

**These minutes were approved at the July 11, 2007 meeting.**

**DURHAM PLANNING BOARD  
WEDNESDAY, MAY 30, 2007  
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL  
7:00 P.M.**

**MEMBERS PRESENT:** Chair Bill McGowan; Vice Chair Lorne Parnell; Secretary Susan Fuller; Richard Ozenich; Steven Roberts; Richard Kelley; Councilor Gerald Needell

**ALTERNATES PRESENT:** Annmarie Harris; Doug Greene; Wayne Lewis; Councilor Diana Carroll

**MEMBERS ABSENT**

**I. Call to Order**

**II. Approval of Agenda**

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

Chair McGowan noted that Annmarie Harris would be filling in for Lorne Parnell until he arrived.

**II. Report of the Planner**

Mr. Campbell said that under New Business, he wanted to talk with the Board about a Newmarket application that involved the Town of Durham. He provided details on this, and said the public hearing on this application would be held on June 12<sup>th</sup>.

He said that at the Board's meeting on June 6<sup>th</sup>, the Caldarola conservation subdivision application and the two Kimball applications would be on the Agenda. He said that at the June 13<sup>th</sup> Board meeting, the Board would hold a public hearing on the Lonsinger subdivision application, and a public hearing on the proposed forestry related changes to the Zoning Ordinance. He provided details on several other applications that would be before the Board that evening.

**IV. Deliberation on a Site Plan Application and a Subdivision Application** submitted by Cuthartes Private Investments, Boston, Massachusetts, on behalf of Stonemark Management Co. Inc., Stratham, New Hampshire to build a 66-unit, age-restricted condominium development. The property involved is shown on Tax Map 1, Lot 6-8, is located at 97-99 Madbury Road and is in the Residential A Zoning District.

Chair McGowan said that the deliberations on these applications would take some time, and he recommended that the Board deliberate until 10:00 pm and then continue the discussion to the next meeting if necessary. Other Board members agreed this made sense.

Mr. Campbell said if the Board did continue the deliberations to a future meeting, the applicant would need to provide another extension. The applicants agreed to provide such an extension.

Chair McGowan said that Mr. Campbell had provided a list, although not necessarily conclusive, of issues the Board needed to consider concerning these applications. The Board agreed to go through this list first.

## **1. The density issue**

Chair McGowan noted that he, Mr. Kelley, Mr. Roberts and Mr. Parnell had voted in favor of the motion on this issue, and he explained that each of them could therefore decide to reconsider that motion if they wanted to. He said he personally was comfortable with the first vote.

Mr. Kelley noted that he had stated the previous week that he would not recommend a motion to reconsider the vote on density.

Mr. Roberts said he also would not want to reconsider the motion.

Councilor Carroll asked if the most recent letter from Attorney Mitchell was public information, and Mr. McGowan said it was. Councilor Carroll noted that Planning Board members could decide on their own concerning this issue, even though the motion on density stood as it was, and their perspective on this issue could impact their decision on the application.

There was discussion that Attorney Mitchell had said that procedurally, this was an appropriate thing to do.

## **2. Condominium documents**

Councilor Needell spoke about the fact that he hadn't been satisfied with these documents the previous week.

Mr. Ozenich noted that he had previously brought up the rental issue. He said he felt the units shouldn't be rented unless there was some kind of qualifier, and explained that he couldn't go along with saying the units were rentable in view of the flack on student rentals in Durham. He noted that he hadn't heard any comments from Board members on this issue.

Councilor Needell spoke about section 3.2, exhibit E of the condominium documents, and said that perhaps it was a question for the Board as to whether this was relevant to its deliberations right now, or if instead this should be reviewed by the Board's attorney.

Mr. Roberts said he would like the Board's Attorney to read the documents, and also to be at the Board meeting to answer questions. He said he had found this arrangement to be useful in his previous experience on the Planning Board.

Mr. Kelley said he supported the idea of looking at the language of the documents in detail, in order to look out for the interests of future residents. But he said this discussion would be pointless if the development didn't go forward, and said it therefore made sense to focus on the development first and the document second.

