

*These minutes were approved at the July 25, 2007 meeting*

**DURHAM PLANNING BOARD  
WEDNESDAY, JUNE 20, 2007  
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL  
7:00 P.M.**

**MEMBERS PRESENT:** Chair Bill McGowan; Richard Kelley; Steve Roberts; Lorne Parnell; Susan Fuller; Councilor Needell; Richard Ozenich

**ALTERNATES PRESENT:** Wayne Lewis; Councilor Carroll

**MEMBERS ABSENT:** Annmarie Harris; Doug Greene ; Victoria Parmele, Minute Taker

**I. Call to Order**

**II. Approval of Agenda**

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

**III. Report of the Planner**

Mr. Campbell said the Town Council had met on Monday night, and had had postponed the Stone Quarry Drive TIF presentation and discussion until the July 2<sup>nd</sup> meeting. He said the Council had voted that evening to support the proposed MPO realignment, and also had voted to accept the sewer extension for the Cuthartes project. He noted that the Planning Board's Quarterly Planning meeting would be held on June 27<sup>th</sup>, starting at 6 pm.

Mr. Parnell suggested a possible addition to the Quarterly Planning meeting agenda - having members of the Mill Plaza Committee and members of the AIA who were working on the project make a presentation to the Planning Board about the process they were involved with.

There was discussion about this idea, and about whether there would be enough time to cover all of the items on the Agenda, including the conservation subdivision film and discussion.

Councilor Carroll noted that one of the reasons why the conservation subdivision topic was on the quarterly planning meeting agenda was that this was the first time there was a conservation subdivision application before the Planning Board, and it was important that it understand the concept. She noted that some Board members were more well-versed on this subject than others, and said it was important that there be enough time on the Agenda for it.

Ms. Fuller agreed, stating that this topic should take priority over others at the quarterly planning meeting, and that some of these other topics could perhaps be fit into another meeting.

Mr. Kelley suggested that copies of the conservation subdivision DVD could be made so Board members could watch it before the meeting.

Mr. Campbell said he could arrange this. He then reviewed other items on the agenda for the June 2th Quarterly Planning Meeting.

- IV. **Continued Public Hearing on a Conservation Subdivision Application submitted by Joseph** Caldarola, Portsmouth, New Hampshire for subdivision of one lot into 9 lots. 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.

Chair McGowan noted that the applicant has requested that this application be postponed until July 11, 2007.

Mr. Campbell noted that Mr. Caldarola had granted an extension for another 60 days. He also said the Board had received a letter from the Conservation Commission regarding this application.

***Richard Kelley MOVED to continue the Public Hearing on a Conservation Subdivision Application submitted by Joseph Caldarola, Portsmouth, New Hampshire for subdivision of one lot into 9 lots until July 11, 2007. Lorne Parnell SECONDED the motion, and it PASSED unanimously 7-0.***

- V. **Continued 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 a letter had been received from the Conservation Commission dated June 18<sup>th</sup> and said the Board should look at it. He noted that at the meeting two weeks ago, the Board had covered 14 items that Mr. Campbell had prepared, as well as some additional items. He said there were some outstanding issues at that time, and said since then, some additional information had been received from the applicant, and there had also been another site walk of the property.

Ms. Fuller noted that the applicants had agreed at the site walk that there would be no rock crushing at the site. She suggested that this be added to the conditions of approval in some way.

Mr. Kelley said that perhaps it should be added that Cuthartes' design team could put together the sequence of operations plan, so the contractor would be aware of this.

Councilor Needell noted that there had been discussion at the site walk about the idea of putting additional plantings along the site boundary facing Rocky Lane.

Chair McGowan reviewed new information that had been received by the Board. He said a letter had been received from the Conservation Commission on June 18, 2007 that related to the stewardship plan, and noted that the Board had not discussed this yet. He also noted some comments received by the Board's attorney regarding the stewardship plan.

There was discussion about these comments, with Chair McGowan noting that the Town Attorney's letter spoke about the need for consistency in some of the language of the stewardship plan. It was agreed that the language "A professional forester shall be retained" should be used throughout the document. It was also noted that there was inconsistency in the language concerning ATV use that needed to be corrected.

Attorney Pollock noted there had been multiple drafts of this document, and that the language problems were an oversight on their part. He also suggested that the Conservation Commission's letter should be included as a condition of approval.

The Board agreed that there would be a condition that there would be no rock crushing on the premises.

The Board agreed that the Conservation Commission's letter would be included as a condition of approval.

Councilor Needell said it looked like the Conservation Commission was requesting the chance to review the final stewardship plan document before it was approved.

There was detailed discussion on this, and on what the Board would be requiring in the conditions of approval concerning this.

Mr. Campbell suggested that he could meet with Conservation Commission Chair Cynthia Belowski to see if she was ok with this final document. There was discussion about this, and that this was a reasonable approach.

Chair McGowan noted that there were some recommendations in the stewardship plan, and asked who was responsible for implementing them, and when they would need to be done.

Attorney Pollock said the condominium association assumed the obligation of following the stewardship plan, and said the Town could police the activities to see if it followed through..

Councilor Needell noted that the recommendations were rather long term, and said there was discretion for the association to follow through when it saw fit to do this.

Attorney Pollock said that was correct.

Councilor Carroll said she remembered reading that the condominium association had to come up with \$2500 that would be set aside for implementation of this program, even though the program didn't have to happen right away.

Mr. Kelley said condition #10 should probably read that the developer would post the \$2500 to get the fund started. He noted that it was a condition to be met within 6 months of approval, and said the applicant would still be in the construction phase at that point.

Councilor Needell said he was looking at the deed attached to the stewardship plan, and he noted that there was a statement in the plan that there would be passive recreation available for the general public. He asked if this wording was supposed to be there, and Attorney Pollock said it was.

Mr. Ozenich asked if there needed to be a provision for a traffic control plan, noting that there would be heavy equipment going in and out of the site during construction.

Mr. Garvey said the driveway that currently existed would stay in place, so there shouldn't be that much mud. He also said there would be large stone laid down on the driveway to remove the mud, and said the team would also clean up whatever mud remained. He said the size of the entrance would be adequate for trucks to come in and out.

Mr. Roberts asked if the Police Department had expressed any concerns about this in their review of the plan.

