

**PEMBROKE PLANNING BOARD
APPROVED MINUTES OF MEETING
TUESDAY, JULY 24, 2007**

MEMBERS PRESENT: Roland Lemoine, Chairman; Robert Bourque, Vice Chairman; Cindy Lewis, Selectmen's Representative; Alan Topliff, Todd Terrien, and Mark Zydel
ALTERNATES PRESENT: Kevin Krebs, Kathy Cruson
EXCUSED: Member Kevin Foss, Alternate Member Dan Crean
STAFF PRESENT: Laura Scott, Director of Planning, Jocelyn Carlucci, Recording Secretary

Chairman Lemoine opened the meeting at 7:00 p.m. He then appointed Kevin Krebs to vote in place of Kevin Foss and acknowledged that Laura Scott was stepping down for the following case.

Conditionally Approved Application

Major Subdivision Application. Case #04-13. Map 634 Lot 45 (Pembroke 600):
Receive Status Report on Planning Board Conditions of Approval

Dan Scott, representing Pembroke 600, introduced Attorney Donald Gartrell, Jody Keeler, Realtor, and Kristen Bacon, Project Manager working on Pembroke 600's behalf.

Dan Scott said that on July 17, 2007, Pembroke 600 Corp. submitted a 28-page fax to Laura Scott (enclosed in the Member packet) outlining project details.

Vice Chairman Bourque asked what portions of the project (i.e. engineering, DOT, etc.) had been completed since their June 26, 2007 meeting with the Board.

Mr. Scott said that there are ongoing conversations which are necessary to complete the plans and that those conversations must include the Town.

Attorney Gartrell of Gallagher, Callahan & Gartrell, introduced himself and began with a short background of his experience and his approach to this project. He indicated that he had been town counsel to several towns, was a zoning board chairman, has represented developers throughout the state, and has 39 years experience. He indicated that he was hired approximately one month ago and has, since that time, reviewed a myriad of documents and has met with Mr. Scott after reviewing the Planning Board's June minutes. He said that he met with Troy Brown and spoke briefly with Dan Crean regarding the sewage capacity issue. At his first meeting with Mr. Scott and Ms. Bacon, he stressed to them that there needs to be a checklist that identifies the necessary steps to be completed in order that the Board has a final product to sign off on. He stressed that there are Town roles that must be done in order to allow the developer to go forward. For example, he pointed out that this case is not a traditional subdivision. It's a preliminary site plan review which has all the elements of infrastructure development, as well as tying into existing utilities, etc. He pointed out that the Sewer Department has jurisdiction

over the allocation of sewage capacity and the sewer capacity which was given to this developer runs until the end of year. He said that the Board gave a conditional subdivision approval, but, contrary to the Town's regulations, it was for less than one year. The subdivision regulations contemplate that there will be a year's time for the conditions of a subdivision approval to be fulfilled.

He said that there is a state highway interchange issue that must be integrated in the plan. This is a plan that existed when Mr. Scott's company bought the property. The applicant's attraction to the parcel of land was that he could see what his role would be in fulfilling the Town's plan to create this new district.

Shortly after that, his plans were cut substantially because he could not develop the whole site that he had acquired because of the sewer capacity issue. The second element, which is a matter of record, administered by the Town is the TIF District. He noted that the Town has outlined in its plan the purpose and use of the TIF money. The Associated Grocers and Pembroke Crossing developments did not require the same kind of integration of a State highway with a Town road. Attorney Gartrell said that a developer cannot build a private driveway into a signaled State highway intersection. The State requires that the Town own the road that joins the intersection, which, in turn, requires a layout, under the statute, by the Selectmen. The definition of what is to become the Town road is not delayed until it is built, it is defined early in the project. How it is built is between the Town and the State.

He said that the Town has a role of being onboard with the definition of the portion of the road that will become a Town road, and the supporting infrastructure (i.e. utility crossings, drainage swales). Everything that goes into the boundaries of a Town road is a Town issue. For a developer to be asked to produce final plans as a condition of getting final approval without having the input of the Town, at least conceptually, to approve the plan and all the elements of infrastructure, is putting them in a revolving door. He noted that the applicant needs to have the Town engineers, with approval from the Selectmen, to work with the applicant's engineers to get the final conceptual layout for the Town portion of the road and infrastructure.

On the plans which are developed to date, it shows Town water and sewer connections that are on State or Town highway land. Those things must be cleared by the administrations before they can be approved and finalized. In order to get the final design approved, they need conceptual input from the Town authorities and Sewer and Water Departments. Unless there is a final concept to which the applicant can create a design, it is extremely difficult.

Attorney Gartrell pointed out the portion of the entrance road on Mr. Scott's map that needs to be built. He said that there is a whole system that has to be designed and approved. Although the applicant has what he thinks is a workable conceptual design, the Town must sign off on the elements that encompass the Town road. They also need to get Water and Sewer to sign off on what is proposed for connections.