Councilor Needell said he agreed with this approach.

Chair McGowan pointed out that there were things that could be included in the conditions of approval that addressed this.

### **3. Easement language**

Mr. Campbell said the applicants had earlier provided some easement language that would be put into the deed. There was discussion that this was an issue the Board wanted to resolve, but that it could be addressed later on.

### **4. Final review and approval of Drainage Report**

Mr. McGowan noted documentation from Town Engineer Dave Cedarholm that stated that the proposed design and analysis appeared to adequately control runoff from the proposed development.

Mr. Kelley said that if the project was approved, he would like to see a condition that the specifications for the application and maintenance of porous pavement, prepared by Mr. Roseen, would become a part of the conditions of approval, and that the system would be constructed and maintained in accordance with these specifications. He said he assumed that was the intent of the developer. He noted that these were very tight specifications, and said the Board needed to consider whether some backup provisions needed to be developed. He provided details on this.

Mr. Ozenich noted that there had been a recommendation that it should be written into the deed that the pavement had to be vacuumed 3-4 times per year.

Mr. Kelley said perhaps this had to be worked into the condominium documents, so it didn't get lost in the shuffle, as ownership changed hands. He noted that one of the things in the specifications was winter maintenance, including the fact that sand and salt were not allowed.

There was detailed discussion by the Board about the present inadequate drainage across Madbury Road. Mr. Kelley said there could be improvements to the inlet geometry to improve the conveyance of water, and said this would seem to be the Town's responsibility. He said if the project moved forward, it would be a shame if something couldn't be done to take care of the low point on the Doty property and their neighbor's property.

After further discussion, the Board agreed that the maintenance procedures should be outlined in the condominium documents, and that there be the ability to update them as required.

Mr. McGowan noted that Mr. Parnell had now arrived, and would be a voting member.

### **5. Traffic Analysis**

Mr. McGowan noted that the independent consultant had agreed with the results of the traffic analysis done by Mr. Pernaw, the applicants' consultant.

Councilor Needell spoke about concerns that had been expressed regarding the proximity of the driveway to the intersection. He said this was not an ideal situation, but said these things were difficult to quantify. He noted that both analyses had determined that from a traffic flow point of

view, the impact of the development was not considered to be significant. He said it was hard to hold the development responsible for the problems of that intersection, and he provided details on this.

There was further discussion on this by the Board.

Ms. Harris said if this project went forward, she hoped there would be landscaping immediately across the way from the property driveway because there would be a lot of headlights facing it at night. She provided details on this.

Mr. McGowan asked Mr. Campbell if there was any data to show that the traffic analyses provided for the other recent site plan applications in Durham were correct.

Mr. Campbell said that for the most part, there hadn't been any real traffic problems perceived at the new Irving station.

Mr. Kelley said this was a troubling intersection that was involved with the proposed development, and said the Planning Board a long time ago should have been looking for offsite infrastructure improvements in this area. He provided details on this, and also said he didn't think the idea of a slip lane on Madbury Road had really been explored, for vehicles leaving Durham.

Mr. Kelley also noted Ms. Harris's concern about car lights, and said the applicants had proposed moving the driveway slightly to the north, so it wouldn't be right in front of the house across the street.

Ms. Harris said turning car lights would still sweep over that property.

Mr. McGowan asked if there were future plans to upgrade the intersection, and Mr. Campbell said there was nothing concrete planned. He said the traffic analysis for this application had indicated that the intersection would need to be changed by 2017.

Mr. Kelley noted the previous discussion about the difficulty for cars to make a left into the driveway, after passing the intersection. He said he respected Mr. Pernaw's opinions, and noted that he didn't seem enthusiastic about the slip lane idea. He said there should be discussion as to whether there would be room on either side for such a slip lane.

## **6. Lighting plan**

Mr. Kelley said that initially, the applicant had said there would be type 2 and type 3 lighting distribution, but he said that in the applicant's most recent submission, only a type 2 distribution was included. He provided details on his concerns regarding this. He also asked some additional questions regarding the lighting plan, including the fact that he had noticed that with the updated lighting material, the house-side shield for the reflector model was removed. He said he didn't know what impact removing this would have.