Mr. Kelley suggested that there could be some language included that required that the contractor would sweep Madbury Road as required. He spoke about how Irving had done this during the construction phase for the gas station.

There was discussion that this should be a post signature condition of approval, and the applicants agreed with this.

Chair McGowan noted that the Board hadn't addressed the language of the condominium documents previously because it wanted the Board's Attorney to look at them. He said there was now a note from Attorney Mitchell, who said the only issue to address was Appendix F, regarding the age restrictions represented to the Planning Board. He said Attorney Mitchell recommended that the Board should require that Appendix F be modified to prohibit its amendment without the permission of the Planning Board.

Board members agreed this modification should be made.

Councilor Needell asked if doing so would open the door for the Board to change the age restriction in general in the future. He said his assumption was that the age 55 or older residency requirement couldn't be changed by anyone, even the Planning Board.

There was discussion about this, and that the prohibition concerning changing the age 55 and older restriction was based on the Zoning Ordinance.

Mr. Roberts said it was only the age restricted development that was a permitted use. He also said that perhaps there should be a clause that said this should be an age 55 and older facility

regardless of what the Zoning Ordinance said in the future.

Mr. Kelley said the density bonus came with the use, and if the use changed, the approval would be invalid.

Attorney Pollock said the intention was to have an age restricted project. He said it might make sense to use wording in Condition #1 on page 5 of the Findings of Fact and Conditions of Approval that “A total of 66 age restricted units...” or “An age restricted project consisting of 66 units...”

Attorney Pollock said they would be making the recommended changes

There was further discussion as to whether there were any outstanding issues to be resolved..

Chair McGowan noted that Mr. Kelley had had a question about the lighting plan question at an earlier meeting, and there was discussion.

Mr. Campbell noted that the Town Council had accepted the non-industrial sewer connection for the project at a recent meeting, and had referred the application to the Durham Water/Wastewater/ Solid Committee for detailed review and development of recommendations. He said this matter was therefore still pending..

In response to a question from Ms. Fuller regarding condition #6 regarding the certified plot plan,

Mr. Campbell said there would be a certificate of occupancy with each unit, so it was hard to determine what would be the appropriate time for Mr. Johnson to have the certified plot plan.

Mr. Kelley asked if it was correct to assume that all of the units would be built at once, and the applicants said yes.

Mr. Ozenich said he didn't see anything in the Findings of Fact or Conditions of Approval about the density that had been awarded for the development because the two lots were considered to be one lot. He said this should be in there.

Councilor Needell said this was implicit in the fact that the applicants could have 66 units. He said the Town Attorney's opinion was that when the Board went to vote, it needed to decide if the application met the requirements of the Zoning Ordinance. He said if one thought having 66 unit was not appropriate, he/she could vote against the application.

There was detailed discussion about this issue, and about how it related to the process of voting on the application itself.

Mr. Ozenich noted referred to the motion the Board had made concerning the height issue was included in the Findings of Fact, and asked why there shouldn't therefore be a Finding of Fact concerning the density issue.

It was noted that the Board had given the applicant a waiver on the height issue.

Councilor Needell said including an item in the Findings of Fact regarding the density issue was unnecessary, and said the key thing was the vote on the project.

Chair McGowan asked if Board members were satisfied with the Findings of Fact.

Mr. Kelley provided details on a sentence he thought should be added to FOF #57 regarding the review of the stewardship plan by the Conservation Commission.

There was discussion that the June 15, 2007 letter from the Board's Attorney should be included in the Findings of Fact. There was final discussion on the few changes that still needed to be made to the Findings of Fact and Conditions of Approval.

***Councilor Needell MOVED to release the privilege from the June 15, 2007 communication from the Board's Attorney. Richard Kelley SECONDED the motion, and it PASSED unanimously 7-0.***

## **FINDINGS OF FACT**

1. An application for Subdivision was submitted by the applicant on October 18, 2006.
2. An application for Site Plan Review was submitted by the applicant on October 18, 2006.
3. A letter of intent was submitted by the applicant on October 18, 2006.
4. A Drainage Report prepared by American Engineering Consultants, Corp., Durham, New Hampshire, was submitted by the applicant on October 23, 2006.
5. Two letters were submitted by New Hampshire Soil Consultants on November 1, 2006 regarding the High Intensity Soil Survey on the Craig Property.
6. Madbury Commons Condominium Declaration and Bylaws were submitted by the applicant on November 6, 2006.
7. A Subdivision Plan prepared by McEneaney Survey Associates Inc., Dover, New Hampshire, was submitted by the applicant on November 8, 2006, entitled "Subdivision Plan, Prepared for Stonemark Management Company, Inc., Tax Map 1, Lot No. 6-8, Madbury Road," and dated October 17, 2006.
8. A Site Plan prepared by American Engineering Consultants Corp., Durham, New Hampshire, was submitted by the applicant on December 4, 2006, entitled "Site Plan, 99 Madbury Road, Durham, New Hampshire," and dated October 2, 2006.
9. A Planting & Lighting Plan prepared by HBLA Inc., Portsmouth, New Hampshire, was submitted by the applicant on December 4, 2006, entitled "Planting & Lighting Plan," and dated December 1, 2006.
10. A Landscape Plan prepared by HBLA Inc., Portsmouth, New Hampshire, was submitted by the applicant on December 4, 2006, entitled "Landscape Details," and dated December 1, 2006.
11. Lighting specifications were submitted by the applicant on December 4, 2006.
12. A Site Walk of the property was conducted on December 9, 2006.

