was a lot of traffic on the roads in this area, and that children walked along these roads. She noted there was no sidewalk along a long stretch of the road.

Ms. Day said another concern she had was whether this was the best site for age restricted housing, given the young families and traffic in the area.

Chair Kelley asked Mr. Caldarola to address potential impacts to Ms. Day's well.

Mr. Hull provided details on current and proposed drainage on the site. He said runoff onto Ms. Day's site was not an issue, and said what was proposed was to take runoff currently impacting lots to the rear and redirecting it. He said the Town Engineer had said he wanted to see runoff recharge the aquifer rather than moving into the Town's drainage system off site. He said the chamber system he had previously mentioned would meet water quantity and quality needs, and would replicate nature as closely as possible.

Chair Kelley asked what the possibility was of contamination of Ms. Day's well.

Mr. Hull provided additional details on the chambered system that was proposed, and how it would meet NHDES site-specific standards for stormwater runoff.

Chair Kelley asked if Ms. Day had legitimate water quality concerns.

Mr. Hull said she was right to ask questions, and said if the current design were approved, she would have little cause for concern. She said these questions would be addressed appropriately.

It was noted that the well in question was a drilled well.

Ben Getchell, 12 Ambler Way, said his concern was ponding on his property, and said he was really glad to hear that drainage issues were being discussed, and that the low spot on his property had been pointed out. He provided details on drainage in this area, and said with the development that was proposed, he had concerns about how the drainage would be impacted.

He noted that the septic system for his property was in the vicinity of the low spot, but that there had been no problems with the system thus far. He said he felt that the wetlands designation should extend further, providing details on this. He also said it was extremely important that there be no increase in runoff from the development.

Mr. Getchell said he didn't know what landscaping there would be relative to Amber Way, but said there currently was only a very thin 20 ft. buffer. He said any clearing of trees would impact

the landscape and runoff, and also noted that this area was used by wildlife, and was a corridor for turkeys. He asked the Planning Board, Town Planner, Town Engineer and the developer to be extremely vigilant, and said there could potentially be a lot of people who could be seriously affected by stormwater runoff.

Mr. Getchell provided additional details on runoff and drainage issues on his property and surrounding properties.

Mr. Webb said the soils map showed that the area surrounding the designated wetland was somewhat poorly drained soil, and said it was possible this soil designation contained pockets of poorly drained soil.

Chair Kelley asked Mr. Hull what one would expect to see in this area at present, and under future conditions, concerning drainage.

Mr. Hull said as proposed, this area would see the greatest decrease in runoff, pre and post development. He said some of the runoff there would be re-directed, and said the chambers would redistribute water, getting it back into the ground, and thus dealing with both the rate and the quantity of runoff. He said the whole strip of Amber Way was essentially the bottom of the bowl, with everything flowing in that direction. He said the worst-case scenario was that the runoff situation would not get worse.

Mr. Hull provided additional details on the drainage system proposed for the development. He noted there was no intent to clear any land at the back of the property, and said the limit of clearing would be put on the plans, and would be respected.

Councilor Carroll asked if Mr. Hull had proposed this chamber system for other development projects.

Mr. Hull said it was a somewhat innovative system but had been used on hundreds of sites. He said he personally had not proposed one before, but said he could provide some case studies if requested.

Ms. Carroll said the system sounded good in theory, and said she was interested to know how it worked in practice.

Rick Lundborn, Norway Plains, said he had designed these kinds of systems, and said they worked well if soil conditions were adequate, and if appropriate allowances were made for particular soils. He provided details on this.

Councilor Carroll asked who would be responsible for upkeep of the system.

Mr. Hull said this would be addressed by the entity that managed the site, and said individual homeowners wouldn't be responsible for this. He said the EPA would require a stormwater management plan, and he suggested that there could be an annual report that the management company would have to sign off on, and that a copy of this could be provided to the building inspector.

Chair Kelley said he had questions concerning the wetland delineation for the site plan, including when it had been done, and who had done it.

Mr. Hull said the wetlands delineation had been completed 3 years ago, and also said that High Intensity Soils Mapping had been done.

Chair Kelley noted that none of these plans had been stamped.