Mr. Garvey said the instructions to the lighting expert were that there should be no light trespass off site. He said he would get a response concerning Mr. Kelley's question. He also said the splash plan showed that the lighting did not go beyond the property.

There was detailed discussion about this.

Mr. Kelley noted that there had been a lot of discussion by the public on possible light and noise impacts from the development.

## **7. Impact fees**

Mr. Campbell explained that the new impact fee ordinance didn't automatically exclude elderly housing, so the applicants had to request a waiver concerning this.

Councilor Needell asked if this project met the specific waiver criteria.

Mr. Campbell said he thought it would, but said the Board could take a look at this. He noted that even for the 20% of the units that didn't have residents who were 55 and older, no one under 30 years of age could live there.

There was discussion about this, and about the fact that the impact fee ordinance currently only addressed children in the schools. There was also discussion about the purpose of the impact fee ordinance, and the reason for the exemptions that were allowed.

Mr. Kelley said he was comfortable with the waiver but said that in lieu of an impact fee, he would like the developer to make a contribution to future transportation improvements on Madbury Road. He said this was the biggest development to occur on that road.

Councilor Carroll said for this development and others, UNH had a wonderful shuttle system that traveled around the core area of Town. She said it would be good if developments like this could pay a small amount of money to UNH for this shuttle system, and to have it stop at places that would be very handy for residents. She said this fit with the ideas of having smaller parking lots, having a pedestrian friendly town, and the idea of providing more mass transit options for residents.

Mr. Ozenich said he didn't think the people living in this development should have to pay an extra tax for this.

Ms. Harris suggested the idea of providing easy storage for bicycles, and noted that she was a senior bicyclist herself.

Chair McGowan suggested that the Board stick with the school impact fee issues.

Mr. Campbell read the language in the impact fee ordinance concerning waivers.

Councilor Needell said the question was that the 20% restriction to residents 30 years of age and older was one the applicants had put upon themselves, and he asked what bound them to this restriction. He said he would be willing to waive the impact fees as long as the 30 years of age and older restriction was maintained, and said if this was removed, he felt the waiver should be removed, and the impact fee should be assessed.

Mr. Roberts said he felt the Board should waive the impact fee, and also said he felt there should

not be a penalty if the 30 years of age and older restriction was not maintained.

Ms. Fuller said she agreed, stating that she didn't like this restriction.

Councilor Needell said that was not his business, but said again that if it was not in effect, the impact fee should be assessed.

There was further discussion as to how the Board should handle this issue.

***Richard Kelley MOVED to waive the impact fee, and Richard Ozenich SECONDED the motion.***

Mr. Kelley noted that this was an elderly development. He also said he would rather pursue other impact fees than school impact fees.

***Councilor Needell MOVED that the motion be amended, and that the condition be added that should the age restriction on the 20% at some point be removed from the deed restriction, the impact fee would be assessed at that time. Richard Kelley SECONDED the motion.***

Mr. Kelley explained that this was meant to be a restriction in perpetuity, and said he thought it should say that. He asked what kind of mechanism would change that age restriction, stating that he didn't think it could be the vote of the property owners at some point in time, when the Planning Board, which had approved the application, had already laid out what the restriction was.

There was further discussion as to whether the restriction could be changed. Councilor Needell suggested that perhaps the Board should get a legal opinion on this.

Mr. Kelley said he supported the proposed amendment because it was a stop-gap, but said there was a question as to whether it was necessary. But he noted that it could simply be considered redundant if it turned out that it was not necessary.

Councilor Carroll said she thought the scenario Councilor Needell had painted was fair, but said her concern was that if it was there, it could bring the 80/20 ratio into question in the future.

Mr. Farrell suggested that there could be a condition of approval concerning this.

Ms. Harris said she would like to see water-tight language that couldn't ever be changed, including by the Planning Board.

There was further discussion on this issue.