13. A drawing of a building section was submitted by the applicant on December 13, 2006.
14. A Power Point presentation given at the December 13, 2006, Planning Board meeting was submitted on CD Rom and in paper format on January 5, 2007.
15. A letter from Attorney Walter L. Mitchell was submitted on January 5, 2007.
16. Copies of the deeds for the property were submitted on January 9, 2007.
17. A letter regarding Phase I Environmental Site Assessment was submitted by R.W. Gillespie & Associates, Inc. on January 9, 2007.
18. A letter was submitted by Attorney Ari B. Pollack on January 19, 2007.
19. A letter was submitted by Attorney Scott E. Hogan on January 24, 2007.
20. A letter was submitted by McEneaney Survey Associates Inc. on February 2, 2007, regarding a boundary survey of the property.
21. A letter was submitted by Attorney Peter J. Loughlin on February 9, 2007.
22. A binder of information addressing some items before the Planning Board was submitted by the applicant on February 9, 2007.
23. A letter was submitted by Art Guadano, AIA, on February 15, 2007.
24. A letter was submitted by Attorney Scott E. Hogan on February 20, 2007.
25. A letter was submitted by Attorney Peter J. Loughlin on February 21, 2007.
26. A request for continuation was submitted by James R. Bolduc on February 28, 2007.
27. A Traffic Impact Assessment prepared by Stephen G. Pernaw & Company Inc. was submitted on February 28, 2007.
28. A Title Abstract prepared by Craig N. Solomon, P.A., was submitted by the applicant on March 13, 2007.
29. A letter was submitted by Attorney Scott E. Hogan on March 14, 2007.
30. A letter of extension was submitted by the applicant on March 15, 2007.
31. A letter was submitted by Attorney Ari B. Pollack on March 16, 2007.
32. A letter was submitted by Attorney Ari B. Pollack on March 23, 2007.
33. A Revised Rendering of the proposed project was submitted by the applicant on March 28, 2007.
34. A revised Site Plan prepared by American Engineering Consultants Corp. was submitted by the applicant on March 30, 2007.
35. A Revision to the Letter of Intent was submitted by the applicant on March 30, 2007.
36. A letter was submitted by Attorney Ari B. Pollack on March 30, 2007.
37. A revised Drainage Report prepared by American Engineering Consultants Corp. was submitted on March 30, 2007.
38. A Proposed Site Section prepared by Woodburn & Company, Newmarket, New Hampshire, was submitted on March 30, 2007.
39. A letter was submitted by Attorney Scott E. Hogan on April 10, 2007.
40. A Waiver Request from the Impact Fee Ordinance was submitted by the applicant on April 10, 2007.
41. Draft Approval Conditions were submitted by the applicant on April 10, 2007.
42. A letter of extension was submitted by the applicant on April 13, 2007.
43. A letter regarding the Alteration of Terrain Program was submitted by the State of New Hampshire Department of Environmental Services on April 19, 2007.

44. A letter was submitted by Attorney Scott E. Hogan on April 25, 2007.
45. A review of the Traffic Study prepared by Norway Plains Associates Inc. was submitted on April 25, 2007.
46. An updated pictorial rendering of the project was submitted by the applicant on May 1, 2007.
47. A letter of extension was submitted by the applicant on April 27, 2007.
48. Revisions to the Plans for the project was submitted by the applicant on May 10, 2007.
49. A revised Site Plan prepared by American Engineering Consultants Corp. was submitted by the applicant on May 11, 2007.
50. A revised Declaration of Condominium was submitted by the applicant on May 11, 2007.
51. Specifications for Application and Maintenance Porous Pavement prepared by the UNH Stormwater Center were submitted on May 11, 2007.
52. Lighting specifications prepared by Ripman Lighting Consultants, Belmont, Massachusetts, was submitted on May 11, 2007.
53. A letter was submitted by Attorney Ari B. Pollack on May 18, 2007.
54. A letter of extension was submitted by the applicant on May 23, 2007.
55. Proposed conservation language to be added to the Deed from Stonemark Management Co. was submitted by the applicant on May 23, 2007.
56. A change to the Declaration of Condominium was submitted by the applicant on May 23, 2007.
57. A Stewardship Plan prepared by Charles A. Moreno, LPF, Center Strafford, New Hampshire, was submitted on May 23, 2007. This document was reviewed by the Durham Conservation Commission and comments were provided by them in a letter dated June 18, 2007.
58. A site walk of the property was conducted on June 10, 2007.
59. A letter of extension was submitted by the applicant on June 1, 2007.
60. A checklist of approval conditions was submitted by the applicant on June 6, 2007.
61. A revised Declaration of Condominium was submitted by the applicant on June 8, 2007.
62. A letter was submitted by Attorney Ari B. Pollack on June 8, 2007.
63. The Planning Board has waived the impact fee for this development. However, should the 20% be removed from the age restriction (30 years or older), then the school impact fee shall be assessed to those units at the time of removal. Any change to the age restriction shall only occur after a vote of the Condominium Association and the Durham Planning Board.
64. The Planning Board granted a height higher than the 30' permitted by right. The height of the building shall be no higher than 33'10", as determined by the Code Enforcement Officer.
65. The open space shall be preserved in perpetuity and open to the public.
66. Many letters were received by the Planning Board and are part of the record which speak for or in opposition to the application.
67. A letter of extension was provided by the applicant on June 20, 2007.
68. An e-mail was provided by the Town Attorney on June 15, 2007 and released by



the Planning Board on June 20, 2007.

### **CONDITIONS OF APPROVAL**

The following conditions shall be met prior to the Signature of Approval on the Site Plan. These conditions shall be met within six months of the signing of these Findings of Fact and Conditions of Approval by the Chair of the Planning Board. If these conditions are not met within six months, the applicant must come before the Planning Board for review of the conditions:

1. The applicant shall post an acceptable financial surety prior to the signature of the final Site Plan that is approved by the Planning Board. The financial surety shall be in an amount sufficient to ensure the completion of all roads (public or private), water service, sewage disposal, drainage, landscaping and/or any other improvements required by the Town. The financial surety shall be effective for a period mutually agreed upon by the Planning Board and the applicant. The financial surety shall be approved by the Town as to the form and type. The Town will accept cash, pass book savings in the Town's name, letter of credit or a construction surety bond. At its discretion, the Planning Board may require approval of the construction guarantee by the Town Attorney.
2. All deeds covering land to be used for public purposes, easements, and right-of-ways over property to remain in private ownership, and rights of drainage across private property shall be submitted in a form satisfactory to the Town Attorney.
3. Maintenance Guarantee--a financial surety to guarantee that all site work was properly done shall be posted by the applicant with the Town. Such maintenance guarantee shall be in an amount of two percent of the estimated project cost and shall remain in force for two (2) years after site improvements are completed. If such repairs are needed and are not satisfactorily installed by the developer, then such guarantee shall be used to complete and/or install such improvements.
4. The Town Attorney shall review the final condominium documents and any changes that need to be made will be reviewed by the Town Attorney.
5. Rocky Lane shall be named on final plan.
6. All final plans must be stamped by the appropriate professional.
7. All federal and state permit numbers shall be listed on final plan.
8. Applicant must receive driveway permit from the Department of Public Works (if applicable).
9. Water and sewer permits must be approved by the Town Council.
10. A Stewardship account must be opened on the date of the establishment of the Condominium Association to ensure the management of the open space. It shall be held and managed by the Condominium Association. The purpose of this account shall be to pay the costs of biennial monitoring. The account will be opened with \$2,500 and original payment made by the developer.
11. The open space shall be monitored at least once every two years and shall be performed by a person or organization that is qualified in land conservation and resource management, shall have an established record in land management or the oversight of conservation easements or restrictions, shall be willing to assume the