From the beginning, this is an entrance for a development to other parcels such as the Keeler property. The Town's plan should address the ultimate connection of all those other facilities. The applicant is trying to follow the Town's zoning laws but need help with the coordination in order to put the steps in order. He further stated, that for example, if the Town addressed all the issues conceptually, then they could give the plans to engineers for finalization knowing that all parties are on board. The State has already reviewed the plans and does not seem to have any problems with them. The problem is that the State does not want to deal with anyone but the Town with regard to where the highway and the Town road intersect. The Town has to have a layout and design that's acceptable.

Attorney Gartrell said that the Town adopted a TIF plan which specifies how the area will be developed and how the revenue derived from this district would be used. It mentions, among other things, that the revenue would be used to produce more employment or tax base and the tradeoff was that there would be bonds that would be issued for infrastructure costs that would support the commercial/industrial development in this area. To his knowledge, there is no commitment and to have a bond issued, it would have to go to Town meeting.

Attorney Gartrell pointed out that to put all the pieces in an orderly manner and give meaning to what the TIF plan says, this developer is caught in another revolving door because there was an inducement with the rezoning and with the TIF plan in which the applicant participated in, in the beginning, with the expectation that the Town was going to do something about the infrastructure costs and not pass the costs onto each developer.

He said that his impression, to this point, is that there is no Town commitment to fund any of the infrastructure that would go on this developer's land to create the entrance road which would make it possible to join the other parcel's of land in order to create the development. He said that the State deals with Towns regarding the cost of signaled intersections, not developers. He said that he spoke with Troy Brown in depth about these issues.

Attorney Gartrell said that the applicant has spoken with all the engineers and they are ready once there is a final consensus about the conceptual plan. He suggested that the applicant meet with the Town engineer and the Board of Selectmen to finalize the conceptual plan.

The one change that seems to be anticipated is with Tennessee Gas pipeline. They do not want to go through the State right away. He reiterated that there needs to be a checklist that involves input from the Water and Sewer Departments and the Town. He said that the State highway people have been cooperative and have indicated ways that the applicant can deal with any concerns that the State may have.

Attorney Gartrell said that there is a box of land around the intersection that is owned by the State, where the Town road will be joined. There are portions of that land that is unnecessary to the highway function. Mr. Scott would like to acquire some of that land

and has indicated a mechanism to do that. It would involve giving up two curb cuts to create the right of access. The issue is that the Town has the right of first refusal to State land. They will need Town participation to do that.

Chairman Lemoine said that from the beginning the applicant was the big initiator of the TIF. The Town voted to put the TIF in place but in the last two years the Board of Selectmen recommended to fund the TIF with up to 10% of the tax that was generated to be used for engineering purposes. The Board has seen highway plans from engineers that were given to the State numerous times. At one time there was a plan to subdivide the parcel into four lots. The Board is presently wondering what the status of this project is. He noted that other people have wanted to come into Town but we are holding 35,000 gallons of sewer capacity for Pembroke 600.

Attorney Gartrell explained that there were inducements for the applicant to come in with a plan for this development that were curtailed from outside of the applicant's control. To continue with this plan, there is input and commitments that are necessary from the Town. The TIF was an inducement for the applicant. None of the things that were supposed to be done with the TIF has been done and that is a financial burden to the applicant. He added that to give a final plan without a conceptual approval from the Town and Water and Sewer Department is placing the applicant in a Catch 22. Unless they have a conceptual plan that everyone signs off on, it is a waste of time and money.

Chairman Lemoine stated that his understanding is that the Water and Sewer conceptals were already done and accepted.

Attorney Gartrell said that he did not feel that I-89/I-93 plan is a viable issue.

Selectman's Rep. Lewis said that the Board did not extend the road to the edge, they merely allowed the applicant to bring it in to get to their development. The information was already given, because the applicant was here for a year in the process when everything was reviewed.

Attorney Gartrell reiterated that what they are looking for is a final signoff on the conceptual plan from the Town engineer.

Vice Chairman Bourque said that some of the specifics such as the drainage swales were left open with the applicant because the Board did not know how DOT was going to accept the intersection of that road to Rt. 106. He said that the Board did not want to restrict the applicant in case DOT said the design had to be changed. The Board wanted DOT to tell them what they would accept first. He asked what the initial date of approval was.

Attorney Gartrell said September 26, 2006.

Member Topliff said that his understanding of why the Selectmen did not fund the TIF was because there was no additional sewer capacity and there was nothing to spend the

TIF money on. It was also his understanding that if a project came before the Town that could make use of the TIF funds, the Selectmen would recommend to the voters to place TIF money aside. The TIF funding should not impact Mr. Scott's ability to come to the Board with a plan that recommends and seeks TIF funding. He said that he would think that if the applicant did that, then the Selectmen would recommend to the voters to set money aside for that purpose.

Attorney Gartrell quoted from the Plan, for the record, that "the Town of Pembroke proposes to construct the following improvements within the Soucook River Development District. First, a paved access roadway commencing at the intersection of Route 106 and Route 3 continuing southerly and easterly (describes the 2,010 linear feet) to a connection of the roadway to be constructed by Associated Grocers of New England. Second, intersection improvements and signalization of Route 106. Third, storm water drainage associated with the roadway. Fourth, extensions of municipal water lines within the roadway. Fifth, extensions of municipal gravity sewer lines." He said that these are specific purposes for the TIF plan that could be done and many of the elements are here but there is no suggestion that the Town is willing to do that.