Mr. Roberts noted that there were currently 0.5 children per NH household, noting that he had learned this and other related information at a recent NH planning conference. He said it was a gain to the local economy to have children, and said he was therefore not sure that the Board was arguing in the right direction concerning protecting the tax base.

***The motion PASSED unanimously 7-0.***

***The original motion, as amended, PASSED unanimously 7-0.***

## **8. Landscaping Plan**

Mr. McGowan said the Board had heard a lot of discussion about the need for buffering to protect abutters. He asked whether the Board was satisfied with the landscaping plans it had received, or if more information was needed on this.

Ms. Harris noted again the issue of the property across the street that could be impacted by car lights coming from the development's driveway.

There was discussion about the property owner on Rocky Lane, and the buffering that was needed concerning that property. It was noted that this property was not technically abutting the site, but was not far, physically, from one of the building faces.

Mr. Ozenich asked if the applicants had met with the abutters concerning the final site plan, noting that this would have been a nice thing to do as a courtesy.

The applicants said they had tried this, but it hadn't worked out.

Mr. Campbell explained that communications had broken down, and said he didn't know if such a meeting would be fruitful.

Ms. Harris said it seemed appropriate to ask the applicant to add buffering on the property line that would include staggered plantings in order to break up the view of the building from the Rocky Lane residents.

There was discussion about this with the applicants, and Mr. McGowan asked the applicant to take this request into consideration.

Mr. Farrell said landscape architect Robbie Woodburn hadn't recommended this because of the distance involved, and the existing vegetation. But he said this didn't mean that the applicants wouldn't consider this idea.

Mr. Garvey said that there was a distance of over 200 ft involved.

Mr. Parnell said that during the discussion on the idea of increasing the height of the berm, some strong opinions were expressed concerning this idea. There was discussion regarding the maximum height that the berm and the fence could actually be, and the applicants said they would look into this further.

Mr. Roberts said he would like the Board to go out to the site and look at these landscape issues in more detail. He said in his experience, observing things on the ground from different angles was very important.

Mr. Farrell said he could facilitate this, for members of the Board who wished to do this.

Mr. Ozenich said he agreed with Mr. Roberts.

Chair McGowan said depending on what happened that evening, the Board would consider doing this.

## **9. Water and sewer**

There was discussion on the permitting process.

Councilor Needell asked how the water pressure issue was to be addressed. He said there could be a condition of approval regarding this, but asked whether this would guarantee that the water pressure wouldn't be impacted.

There was discussion that the modeling and analysis would address this.

Mr. Garvey said the Public Works Department had completed the modeling, and said Mr. Cedarholm had indicated that there was more than adequate water available. Mr. Garvey said there were still three problems to be addressed concerning water pressure, and he provided details on them and how they would be addressed. He said the Water policy committee would assure that the water pressure was ok, and he also noted that the development would have its own pump to ensure there would be sufficient water pressure.

Councilor Needell said that if there was a problem concerning this, the Town was responsible for seeing that the problem was corrected.

Ms. Harris said this was something that should be addressed as part of the development of this project.

Mr. Farrell said the modeling the Town was doing would address this.

There was discussion that a condition of approval would be that the applicants would have water and sewer permits.

Councilor Needell said this seemed to be an adequate solution, but asked if additional language might be needed.

Mr. Campbell said no, stating that if there were a problem, the applicants wouldn't get the permit. He said if a condition of approval was that the applicants had to get the permit, and they didn't get it, the project wouldn't be approved.

Councilor Needell noted that it would have been better if this issue had been addressed before the application process had started, but recognized that this was not currently required.

## **10. Site specific approval concerning stormwater**

The applicants said the site-specific permit had been filed a few months ago, and they were still waiting to hear back from the State.

It was noted that receiving the permit would be a condition of approval.



## **11. Height issue**

Mr. McGowan said in order to help the discussion on this issue, he wanted the Board to read through the criteria of the proposed new language for the Zoning Ordinance concerning building height, which had been provided by Mr. Campbell.

Councilor Needell asked what would happen at this point if the waiver request concerning height were denied.