Alix Handelsman, 47 Canney Road, said she was not an abutter, but said she had some safety concerns, especially regarding the intersection of Route 108 and Bagdad Road. She noted that this intersection might be difficult for elderly people to navigate, and should be addressed as part of the site plan. She also said she was concerned that the character of her beloved neighborhood would be changed as a result of the proposed development.

Mr. Wells, 65 Bagdad Road, said he had an aesthetic question, and asked how much space would be taken off from the edge of the driveway over to the wooded area. There was discussion about this, and Mr. Wells said he would like to propose that if there were any gaps, trees would be planted so that there would be a natural buffer where the sidewalk was, especially where the Faucet property was located.

John Carroll, 54 Canney Road, said his concerns were the broader impacts of this development, and the spirit and intent of the RB District. He said the RA District was supposed to be a dense district, while the RB District was an outer ring, allowing about 1 house per acre. He said it provided a transition to larger lot sizes further out. He said an application allowing 21 units on only 13 acres was characteristic of the RA district, but represented a conversion in the RB District. He said this project implied that there was a threat to all residents of the RB district, and to residents of other districts, in terms of greater densities, cars and traffic, as a result of multifamily elderly housing, which was permitted in these districts

Mr. Campbell said Mr. Carroll was correct that the RB District generally had a 40,000 s.f. minimum lot size. But he said with the 2000 Master Plan and the revised Zoning Ordinance, elderly housing had been strongly encouraged, and with that, higher densities were allowed. He noted that there had been several public hearings on this change to the Ordinance. He said what Mr. Caldarola was proposing didn't require a variance, as it currently existed.

Chair Kelley noted that what Mr. Campbell had said applied to all districts, not just the RB District.

Wendy Jones, 2 Strout Lane, said she appreciated what Fitts Farm had done with landscaping. She said one of her concerns with the proposed development was that there should be an adequate buffer of trees on Canney and Bagdad Roads, and said otherwise the area would lose its rural character. She also said she had concerns about the roads, noting that they already had problems and that more traffic, including construction equipment, would make these worse. She asked would pay for the repairs that would be needed for these roads. She said she appreciated that a sidewalk would be added, noting that a lot of people walked that area. She said she would

like to see a sidewalk placed along the full length of Bagdad road if possible, and also said she would like to see 5 ft. of painted sidewalk, as well as granite curbing.

Ms. Jones also said she had some concerns about water pressure and how it would be impacted by the proposed development, and asked for details on this. She also noted that there were lady slippers on the property, and said she would like to know how they would be protected. In addition, she said she would like to see the specific vegetation that was proposed on the plans.

Chair Kelley asked Mr. Hull for details on water pressure.

Mr. Hull said Underwood Engineering had modeled this previously, and would re-run the model for this proposal, using the building elevations, to see how it impacted the Town's water system. He said the applicant would determine what needed to be done, once this information was available.

It was clarified that lady slippers were not on the endangered species list, but did not transplant easily, and were not as common as they once had been in New Hampshire.

Mr. Caldarola said that during the sitewalk, Mr. Parnell had noted some trees in the buffer zone that would be prone to falling over. He suggested a forester could look at the trees and decide which of the trees should be removed, and what they should be replaced with. He also noted that Fitts Farm had previously been a tree farm so was an unusual situation, in that there were hundreds of trees on the site to work with and move around. He said he thought the nicest buffer would be a naturalized mix of trees, and said the forester would have to determine exactly which trees these would be. Mr. Caldarola said he would be interested in pursuing this.

Chair Kelley said there was a nice mix of trees on the property now, and said he would hope that if the application was successful, there would not be clear-cutting of trees from the limits of the private road out to the back of the buildings, and that the trees would be selectively cut so there could be some mature trees in front of the building.

Mr. Caldarola said although that would be nice, a lot of grading would be required in developing the site. He said he would see if it would be possible to leave the trees, but said it would probably be better to plant new trees.

Chair Kelley asked that Mr. Caldarola keep an open mind concerning leaving some of the mature trees on the site, and said this would benefit both the development and the surrounding community.