- review obligation, and shall be subject to the approval by the Planning Board.
12. Trees targeted for harvest/removal shall be clearly marked. Trees to be protected during clearing operations and construction shall be clearly marked to caution operators. The developer is required to notify the Tree Warden to ensure this occurs.
  13. A guarantee or performance bond or escrow agreement must be posted in an amount to be determined by the Director of Public Works and approved by the Town Administrator to ensure satisfactory completion of the landscaping plan as submitted and approved.
  14. A note needs to be added to Sheet C-3 of the Site Plan sequence of operation that no rock crushing or processing of stone will occur on site.
  15. The recommendations of the Durham Conservation Commission in their letter dated June 18, 2007, shall be incorporated in the management plan and deed.
  16. The language required by the Town Attorney in the correspondence dated June 15, 2007, will be incorporated into the Condominium Documents, Appendix F.

Conditions to be Met Subsequent to the Signature of Approval on the Site Plan:

1. An age-restricted project consisting of a total of 66 units will be permitted in a combination of two (2) and one (1) bedroom units not to exceed the maximum density allowed by the Zoning Ordinance. Final figures will be approved by the Zoning Administrator and Director of Planning and Community Development.
2. There will be no increase in density allowed or any further subdivision allowed for this application.
3. The Construction Plan dated May 7, 2007, must be followed and the hours of construction will be from 7 AM – 6 PM. Blasting shall occur only between the hours of 9:00 a.m. and 4:00 p.m. No processing or crushing of rock or stone shall occur on site.
4. As-built construction drawings, plan and profile, of all infrastructure improvements shall be submitted in electronic and paper copy at a scale of 1" to 20', including, but not limited to:  
Underground Utilities (sewer lines, storm drains, water lines, electrical, phone, cable, natural gas lines, etc.)  
Drainage ways, ditching, impoundments, swales, etc.  
Road construction.
5. Preservation of Natural Features and Amenities - Grading and clearing should be minimized so as to avoid creating undue erosion or interruption of natural drainage ways. Particular attention should be given to natural features suitable as buffer strips between residential subdivisions abutting commercial or industrial areas. Similar natural features that provide buffers between lots, or sections of a development should be preserved to enhance privacy and attractiveness. Provision for clearing may be made for southerly exposure for solar access to dwellings or buildings. Developers shall use construction methods which cause the least disturbance to the environment possible. No cut trees, stumps, debris, junk, rubbish, or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of issuance of a certificate of

- occupancy, and removal of same shall be required prior to issuance of any certificate of occupancy. Nor shall any debris be left or deposited in any area of development at the time of expiration of the performance bond or dedications of public improvements, whichever is sooner.
6. Prior to the issuance of a Certificate of Occupancy for a building or structure on any lot within a subdivision, at a time determined by the Code Enforcement Officer, three (3) copies of a certified plot plan shall be filed with the Zoning Administrator. The plot plan shall be prepared by a professional surveyor, engineer, or architect and shall be signed and sealed by the professional(s) preparing the plan. The plot plan shall show the post development conditions of the lot including, but not limited to, the following information:
    - A. The actual lot layout, dimensions, and lot area.
    - B. The required setbacks for the zone in which the lot is located and the actual setbacks of the building(s) and structure(s) as constructed.
    - C. The actual location of the building(s) on the lot including the building footprint and any appurtenant structures such as decks, porches, basement entry door structures, sidewalks, driveways, and aboveground utility facilities.
    - D. The actual location of underground utilities such as septic systems, wells, water, sewer, and gas lines, electric, phone, and cable facilities, and stormwater drainage systems.
    - E. The location of any significant natural features on the lot such as wetlands or floodplains, any required setback or buffer from the natural feature, and the actual setback or buffer provided.
  7. During the development and construction process, wooded natural and non-wooded natural areas will be manipulated to maintain a healthy vegetative cover to maintain the soil structure, minimize soil erosion and enhance the quality of the proposed community. In wooded natural areas, the healthy forest cover will be retained to reduce the amount of stormwater running across the ground surface.
  8. A biennial report on the monitoring of the open space shall be provided to the Department of Planning and Community Development.
  9. The developer and the Condominium Association are required to follow the maintenance and installation of the porous asphalt. The specifications are hereby incorporated into these Findings of Fact and Conditions of Approval by reference.
  10. If water pressure should become a problem for the area as a direct result of this development, and as determined by an independent engineering review paid for by the Condominium Association at the request of the Town, it shall be the responsibility of the developer and/or owner of the development, to fix the problem at their own expense within the bonding period.
  11. All utility piping and wiring shall be located underground.
  12. These Findings of Fact and Conditions of Approval shall be recorded with the Strafford County Registry of Deeds, at the applicant's expense, within seven (7) days of the Chair's signature.
  13. During construction, Madbury Road shall be cleaned as necessary, as determined by the Durham Public Works Director or the Durham Zoning Administrator/Code Enforcement Officer.
  14. Additional plantings of Western Red Cedar will occur at the western edge of the

property line. Two trees will be planted on Mr. Campbell's property line. Three to four trees will be planted on Mr. Cairn's property line. Location of trees on Mr. Campbell's and Mr. Cairn's properties will be determined after construction and in the winter with no leaves on the trees. The Western Red Cedars will be 8-10 feet tall.

15. Dr. Robert Roseen, or designee, shall be present to inspect the site and provide progress reports to the Code Enforcement Officer.