Mr. Campbell said the applicant had stated that there would then be a flat roof, so the Board wouldn't necessarily have to deny the application. He noted that the Board would have to reopen the public hearing if that happened.

Councilor Needell said if the applicants went with a flat roof, the measurement issue was straightforward, but he noted that if the roof was flat, the infrastructure on top also couldn't be above 30 ft in height. There was discussion about this, with Mr. Farrell saying the applicants would maintain that they could still put those things on the roof.

Councilor Needell said he wished the Board had better guidance to go on, and could see alternative designs. But he said he didn't see the waiver request regarding height as being an unreasonable request.

Chair McGowan said he agreed, stating that although the applicants could take out a floor, this would definitely change the design of the building.

Mr. Parnell spoke about the intent of the language on height in the Zoning Ordinance. He said the only reason the Board would approve the waiver was that there was a positive benefit to the applicant, and that it would not negatively impact the abutters. But he said he didn't see how the Board could approve this height increase based on the public input that had been received.

Mr. Kelley agreed that the public testimony the Board had heard had focused on the scale of the building. But he said his fear was that if the Board didn't grant the waiver, they would end up with something such as the knocking off of the parapet on the top of the building, which gave the building some character and worked to reduce the scale of the building.

Mr. Parnell noted that the parapet brought the height up to about 40 ft. There was discussion about this, and about the fact that 30 ft in height didn't really work with modern buildings because of all of the infrastructure that was required.

There was discussion that a two-story building with a nice roofline would be more in character with the neighborhood.

Councilor Needell said it might be that the breaking point in terms of scale and character was that if the waiver were granted, the building would be too big. But he said he didn't think that denying this waiver was the way to fix the project. He said if this building was going to be built, he was not sure there was a better way to lay out the roof.

Mr. Roberts said he had lived in a building something like this, and he noted the importance of

sound-deadening elements in order to avoid noise impacts on neighbors.

Chair McGowan noted the relationship of this issue to the issue of maintaining the character of the neighborhood. He also said that even if the Board didn't allow the height the applicants had proposed, this would still be a big building.

***Richard Kelley MOVED to grant the waiver on the height of the building, and to allow 33 feet 10 inches. Susan Fuller SECONDED the motion, and it PASSED 5-2, with Richard Ozenich and Lorne Parnell voting against it.***

## **12 Character of the neighborhood**

Mr. Lewis said the length of the setbacks was important, and said because of them, the building wouldn't appear to be as tall. But he said on the negative side, there were the overall building height and the sheer size of the entire structure, which might not fit into the neighborhood.

Mr. Parnell said this was without doubt a large building in that neighborhood, and in fact the first one there. He said the Zoning Ordinance allowed multi-unit elderly housing in that zone, and said it was intended when the Ordinance was set up to have a building of some size. He said although it would make things easier for him if the proposed building were smaller, he said it fit with the Zoning Ordinance.

Councilor Needell said this was the issue he had struggled with the most, and said he thought it came down to a basic question of the interpretation of the Zoning Ordinance. He said a question was whether the purpose statement for the RA district was separate from the rest of the provisions for the RA district. He said if one took the purpose statement alone, he found it hard to say that this proposed development met this purpose. He noted section 175-11 of the Ordinance that provided guidance concerning the interpretation of that Ordinance, and indicated that the greater restriction governed. He said this allowed him to draw the conclusion that the purpose statement could override the rest of the chapter.

He also said there had been a presentation that there were currently approximately the same number of dwelling units in the neighborhood as were proposed in this project, and said this seemed out of scale to him. He said his feeling was that this project was not in keeping with the purpose of the RA district, and said this was sufficient reason not to support it.

Councilor Carroll said this project was planned for the RA zone, but said as she read the Zoning Ordinance, it did not meet the basic criteria for the RA zone. She said it did negatively affect the RA neighborhood in which it was proposed, and was not consistent with the established character of the neighborhood. She said if it were built, it would negatively impact the quality of life of the neighbors in their established neighborhood.