Sheryl Horton, 35 Canney Road, noted that she lived across the street from the proposed development, and asked if research had been done on the need for more elderly housing. She said other elderly housing developments in the area didn't look like they were full. She also said she worried that the units, if built could be turned into UNH housing if the elderly housing market became saturated.

Mr. Webb said that elderly housing was called for in the Master Plan, and was permitted in the Zoning Ordinance, and said he too had concerns that the market would be flooded with these developments. But he said this was Mr. Caldarola's decision to make.

It was clarified that the use could not simply be changed if the elderly housing units didn't sell. There was discussion about the length of time it would take to complete the project.

Mr. Caldarola provided details on this, and explained that there would be three phases to the project, with the first phase including construction of the 3-unit building on Canney Road as well as installation of utilities, and the second phase involving road construction. He said the remaining 6 buildings would then be built a couple at a time, and said how long this would take would depend on the market. He said typically there would be about 12 units built per year.

Chair Kelley asked if construction of Sophie Lane during phase II would include extending roadway improvements as far as the first manhole on Bagdad Road.

Mr. Caldarola said yes, and provided details on what was planned.

Councilor Carroll noted the recommendations in the 2000 Master Plan concerning elderly housing, and the Zoning Ordinance enacted about six months ago that reflected this. She said there had been discussion by the Board and the Town Council that perhaps the Town had been a little too enthusiastic about this approach, which had seemed like the easy way out in order to address high school bills. She said the Master Plan and the Zoning Ordinance were in place, but she said the Ordinance was a dynamic document. She said if the community and the Board felt they needed to take another look at this, it could be done.

There was discussion about this with Chair Kelley.

Councilor Carroll said the site where the Irving station currently was located was in the Master Plan, as a site to be protected, and to be purchased by the Town, but she said the Council had decided not to do that. She said the Master Plan was an excellent document, but said she thought this issue should be looked at. She said she understood this would not affect the Caldarola project, but did affect the future of the community.

Mr. Campbell noted the large number of new elderly housing units in Durham, and said this issue would be looked at. He also provided details on interpretation on the 4-year exemption from zoning changes.

Chair Kelley stated that there would be no deliberations on this application that evening.

Sandra Wells, 65 Bagdad Road, said that if the application were approved, she would like the Planning Board to consider naming the development after the Fosses, who had lived at that location for almost 50 years. She noted that Ann Fosse was still living.

Mr. Webb noted that this would be up to the developer.

Rob Keefe said that in terms of long-term forest management, it would be good to use native species on the site if possible.

Denise Day, 89 Bagdad Road, asked how the phased approach to developing the site would affect the plans to mitigate runoff. She also asked if cutting trees would be part of the phasing.

Chair Kelley said one would expect to see a phased drainage plan as well, and was told that would be the case.

There was clarification that elderly housing in this instance meant 55 years of age or older.

Mr. Campbell said generally 1 person in an elderly housing unit had to be 55 or older, but he explained that the homeowners' association could include a covenant that no one under 55 could live there, or, could only live there for a month. He said this depended on the developer.

Mr. Wells asked if it was therefore possible if under some scenarios, children could live in this development, and was told this was in fact possible.

Mr. Campbell noted a letter from the residents of Marden Way at Fitts Farm, dated 8/22/06, regarding some work there that Mr. Caldarola had not completed. He read the letter out loud, and then noted he had discussed this with Mr. Caldarola. Mr. Campbell said Mr. Caldarola had agreed to address all of these concerns, and also said the Board could not prevent the present project from moving forward based on this previous project.

Councilor Needell asked if before the next meeting, there was any reason that additional information would be received that would warrant continuing the public hearing.

Chair Kelley said the water pressure study came to mind, and Mr. Campbell said there could be additional information on the drainage issues.

Arthur Grant MOVED to continue the public hearing on a Site Plan Application submitted by Joseph Caldarola, Portsmouth, New Hampshire for the building of 21 multi-family units of elderly housing to the next meeting, October 11, 2006. Councilor Needell SECONDED the motion.