***Richard Kelley MOVED to approve the Findings of Fact and Conditions of Approval as amended, for the 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. Lorne Parnell SECONDED the motion.***

Mr. Kelley said that while he expected that there would be further debate on the issue, he had found that the applicants' proposed use of the easement was not unreasonable. He said from the time the parcels of land were bought, they were kept in their entirety. He said in order for the parcel to be utilized in Durham, the usable area calculations were critical. He said it was his opinion that the proposed use of the two parcels to determine density was not unreasonable, due in large part to the fact that the easement existed between the two tracts of land.

He said there was a quandary regarding the "contiguous" concept, and said they all had their own different definitions. He also said he had concerns about traffic issues, but said these didn't appear to have been shared by others on the Board.

He noted the concerns raised by abutters concerning the impact of the development on them, and said he agreed with this. But he said he didn't think the neighborhood, expanded out to 1000 ft, would be impacted. He said the development that was proposed would be on its own private driveway, so was its own neighborhood. He also said the applicant had been very willing to meet the concerns of the neighborhood, the abutters and the Planning Board. He said it was important to recognize that despite good intentions, the applicant couldn't make everyone happy, but had made strides to do this.

Councilor Needell said that regarding Mr. Kelley statement regarding the reasonableness and unreasonableness issue, he was not making a claim concerning this, noting that there were no criteria the Board was supposed to apply regarding this. He said he thought the focus should be on the contiguous issue. He said this issue was a threshold item and was discussed early on but should have been discussed more thoroughly. He provided details on this.

He said that regarding the idea of the Board having discretion as to how to treat this issue, he thought the issue never met the threshold of being a discretionary item. He said he thought there was a fairly simple threshold that was not met, - that this was not one lot, and that the two lots were not contiguous, so the Board did not have the right to transfer the development rights.

Councilor Needell also noted the provision of the Zoning Ordinance regarding taking the

strictest interpretation of the Ordinance, when there were different provisions that related to an issue concerning an application. He said he saw a conflict between the introductory paragraph in the Zoning Ordinance on the RA district, which spoke about maintaining the established character of the neighborhoods in this district, and the rest of the section on the district. He said he believed the character of the neighborhood would not be preserved with a single facility that essentially doubled the number of units in the neighborhood, and said he couldn't get over this as a threshold item.

He said he was not dissatisfied with the plan's design, and said if it were not for the neighborhood issue, he wouldn't have many objections to the plan. But he said that for him, it never got to that point, because he didn't feel the project met the requirements of the Ordinance.

Mr. Roberts said he supported the motion to approve the applications based on his reading of the purpose of the Zoning Ordinance and the purposes of conservation subdivision. He provided details on this. He said he was struck by the purpose of the Zoning Ordinance, and the direction of the planning community, which was saying that what the Town had done in the past was largely wrong in terms of how subdivisions were designed, - where huge areas were developed but no natural areas were protected. He said here now was one of the last areas of land available, one which if not developed as the applicants proposed, would be cut up and would not be available to the public.

He said this was an opportunity, and one that needed to be evaluated using very strict standards, in terms of shielding and setbacks. He said the developer had provided the neighborhood with rural screening in the RA district. He also said it concerned him that the building height, and the fact that the building would have 66 units was considered to be disruptive, when this was a permitted use in that zone. He provided details on this, and said the developers had read the Master Plan and the Zoning Ordinance, and had designed a development that allowed these units along with a natural area.

Mr. Parnell said he supported approval of the application, stating that it did fit with the Zoning in Durham. He said the Ordinance said multifamily, age restricted development was allowed, and said he felt this was an appropriate building, which would be good for the Town. He provided details on this, and said the developers had done a considerable amount of work to create a project that would be separated from neighboring properties.

Councilor Carroll said she wouldn't be voting on these applications, but said she had been present for almost all of the meetings where these applications was addressed. She said if she were voting, she could not support them. She said there were many positive things about the project itself, including the fact that it would be located in Town, would have an underground garage, and would result in preservation of some open space. But she said on the other hand, there were negative things about the proposed development, which although fewer and number, were more heavily weighted. She noted especially the scale of the building.

She said this project didn't fit into the RA district and she read out loud the purpose of this RA district. She noted that this purpose statement mentioned high density development, but

she said what was proposed for this site was off the charts. She said it was likely that there would be 120 people living on five acres, and said there would be a lot of cars. She said this represented very high density development, and said this just did not fit into the neighborhood, even though the neighborhood was one of Durham's "high density" areas.

Councilor Carroll said the proposed development was not consistent with, and would not maintain the established character of the neighborhood, and said she was concerned when the Town couldn't protect its neighborhoods. She said the buffers for the development were quite inadequate for the abutters. She said it would be wonderful if the project could be scaled down, noting that this was what the Board had heard from the neighborhood, and said it would then be an excellent development, and a win-win situation.

Councilor Carroll also said that as a member of the Town Council, she wanted to make note of what had not been said during the deliberations. She said she hadn't heard people, including those proposing this development or members of the Planning Board, say how they would feel if this project was located next to their property. She said she realized this had nothing to do with the Zoning Ordinance, but said that as a Town Councilor, she had to consider the whole Town and the individuals in it.

She also said that regarding the contiguous issue, the technique of transferring of development rights could be very useful. But she said the Town hadn't developed any provisions concerning this, So she didn't see how the shift could be made to put that amount of density onto one piece of land.

She said for all of these reasons, she wouldn't be able to support the project if she were a voting member.

Ms. Fuller said she would want this kind of development located near here if it meant that 11 acres of land were preserved so she could walk on that land. She said this was the way that Durham was going to be able to continue to preserve open space. She also said that given the history of these properties, she didn't see this situation as a transfer of development rights, and said she didn't see that it was going against the Zoning Ordinance. She said this would be a beautiful building, noting that if it were filled with student housing, she wouldn't feel the way she did about the project. She said this would be a community that would in some ways join the surrounding neighborhoods with the open space that everyone would be able to use. She said she was in favor of this project.

There was discussion on what the vote had been on the one lot/two lot issue several weeks back, and how many voting members there had been at that time.

Mr. Ozenich said that from the beginning, he had felt that the Board, together, had never said the two properties were contiguous. He said Councilor Needell had said that the Board had voted on this, but he said when he had reviewed this to see who had said what, they never used the word contiguous.

Councilor Needell said he wanted to make it clear that the vote the Board had taken didn't accomplish anything other than to continue the process.

There was further discussion on this issue.