Mr. Roberts noted the changes in the zone he had lived in, in Durham, over the past 30 years, including the fact that he could now see houses from his own house. He also said that he had lived in a housing complex like the one proposed by the applicants. He said that spreading development out had not been successful in Durham, and he spoke about the utility of having this type of development, given that it would be hidden so well, and that it would conserve open space. He said he supported this proposition, because of the buffering proposed, and because of the land that

would be given to the community as part of the project.

Mr.. McGowan said the property was zoned multi-family. He agreed that it would be a large building, and said one thing that saved it was that it was set back, and was fairly well buffered. He also said the design helped to limit the scale of the building, and noted that the project would provide several acres of open space for the neighbors and others to use.

Mr. Kelley said the specifics of this site made it almost a neighborhood of its own, and said he didn't see the development impacting the neighborhood, although he did see possible impacts to the direct abutters.

Mr. Ozenich said he thought that when the Board voted to extend the height, this made the development out of character with the neighborhood. He said developments like this usually didn't integrate with the surrounding area, and residents in them tended to keep to themselves. He said this development didn't fit with the neighborhood at all.

He said that the proposed building height was a plus in terms of aesthetics, but said he didn't feel it met the intent of the Zoning Ordinance. He also said that he didn't think that anyone who had written the multi-family provisions of the Zoning Ordinance for this district envisioned anything like this, stating that if they had, the setbacks would have been different. He said he thought the people who worked on the Ordinance were thinking in terms of duplexes and small apartment buildings.

Ms. Fuller said the purpose of the Zoning Ordinance as it related to this zone was to maintain the integrity of a high-density residential area. He said this proposed development represented a creative use of an elderly housing plan, one that provided open space. She also noted that elderly housing was cited in the Master Plan as being an important issue for Durham. She said if this building went up in her backyard, she would think it was out of character, but she also said people in Durham were not used to the idea of big buildings. She said she didn't think the size and scope of this building were out of character.

Ms. Harris said she had participated in three Master Plan processes, and said she didn't think this kind of development was ever envisioned. She said she thought the term "high density" referred to quarter acre lots for houses as compared to 3-acre lots. She said the Board had failed in its interpretation of the definition of "contiguous", and also said the Board had not identified in the Zoning Ordinance how the development potential for 11 acres could be transferred to 5 acres. She said she felt the key issue here was that the integrity of the neighborhood would not be maintained, and said that among other things, this would impact the value of nearby homes.

Mr. Greene said he didn't feel the proposal took into account the importance of fully integrating the existing and potential development. He said what was proposed would become its own neighborhood, and would be out of scale. He said although the applicants had adhered to the intent of the Master Plan and the Zoning Ordinance, the proposed development would alter the neighborhood and would not be in character with it.

Councilor Needell said what troubled him was that the decision to combine the two lots was the reason the building was this size and scale. He said the two issues were inseparable, and he said the fact that the Zoning Ordinance didn't envision this kind of development went back to the fact

that allowing this much density resulted in a building of this size and scale. He said this proposal wouldn't have come forward as it was, if the density had not been permitted. He said this was part of the reason he felt this project was out of scale, and said it wouldn't be out of scale if the density wasn't allowed.

Mr. Ozenich agreed, and noted that he hadn't supported the motion concerning the density increase. He said it was disappointing that the density issue hadn't been addressed sooner, and said this had a lot to do with where the Board was right now. He also said that in terms of the Master Plan, this proposed development didn't fit with the idea of "village character", even though people would be able to walk to town, etc.

Councilor Carroll determined that if there were only the 5 acres to work with, 25-30 units would have been allowed, and she said this size development would have fit into the neighborhood. She said there were a lot of things about this project that were very good. She asked if perhaps there could be some kind of compromise, so the development would be something that everyone could be comfortable with.

Mr. Kelley said he heard what Councilor Carroll was saying, but he said what was proposed was based on the existing Zoning. He also noted that the Town was striving for smart growth, including redevelopment of the core area of Durham.

Mr. Ozenich said the Ordinance didn't say that density could be transferred.

Mr. Kelley said the easement carried a lot of weight in his mind, and he provided details on this.