Mr. Webb said asked about the appropriateness of asking for special studies. He noted he had not been present for the acceptance phase of the application. But he said he was concerned about the age and uncertain origin of the wetlands data and soil survey data. He also said he remembered that during the preliminary consultation phase of the project, he had said the applicant was walking a fine line in terms of the density calculations, based on the soils data.

He provided details on this, and said he believed the Board had the right to request that its own independent soil survey consultant be called in on the project, and said this might reduce, or perhaps even increase the amount of usable area on the site. He said given the fine line involved, and the density of the lot that was proposed, the soils should be looked at very carefully. He also said it was important to do this now, before going much further in the process.

Chair Kelley said he agreed with Mr. Webb. He noted that the High intensity Soil Survey (HISS) and wetlands delineation for the site had been done about three years ago, although noting that the Ordinance didn't call for a twilight date on data provided in an application. H said he didn't

feel a HISS map for the entire site was needed, but said somewhat poorly drained soils and their boundaries needed to be clearly defined.

Mr. Webb agreed that a HISS soil survey for the upland area was not as important. He said the Board needed someone representing it on the site, at the applicant's expense. He noted again that the soils information issue had come up during the first consultation with the applicant.

Mr. Campbell said if this were a subdivision, the Board would have its consultant, and the applicant would have a consultant. He noted that this requirement was not in the site plan regulations, but he said the Board had the right to request a consultant, and that the drawing be stamped.

There was discussion that if the wetlands acreage increased as a result of an updated delineation, this could affect the setbacks.

The motion PASSED unanimously 7-0.

Mr. Webb MOVED that the Planning Board require a new wetlands and soil survey to be done of the subject property, at the applicants expense, and that the soils/wetlands scientist stamp the sealed drawings submitted. Arthur Grant SECONDED the motion.

Ms. Fuller asked if this would preclude the idea of the wetlands and soils survey data being updated by the same person who had done the previous work on the site.

Mr. Webb said he would like to see a fresh set of eyes out there on the site.

Councilor Needell said in other words, it was not sufficient for the applicant to produce information on who had done the last delineation.

Mr. Webb said he would like Mr. Campbell to talk to the consultant who would be doing the work, about the importance of focusing on the sensitive, wet area of the site.

The motion PASSED unanimously 7-0.

- V. **Deliberation on an Application for Conditional Use Permit** submitted by Van Rich Properties, LLC, Durham, New Hampshire for the construction of a duplex. The property involved is shown on Tax Map 9, Lot 20-0, is located at 277 Mast Road, and is in the Multi-Unit Dwelling/Office Research Zoning District.

Chair Kelley noted that there had been some questions about the history of the parcel, and how the site had been developed over time. He reviewed the memo on this from Mr. Campbell.

Mr. Gottschneider provided details on the history of development of the site. He said he had proposed a new building for the site, and the Town had run a sewer line to the site, but said he had never built the building. . He noted that the Planning Board had signed off on 36 spaces, and that there were now 49, and said it had been clear that this would be parking for UNH.

There was discussion as to whether a drainage plan had been submitted. Mr. Campbell said at that time, there was a change of use from single family to office use, and said a drainage plan would only have concerned what was behind the house.

Mr. Gottschneider provided details on drainage on the site, noting among other things a catch basin on the site he believed was put in the 1920's.

Mr. Campbell noted a pipe located behind the dumpster on the site, that he had found covered by a rock, and said it was no wonder there was a drainage problem. He said he had moved the rock. He also said the applicant had volunteered to remove the last four parking spaces on the east side of the site, and to turn the asphalt there back into green space, which would help the drainage to the east. He also said the area would be regarded to re-direct water, even though it wasn't thought this was the problem.

Mr. Gottschneider said if the abutters had come to talk to him about the drainage issue, he would have done this sooner.

Mr. Campbell also noted that the catch basins were full of water, and needed to be cleaned out. He said when this was done, there would be a better idea of the pipes leading in and out of the catch basin.

Mr. Gottschneider provided details on problems he had had with the catch basins, and said he had had to call the Public Works Department every year to address this. He noted that the problems resulted in water backing up into his building.

Chair Kelley said more needed to be done by the Town than cleaning out the catch basins, and there was discussion about this.