Mr. Ozenich provided details on discussion throughout the review process on the one lot/two lot issue. He said that he couldn't go along with the project despite all the descriptions of what it would accomplish. He said the Board couldn't bend the rules concerning this, and said he therefore could not be in favor of approving these applications. He commended the applicants and the residents on the arguments they had presented.

Chair McGowan said he would vote in support of the project, noting that he had been one of the Board members who had voted in favor of allowing the density. He said he implicit in his understanding had been that the two properties were contiguous by virtue of the easement.

He said this was a creative project, which would enhance the overall area and would provide open space for the public. He provided details on this, and noted that there was enough buffering so that Adams Circle would be its own neighborhood. He said the building would be large, but said the architect had done his best to provide buffering, so that the building wouldn't look that large. He also noted that a lot of open space would be provided as a result of the development.

Mr. Kelley noted that Councilor Needell had said the proposed development was out of character. But he asked how the development would have been any different if it had been found that the parcels was contiguous. He also said, regarding Councilor Carroll's statement that the development didn't fit into the RA zone, that if this was true, then the Zoning Ordinance needed to be changed. But he said right now, the Ordinance allowed this project without variances. He also noted that although the majority of public testimony was not in support of the project, there were three members of the public, two of whom lived in the neighborhood, who had spoken in favor of the project.

Councilor Needell said the contiguous issue and the issue of being out of character with the neighborhood were totally related. He said one reason the project looked the way it does was that there were two parcels. He said a 5 acre parcel could not support this project, and said it was out of scale because it was artificially created. He said allowing one essentially sanctioned the other, so he didn't separate them.

Regarding Mr. Roberts comment on conservation subdivisions, Councilor Needell said that preserving a 12acre parcel was a great thing. He said that if one looked at the conservation subdivision regulations, there was a requirement that 30% of the usable area had to be preserved for such a development in the RA zone. He said this project had gone way above that, but he said one could either say the applicants were being very generous, or that this was an aberration.

He said to him, when conservation subdivision was envisioned for the RA district, the vision was that the density would be spread over 70% of the land area, and the 30% would be

reserved. He said that was not to say that someone couldn't preserve more, but he said in this instance the whole shape and design of the project was an aberration caused by the fact that there were two lots.

Mr. Roberts said putting a building on 5 acres of land that had been previously disturbed over several decades was very smart planning. He said the conservation land was extremely difficult in terms of its development potential, and was land where development should be avoided. He also said that if this were a single family lot, there would be no discussion, but he said this use was permitted, and also fit with the Master Plan. He provided details on this.

He said the placement of a multistory building in the RA district in a conservation subdivision was a contradiction in the Zoning, not in what the applicant had done. He provided details on this, and said it was one thing to want to change the Zoning, but he said this was currently permitted, and was what the Master Plan had suggested.

Mr. Kelley said that regarding the idea that the development could be spread over 70% of the land area, - there were also impervious surface ratios, which would limit this. He said about 5.3 acres would be allowed to be impervious on the entire lot. He also said he agreed that if there were a different configuration of the lot, one wouldn't see a design that would be much different.

Councilor Needell said he didn't see that this development was permitted by the Zoning Ordinance.

Mr. Roberts MOVED the question.

***The motion PASSED 5-2, with Richard Ozenich and Councilor Needell voting against it.***

**VI. Continued Deliberation on a Conditional Use Permit Application** submitted by Catherine Nadeau, Durham, New Hampshire for the rebuilding and expansion of a single family home. The property involved is shown on Tax Map 10, Lot 20-2, is located at 36 Dover Road and is in the Coe's Corner Zoning District.

Kevin McEneaney, of McEneaney Survey Associates represented the applicant. He said that at the ZBA meeting the previous evening, the variance had been granted to allow a single family use in the Coes Corner District. He explained that the ZBA had determined that only one variance request was necessary, from Section 175-53 of the Zoning Ordinance concerning the uses allowed in this district, since the Planning Board had previously approved a lot line adjustment. He said with this lot line adjustment, the house location would be moved and would meet the setback requirements that the applicants had previously needed a variance for. He said the Nadeaus still needed to obtain a conditional use permit because they wanted to expand a nonconforming use.

There was discussion as to whether the use was still non-conforming since the applicants had been granted the single family use.



Mr. Campbell said that at the time of the building permit, Mr. Johnson would consider this to be a legal non-conforming use because there would be an expansion of more than 50%

There was further discussion about this issue.

Mr. Kelley asked if a photo survey of the property had been completed.

Mr. McEneaney said it hadn't been, but would be provided as a condition of approval, by the time the building permit application was submitted.

Councilor Carroll said it would be good to be able to see these photos for educational purposes, as well as having them as part of this application.

Ms. Fuller noted that it would also be good if the Planning Board could see progress reports regarding the porous pavement installation and function for the previous application, for educational purposes.

### **FINDINGS OF FACT**

1. The applicant submitted an Application for Conditional Use Permit with supporting documents on May 23, 2007.
2. The applicant submitted a letter on May 23, 2007, authorizing Kevin McEneaney of McEneaney Survey Associates to represent her at the Planning Board meeting.
3. The applicant submitted a Sketch Plan on May 30, 2007, prepared by McEneaney Survey Associates Inc., Dover, New Hampshire.
4. The applicant submitted a Preliminary Design Document on May 30, 2007, prepared by Witcher Builders, Strafford, New Hampshire.
5. No members of the public were in attendance to speak on the application at the public hearing on June 13, 2007.
6. Thomas Johnson, Zoning Administrator/CEO, submitted an e-mail of concerns on May 31, 2007.
7. The Public Works Department submitted an e-mail of response on June 1, 2007.
8. A Variance request from Section 175-53 of the Zoning Ordinance was obtained from the Durham Zoning Board of Adjustment on June 19, 2007.

### **CONDITIONS OF APPROVAL**

These conditions shall be met within six months of the signing of these Findings of Fact and Conditions of Approval by the Chair of the Planning Board. If these conditions are not met within six months, the applicant must come before the Planning Board for review of the conditions:

1. A photo survey of the area surrounding the house and the shoreland buffer must be submitted to the Planning and Community Development Department.