Ms. Harris said the idea of transfer of development rights was not in the Zoning Ordinance.

Mr. Kelley said he didn't see it as a transfer of development rights issue, and said it came down to the easement.

Mr. Roberts spoke of the definition of contiguous relative to forestry, and how it related to the concept of contiguous for this project.

Chair McGowan said further arguments concerning this issue could be expressed later in the deliberation process.

### **13. Open space stewardship and management plan.**

Chair McGowan noted that the Board hadn't had the chance to read the stewardship plan yet, and also suggested that the Board's Attorney should review it. There was discussion about this.

### **Additional Issues**

Councilor Needell said he wanted to be sure the question raised during the public hearing concerning the potential for polluted soils was addressed.

Mr. Campbell explained that a site assessment had been done, and had addressed this issue of potential hazardous materials on the site. He said the firm doing the assessment had not found

anything.

Councilor Needell noted the issue of enforcement of age restrictions. He said while this would get messy at times, he said he didn't know that there was anything that could be changed to make the enforcement better.

Mr. Kelley provided comments regarding a letter from Attorney Hogan which made reference to revisions to the design that he had been unable to be read before the Planning Board meeting. Mr. Kelley stated that the Board didn't see the information either.

Mr. Roberts noted that resident Peter Flynn had raised a question about the Madbury Road catch basin problem, and he asked if this problem was addressed in the site plan. There was discussion about this.

Mr. Kelley asked if 6 pm was the right closing time for work on the site. The applicants said there could be a condition that blasting would not be done after 5 pm.

There was discussion on the bylaws of the condominium document regarding the number of board members, and that this language could be changed.

Mr. Ozenich said there should be no long-term rentals of these units allowed, noting that he was bringing this up because the student housing situation had been so severe.

Mr. Roberts said he had rented a unit in a similar establishment, and said the owners understood the importance of keeping units occupied in order to maintain equity.

Ms. Fuller agreed that it seemed overly restrictive to include a provision that units couldn't be rented. But she it would be a good idea to make sure that any rentals had to be inhabited by people 55 years of age and older. She suggested it would be a good idea to put language concerning this in the condominium documents.

Attorney Pollock said these kinds of developments were self-policing. He also noted that the mix of 80/20 applies throughout.

Councilor Needell said in other words, there was nothing to prevent the owner from leasing a unit to a 30 year old person, as long as 80/20 mix was maintained for the building as a whole.

Mr. Roberts suggested that the Board postpone further discussion on this application until the June 13, 2007 meeting. He said in the interim, the Board should have a site inspection with regard to landscaping elements to reduce the impact of the development on the neighborhood.

The applicants agreed to extend the deadline for the application.

It was agreed that Mr. Campbell in the meantime would develop the Findings of Fact and Conditions of Approval. Mr. Roberts noted that that this would prompt the Board to look at the application as thoroughly as possible.

There was discussion that the Board's attorney should look through the condominium documents

and the stewardship plan, and that the Conservation Commission as well should look at the stewardship plan. There was discussion about the Commission's prior involvement in this application.

Councilor Carroll said she had spoken with Dwight Baldwin that day, regarding the letter he had written in the fall. She said it would be good to have the Commission in the loop regarding the stewardship plan. There was discussion that the Conservation Commission would have the opportunity to respond concerning the stewardship within the next two weeks.

There was discussion on how the site walk should be handled. Councilor Carroll suggested that as part of the site walk, the Board should visit some of the properties abutting the proposed site for the development, including properties on Rocky Lane.

Mr. Doty said people were more than welcome to see the view of the site from his property.

It was agreed that the site walk would take place on June 9<sup>th</sup> at 9 am.

***Mr. Roberts MOVED to continue the deliberations until June 13, 2007. Richard Kelley SECONDED the motion, and it PASSED unanimously 7-0.***

**VI. Approval of Minutes –**

April 18, 2007 postponed

April 25, 2007 postponed

**VII. Adjournment**

***Richard Ozenich MOVED to adjourn the meeting. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.***

Adjournment at 10:00 pm

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Susan Fuller, Secretary