Mr. Campbell said what the Board had before it was a conditional use permit, and said he would like the Board to focus on it at present. He said he didn't want to ignore the drainage issue, and said he would follow up on this issue with the Public Works Department.

Councilor Needell asked Mr. Gottschneider if he still planned to put in the 4 parking spaces on the site plan that were currently gravel, and Mr. Gottschneider said yes.

There was detailed discussion about this. There was also detailed discussion on impervious surface on the site and its relationship to drainage issues.

Mr. Campbell said these were code enforcement issues to be dealt with. He said with some of the things the applicant was proposing, and if the Public Works Department figured out some of the causes of the drainage problems, these problems could be alleviated. He also noted that the applicant's property was also receiving drainage from other properties.

Mr. Gottschneider said a portion of the abutter's 20 acres flowed right onto his property, and had been doing this for a while. He said he thought that removing the rock and fixing the catch basins would make a difference.

Mr. Gottschneider said his building had foundation drains that connected to the Town's stormwater system, and said things backed up when the catch basin filled up.

Mr. Webb asked what the impervious cover ratio was for this zone, and 50% was allowed. He said the ratio was 31% on the site.

The Conditional Use checklist was reviewed by the Planning Board, and it was determined that the Conditional Use Permit criteria under Article VII, Section 175-23 had been met in the following ways:

1. **175-23(C)(1) Site Suitability:** The site is suitable for the use. This includes: Adequate access, adequate public services, absence of environmental constraints, and available appropriate utilities.
2. **175-23(C)(2) External Impacts:** The external impacts of the proposed use on abutting properties and the neighborhood is no greater than the impacts of adjacent existing uses or other uses permitted in the zone. Consideration includes: Traffic, noise, odors, vibrations, dust/fumes, hours of operation, and exterior lighting.
3. **175-23(C)(3) Character of the Site Development:** The proposed layout and design of the site is not incompatible with the established character of the neighborhood and mitigates any external impacts of the use on the neighborhood. Typical negative impacts that extend beyond the proposed site include: Relationship of building to street, off-street parking, treatment of yards/setbacks, buffering and access to and within site.
4. **175-23(C)(4) Character of the buildings and structures:** The design of any new buildings or structures and the modification of existing buildings or structures on the site is not incompatible with the established character of the neighborhood in: Scale, height, massing, roofline, architectural treatment or materials and colors.
5. **175-23(C)(5) Preservation of Natural, Cultural, Historic, and Scenic Resources:** The proposed use of the site, including all related development activities, preserves identified natural, cultural, agricultural, historic, and scenic resources on the site and does not degrade such identified resources on abutting properties. This includes, but is not limited to, identified wetlands, floodplains, significant wildlife habitat, stonewalls, mature tree lines, cemeteries, graveyards, designated historic buildings or sites, scenic views, and viewsheds.
6. **175-23(C)(6) Impact on Property Values:** The proposed use will not cause or contribute to a significant decline in property values of adjacent properties.
7. **175-23(C)(7)** The proposed use has the availability of public services and facilities including: Sewer, water, stormwater drainage, fire protection, police protection, streets, utilities, solid waste and schools.
8. **175-23(C)(8) Fiscal Impacts:** The proposed use will not have a negative fiscal impact on the Town unless the Planning Board determines that there are other positive community impacts that offset the negative fiscal aspects of the proposed use.

FINDINGS OF FACT

1. The applicant submitted an Application for Conditional Use Permit with supporting documents on July 14, 2006.
2. Copies of the deeds for the properties were obtained from the Assessor's Office on August 9, 2006.
3. The application was accepted on August 9, 2006, by a unanimous vote of the Board.
4. The applicant submitted a letter on August 18, 2006 requesting that the application be amended.
5. The applicant submitted an amended Conditional Use Permit application on August 18, 2006.
6. A Site Walk of the property was held on August 18, 2006.
7. A public hearing was held on August 23, 2006.

CONDITIONS OF APPROVAL

1. These "Findings of Fact and Conditions of Approval" shall be recorded with the Strafford County Register of Deeds at the applicant's expense. Evidence of such recording will be provided to the Planning Department.
2. The applicant needs to obtain sewer permits.