Conditions to be Met Subsequent to the Signature of Approval on the Findings of Fact and Conditions of Approval:

1. The Findings of Fact and Conditions of Approval shall be recorded with the Strafford County Registry of Deeds, at the applicant's expense.
2. All permits must be obtained by the applicant from the Code Enforcement Officer/Building Inspector prior to the commencement of the work.
3. All building and fire codes must be met as determined by the Code Enforcement Officer/Building Inspector and Fire Department.

***Richard Kelley MOVED to approve the Findings of Fact and Conditions of Approval for a Conditional Use Permit Application submitted by Catherine Nadeau, Durham, New Hampshire for the rebuilding and expansion of a single family home. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.***

**VII. Deliberation on a Site Plan Application** submitted by Steven F. Kimball, Auburn, New Hampshire for the building of a 16-unit residential and a 4000 square-foot commercial, mixed-use building on a piece of property. The property involved is shown on Tax Map 2, Lot 6-0, is located at 20 Strafford Avenue and is in the Professional Office Zoning District.

**VIII. Deliberation on a Conditional Use Permit Application** submitted by Steven F. Kimball, Auburn, New Hampshire for the building of a 16-unit residential and a 4000 square-foot commercial, mixed-use building on a piece of property. The property involved is shown on Tax Map 2, Lot 6-0, is located at 20 Strafford Avenue and is in the Professional Office Zoning District.

The Board agreed that the deliberation on these applications could be handled together.

Mr. Kelley said he didn't believe there were outstanding issues the Board was waiting on .

Mr. Chagnon, the engineer for the project, noted that a question had been raised at the previous meeting concerning the life cycle of the porous pavement. He said that provided that the material underneath the top layer had not been compromised, this top layer could be removed and replaced periodically.

Mr. Kelley said he could support the current site plan, but said he could not support the conditional use permit application without some provisions to prevent the retail sale of alcohol. He said he was basing this position on the testimony of abutters as well as on comments received from the Police Department.

***Councilor Needell MOVED to release the letter from the Board's Attorney. Richard Kelley SECONDED the motion.***

Mr. Roberts said he supported the release of the letter, because the Attorney had not said it was privileged information in this instance.

Mr. Kelley said he was reluctant to get into the process of releasing information, although noting that this didn't bother him in the present situation. But he said the concern was that there would be pressure to do this in the future.

There was further discussion on this.

Mr. Campbell said the Planning Board didn't need to feel it had to release an attorney's letter or not release it. He said there was not an issue of a possible precedent being set.

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

Councilor Needell said the Board had heard from the abutters that alcohol should be banned , and that the type of retail business in the commercial space should be subject to review by the Planning Board or the Technical Review Committee. He said Attorney Mitchell's letter said there could be restrictions on alcohol sales, but there would have to be credible evidence for doing this. He also asked what criteria the Board would use if it were to restrict the kind of retail businesses that could occupy the commercial space.

Chair McGowan said he didn't think the Zoning Ordinance spoke regarding the issues of alcohol sales and retail sales, and said he wasn't sure that the Planning Board should be policing this issue.

Mr. Kelley said he felt the Board was only given this purview because there was as conditional use permit application involved. He said this raised the bar to a much higher level, noting that such things as fiscal impacts came into play. He said if there were alcohol sales, and this went on at late hours, the police would be required to be around during that time period.

Mr. Parnell said that regarding restricting retail businesses, the Board was talking about putting restrictions on what were private property owner rights. He said this was not the business of the Planning Board if it was not in the Zoning Ordinance. He also said that regarding the alcohol issue, the Board should be specific, and said he would support a prohibition of beer for consumption off site.

There was discussion on this approach. There was also continuing discussion on what role the Planning Board should be playing concerning this issue

Mr. Campbell said the Board had adequate evidence, from the police and from neighbors that these problems already existed, and that allowing the sale of alcohol would make the problems worse. He noted that the issue of foot traffic in the area was related to this. But he said whether this was the proof the Board needed in order to make a decision on this issue was another thing.

Mr. Kelley noted the videos of the student riots in the past had indicated that some of the problem areas were in and around where alcohol was sold. He said what concerned him more than the issue of foot traffic was the creation of a place for young adults to congregate in pursuit of alcohol. He said he had not doubt that police presence would be required for such a situation.

Mr. Campbell said the Board didn't want to put the applicant at too much of a disadvantage. He also noted that there might need to be some changes to the Zoning Ordinance regarding this issue.

Councilor Carroll said the Board was not obstructing the applicant in wanting to look at this issue. She noted that convenience stores were more appropriate in the Central Business District.

Councilor Needell said he was not sure a provision restricting alcohol sales could be put in the Zoning Ordinance, since alcohol was regulated by the State. He said the reason it was being considered here was that this was a conditional use application. He said it was not the sale of alcohol per se that the Board was trying to eliminate, it was the impact on the neighborhood that would be caused by the use.

He said if alcohol sales were allowed, this would be hard to justify in terms of the fiscal impacts and the impacts on the neighborhood, - things which needed to be considered as part of the conditional use permit process. He said if this were simply a site plan application, involving a permitted use, there would be a different discussion taking place now.

Mr. Kelley said he didn't want to prohibit alcohol, he wanted to eliminate the possibility that the sale of alcohol could contribute to detriment of the neighborhood, or create fiscal impacts. He said it would be a good idea to see if Mr. Kimball had a problem with where the Board was going with this line of thinking, and if he could live with this.

Mr. Kimball said if there were broad language that was developed concerning this, he would have to look at it very carefully, because he wasn't sure what the impacts would be. He said narrower language would be easier to assess. He said he had heard the discussion on how a specific problem area, - beer and malt liquor beverages, typically chilled and sold for immediate consumption, could be addressed.

He said language that prohibited this kind of alcohol sales would leave open the possibility of having something like a gourmet wine and cheese shop, which focused on a different clientele. He said if he had to accept some kind of restriction, he would like it to be something focused at the alcohol problem the Board had described.

Mr. Roberts noted that the evidence of the possible impacts the Board was concerned about was available now, and said the conditional use permit process was designed to prevent these kinds of impacts.

Mr. Kelley recommended that under the Findings of Fact for the Conditional Use permit, there should be wording “prohibit retail sale of beer and malt liquor beverages.”

There was discussion that the conditional use evaluation concerning the wetlands on the site could be addressed under the site plan review application deliberations.