Kevin Webb MOVED to approve the Findings of Fact and Conditions of Approval as amended for the Conditional Use Permit application submitted by Van Rich Properties, LLC, Durham, New Hampshire for the construction of a duplex at 277 Mast Road, in the Multi-Unit Dwelling/Office Research Zoning District. The motion was SECONDED by Lorne Parnell and PASSED unanimously 7-0.

- VI. **Acceptance Consideration on a Site Plan Application** submitted by Norway Plains Associates, Inc., Rochester, New Hampshire on behalf of 12 Mathes Terrace LLC, Durham, New Hampshire, to change the use of a property from residential to mixed-use, residential/professional office. The property involved is shown on Tax Map 4, Lot 10-0, is located at 12 Mathes Terrace and is in the Central Business Zoning District.

Mr. Grant suggested that there be a brief presentation so the public watching at home could find out about the project. He said the Board should then ask if the application was complete, and if so, the Board could set a public hearing date.

Chair Kelley said the Board would hold off on its questions concerning the application.

Rick Lundborn, Norway Plains Associates, said the applicant was proposing to take the existing single family home adjacent to a dentist office and architect office on Mathes Terrace, a private drive, and to renovate and expand it in order to make the building into an orthodontics office.

He said the first floor would be remodeled into an orthodontics office, and provided details on this, including the addition of handicapped access. He said the existing footprint would increase by 860 sf. He said stairs would be needed in order for the applicant and his wife to maintain a

second floor apartment until the practice was up and running, at which time they would move out.

Chair Kelley asked if there were separate phases for the project.

Mr. Lundborn said the ramp and the porch were needed relatively quickly. He also said the stairs were needed so the applicant and his wife could access the apartment upstairs without having to go through the orthodontics office downstairs. He said improvements would be needed to the parking area. He said phase II would involve construction of additional office space on the first floor.

Chair Kelley asked about utility improvements that would be needed, and Mr. Lundborn said upgrades to the pipe would be required.

There was discussion about the fact that Mathes Terrace was a private road.

Mr. Lunborn said it was 30 ft wide, and Chair Kelley noted that a portion of the ramp for handicap access was in the right of way on the site plan. He asked that the applicant make sure that this was allowed. He also said if this was not currently spelled out clearly, the applicant could get a letter of support from the abutters, and could record something with the Registry of Deeds.

Chair Kelley providing the following additional comments concerning the site plan:

- The site plan incorrectly states the site is located in the Hospital zone.
- The plan should be stamped.
- The date of the survey should be included.
- The limits of the 100-year flood Zone A need to be shown on the plan.

There was discussion of comments from the Town Engineer regarding the replacement of galvanized sewer pipe from Mathes Terrace to Madbury Road.

Chair Kelley noted there were previously 5 individuals in the house, and now there were 2. But he said this would be professional office use when the orthodontics office opened, and said the Town Engineer wanted to know if the change of use would generate an increase in water use.

Chair Kelley asked if the 9/12/06 memo summarizing Town staff review of the project was shared with Mr. Lundborn, and Mr. Lundborn said it was.

Chair Kelley asked that there be a response to this memo, and to the email from Mr. Cedarholm, and said hopefully the issues in them could be worked out before the public hearing on the application.

It was noted that the sewer issue would require further discussion.

Mr. Grant thanked the applicant and Mr. Lundborn for that patience in waiting so long that evening for their acceptance consideration to be heard.

Arthur Grant MOVED to accept the Site Plan application submitted by Norway Plains Associates, Inc., Rochester, New Hampshire on behalf of 12 Mathes Terrace LLC, Durham, New Hampshire, to change the use of a property located at 12 Mathes Terrace, in the Central Business Zoning District, from residential to mixed-use, residential/professional office, and to schedule a public hearing on October 11th, 2006, and a sitewalk for 5:00 pm on that same date. Kevin Webb SECONDED the motion, and it PASSED unanimously 7-0.

VII. Other Business

A. Old Business: Set date for the Public Hearing on Timber Harvesting Ordinance.

Rob Keefe, 59 Piscataqua Road, said the terms “timber harvesting” and “forestry” had been used interchangeably in the Zoning Ordinance, but said that in the outside world these words had different meanings, with forestry meaning long term management of the forest, and timber harvesting generally meaning logging. He said he felt very strongly that the appropriate word to use in the Ordinance was forestry, and also said he hoped that at some point the language in the Ordinance could be tweaked to incorporate a straight definition for forestry. Mr. Keefe said he believed these changes would be in the best interest of the Town.

There was discussion about where in the Ordinance the wording might be changed concerning this.

Councilor Needell said one solution would be that wherever the words “timber harvesting” are indicated in the Ordinance, they be replaced with “forestry”, as defined by State statute. He also said there should be a definition for forestry, not for timber harvesting, so that forestry would be the umbrella. He said timber harvesting could be included as part of the definition of forestry in the Ordinance, so that when timber harvesting was done, it would be done under the auspices of a forestry project.

Mr. Webb said this whole analysis seemed to be going in circles over time, and provided details on this.

Councilor Needell said the overriding claim brought forward by others recently was that forestry was by State statute a protected activity in NH, and that timber harvesting was one of the things that foresters could do.

Mr. Keefe agreed, and said he hoped the Planning Board would be able to come up with language for the Zoning Ordinance that would make sense 15 years from now.

There was detailed discussion about the wording “forestry” and “timber harvesting”.

Mr. Keefe asked if the Zoning Ordinance allowed agriculture, or the picking of corn, which was much more specific, and said the same approach applied to forestry/timber harvesting, with timber harvesting being just one aspect of forestry.

Ms. Fuller agreed, saying said timber harvesting was comparable to digging potatoes, not agriculture.

Mr. Campbell said the Ordinance allowed conservation activities, including forest management, in certain zoning districts. He said he thought they were trying to address timber harvesting and not forestry.

Councilor Needell said the Board was trying to impact someone with a chain saw, and said that was not timber harvesting. He said the only way the term “timber harvesting” was meaningful was as part of forest management, including a management plan. He said calling it timber harvesting invited tree cutting, and said what the Board was trying to address was an expectation that land owners would do forest planning, and use BMPs, - and not just cut trees. He said that was what the term “forestry” described. He said a natural wooded buffer would apply to a developed lot, and said there were different requirements than those related to forestry for a landowner with this kind of property.

Mr. Keefe said he had not been able to find any towns that use the term “timber harvesting” in their ordinances, but said he had found towns that used “forestry”.

Councilor Needell noted that Newington and Rindge were examples of towns that that used “forestry”

Mr. Webb said he didn’t see that the Planning Board needed to regulate forestry, but did need to regulate timber harvesting.

Councilor Needell said what he and Mr. Keefe were saying was that timber harvesting was part of forestry.

Ms. Fuller said by leaving the word “timber harvesting” in the Ordinance, she thought they were zoning for timber harvesting.

Arthur Grant MOVED to send the proposed changes back to the Zoning Rewrite Committee. Kevin Webb SECONDED the motion, and it PASSED unanimously 7-0.

B. New Business: **Discussion agenda items for Quarterly Planning Meeting.**

C. Next meeting of the Board: **September 27, 2006 (Quarterly Planning Meeting)**

VII. Approval of Minutes

VIII. August 9, 2006

Postponed

August 23, 2006

Postponed

IX. Adjournment

Councilor Carroll noted an upcoming ZBA public hearing, where Steve Kimball was asking for a variance to allow an increase in the impervious surface ratio of his site to 65% because the Zoning Ordinance said he needed more parking spaces. She noted that in this part of Durham, the Town was trying to reduce parking wherever possible, since students could walk to destinations or take the shuttle. She asked whether instead of asking for this variance, Mr. Kimball should instead be looking for a variance that would allow him to have fewer parking spaces than what the Ordinance required.

There was discussion about this, and about which variance request made more sense. It was noted that the particular variance requested was up to Mr. Kimball.

After some discussion, Mr. Grant said the Planning Board agreed that there should be a variance concerning the parking requirement, and said this should be conveyed to Mr. Kimball.

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

10:50 pm adjournment

W. Arthur Grant, Planning Board Secretary