Mr. Roberts suggested that a Finding of Fact for the conditional use permit application could be data on some of the impacts resulting from student alcohol issue in Durham.

Mr. Kelley said given what the applicant had just said, he didn’t think that would be necessary.

Mr. Parnell said the letter from Attorney Mitchell should be added to the Findings of Fact for the conditional use permit application.

There was further discussion as to whether the Board should address the issue of restriction of retail.

Mr. Kelley questioned where the process was spelled out that allowed the Board to do this, and what such a restriction would be based on.

Mr. Roberts said the Board should say that the site plan review criteria would address this, in a way that create no additional hardship on the applicant.

Chair McGowan noted that at least with beer sales, there was some evidence as to why restrictions were needed. But he questioned whether there was such evidence for restricting retail.

Ms. Fuller said it would be onerous for someone renting a space to have to undergo site plan review. But she said some restrictions could be put on retail businesses, for example, a restriction of the hours when a wine and cheese store could be open.

There was discussion by the Board on the fact that site plan review was required when there was a change of use of a property.

Mr. Campbell provided details on this. He said it would help if the applicant would indicate whether a space would be designated for retail or office so it would be known what was going in there, what the parking requirements were, etc. He said if there were then a change of use, this would come back to the Board.

Mr. Chagnon said this was a specific site plan. He said any use that was allowed in the Zoning Ordinance, except the one the Board had just talked about, could be looked at, at the time the code enforcement officer was involved with a fit up request with a potential tenant. He said if a use was allowed in a zone, the Town had determined there would be no detrimental impacts.

Mr. Campbell said that would be true if this building was going to be a stand alone use, but he noted that there would be mixed use, with retail down and residential above. He provided details on this, and noted that the commercial use in this situation could be either retail or office.

Mr. Kelley said the Zoning Ordinance might cover this, noting that convenience stores with gasoline sales were defined. He said it would not be a stretch to say that a convenience store had alcohol sales. He said this type of retail establishment had been separated out. He said the type of retail establishment didn't concern him that much, other than the alcohol aspect. He said he didn't feel any further restrictions needed to be put on retail in this instance. He said it would be fine if a retail establishment of some kind catered to students.

Ms. Fuller said she agreed, but she said the hours of operation should be considered. She said the kind of retail they were generally thinking about generally wouldn't stay open to all hours of the night.

Mr. Parnell said he felt this was going beyond the powers of what the Board should be considering.

There was discussion on this, and on what criteria would be used if this came back to the Board later.

Councilor Carroll said the Board hadn't yet talked about protection of the wetland buffers, and the recommendations of the Conservation Commission concerning this. She said these needed to be looked at carefully. She noted a paragraph from the Commission's June 5<sup>th</sup> letter that it was hoped a "...compromise will be crafted to reduce the size of the project to reduce the impact on the Wetland Overlay district."

She said easily half the site was within the wetland overlay. She noted that when the Gables had extended its parking lot, which involved filling in some wetlands, it had not been able to rent all the spaces. She said neighbors there had also experienced a reduction in the wildlife, and more lights because of this extended parking area.

She said things had been shifting at the University, noting that it hadn't rented nearly as many parking spaces as it had in the past. She said this proposed development would be in the center of Town where traffic wasn't wanted. She also read from the Wetlands Conservation Overlay section of the Zoning Ordinance, which said the best protection for the water quality of a wetland was having an upland wetland buffer. She questioned the idea of destroying that because of the parking spaces.

Mr. Kelley said he had been surprised to see how much area was within the Wetlands Overlay district. He said what had alleviated some of his concerns was the proposed drainage system, which would allow the recharge of groundwater, and would maintain the hydrology that would allow the wetland to thrive. He noted that he had walked the site, and said he felt the wetland was somewhat limited in value, given its size, the fact that it was isolated, and its location.

Councilor Carroll said her concern was that the Board should not limit its value anymore than had already occurred, and instead should improve it and make it a healthier ecosystem.

There was discussion as to whether a compromise could be reached with the applicant concerning this. It was noted that the entire parking lot was within the Wetland Overlay District.

Councilor Carroll asked if this meant that perhaps the project shouldn't be built, because this was not an appropriate piece of land to build on.

Councilor Needell noted that the applicant had recently offered a reduction of parking spaces. He asked Mr. Kimball how many parking spaces he actually wanted.

Mr. Kimball provided details on the fact that he had come up with 47 spaces, and said he felt he was making a compromise in order to reduce the impact on the abutters and the wetland overlay.

Mr. Chagnon said the Conservation Commission had struggled with the thoughts Councilor Carroll had expressed. He said the Commission voted to recommend approval, but did include a paragraph that making the project smaller would be better in its eyes. He said one of the things that led to the letter indicating approval, and putting the issue back with the Planning Board, was that this was not a site that was vacant, but was currently developed and had a driveway. He said the Zoning Ordinance allowed the proposed density, and said given the uses proposed, this was a reasonable use of the property. He said he felt a reasonable use and balance had been found, given the site.

Mr. Campbell said for 16 residential units, each with 3 bedrooms, there would be 48 people, which meant there would be 24 residential parking spaces. He said 18 commercial spaces had been proposed, but the applicant had asked for an additional 5 spaces that would be set aside for employees.

Chair McGowan said the Board would not be able to complete its deliberations on these applications that evening, so they should be continued to a future meeting.

Councilor Carroll suggested that Mr. Kimball talk to the UNH transportation office concerning transportation trends. She said as the price of gasoline went up, students couldn't afford to drive as much. She said public transit was being used a lot more now, and she noted that there were many students who would love to live close to the downtown so they could walk places. She said she felt reducing the number of parking spaces was quite feasible, and said she hoped some kind of compromise could be worked out to protect the wetland buffer.

Councilor Needell noted that the issue of on site management would still need to be addressed when the deliberations were continued.

***Richard Ozneich MOVED to continue the deliberations on the Kimball Site Plan Application and Conditional Use Permit Application until July 11<sup>th</sup>, 2007. Richard Kelley SECONDED the motion, and it PASSED unanimously 7-0.***

Mr. Kimball granted a 60 day extension for the applications.

**IX. Other Business**

A. Old Business:

**X. Approval of Minutes – May 9, 2007, May 23, 2007**

Postponed

**XI. Adjournment**

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

Adjournment at 10:30 pm

---

Susan Fuller, Secretary