Member Topliff said that he believes the Town is waiting for final plans from Mr. Scott.

Selectman's Rep. Lewis said that there are two separate issues: (1) This Board has no involvement with the TIF and that the Board has been clear on that from the beginning; and (2) Anything that was approved by the Board was based on the fact that the Town engineers, Water, Sewer, Police, and Fire were okay with it. The Board has never said that the Town was paying for any of that because the Board does not have that control.

Chairman Lemoine said if the Board approves the final conceptual and the State says there are things that have to be changed, the applicant would have to go through the entire process again.

Attorney Gartrell said that the applicant will be soliciting the State's participation in all these conceptual things so that it will be done just once. The applicant is asking for an extension of time to get it done. He stressed that to go through the steps of drawing final plans is very costly unless everyone is on board with what we are designing to.

Chairman Lemoine asked if Mr. Scott and Attorney Gartrell had any discussions with Troy Brown.

Mr. Scott and Attorney Gartrell said yes.

Chairman Lemoine stated that he did not have any information regarding those discussions. He suggested that if the applicant is dissatisfied with the discussions to this point, they may want to speak with the Selectmen before returning to the Board since the Board has received no correspondence indicating what was talked about.

Attorney Gartrell said that they spent approximately one hour with Troy Brown discussing the history and the situation about the TIF and sewer capacity. He indicated that the applicant has proposed a timeline. He reiterated that if everyone can meet to get a conceptual understanding on the plans, they can go to final design. They have been assured by their engineers that they would have their designs back within a month. The applicant will also work with DOT through the process and then the smaller subjects such as drainage easements, will fall into line once everyone agrees on the plans.

Chairman Lemoine questioned if Attorney Gartrell said that the Town needed to make a commitment on the road with regard to easements. He asked if the Selectmen had been notified?

Attorney Gartrell said that the Selectmen have seen some plans and that the Town engineers had comments in their report about a hall road to get down to a drainage swale area that is shown on the plan. All is on the applicant's property but supports the Town road.

Chairman Lemoine asked if that had gone to the Selectmen yet?

Attorney Gartrell said not to his knowledge. That is why he feels that the applicant has to talk to the Selectmen about the layout process. They need to talk to the Town engineers about the supporting structures. The layout is just the roadway itself. All these things are vital. He had the impression in talking with Troy that he did not appreciate the extent to which the State looks to the Town in terms of having the connecting road which comes into a State highway interchange. It is routine with the State. Everything about the Town leg on that intersection involves Town input and Town approval.

Member Zydel asked if the Town has seen anything from the State regarding this? Is there a letter of approval from DOT?

Ms. Bacon said it was enclosed in the member packets.

Selectman's Rep. Lewis said that when the Board approved it, it was conditional on DOT approval but the Board had not seen anything back.

Vice Chairman Bourque said the only thing we have is the October 24, 2005 letter to Laura Scott from DOT which says "The conceptual plan to locate the main access directly opposite the Route 106 approach to the existing signalized intersection has been favorably reviewed by the Department." There was nothing as far as prints.

Attorney Gartrell said that he is mainly trying to get the project done and that, although the steps seem to be small at this point, they are very important and very detailed.

Member Topliff referred to the bulleted memo marked "On-Site" dated January 30, 2006, entitled "Approvals to Date for Pembroke 600". He asked if the items listed such as

Verizon, Public Service of New Hampshire Distribution, etc. have actually been approved or are they conceptual approvals vs. final approvals.

Vice Chairman Bourque said that it meant that those entities would support the project at the applicant's expense.

Mr. Scott explained that originally the project was introduced as merely an onsite project, but as a result of the condition to design the intersection that the Board placed at the review process, they had to hire CLD to design a set of plans that was 90% complete as far as being used for construction purposes. Those were the plans that were approved (conceptually) by DOT. His plans are almost final. DOT gave the applicant some minor conditions to the approval such as changing the light poles currently in the intersection area.

Mr. Scott said that his entire design has gone way overboard with regard to future roadway because of the TIF District issue. They have spent a lot of time developing a roadway for the future and the reason for him bringing the present plan illustration to the Board was to show the intensity of the grading which has to be done to support the roadway into the parcel.

Chairman Lemoine asked if the applicant is looking for the Town to take care of the road improvements for the State intersection.

Mr. Scott said he was only looking for an approval tonight. He is willing to go forward to get the plans done. He needs to have sales to support building the entire intersection, which he does not presently have.

Chairman Lemoine said that the Board was not planning on doing off-site improvements.

Selectman's Rep. Lewis agreed.

Mr. Scott said that when they met with the TIF committee, they were in support of something along those lines. However, they became overwhelmed with the regulations between the State and the Town. Troy tried to help them get things in order. He said that there is only a small portion of the Tennessee Gas pipeline that will need to be moved.

Attorney Gartrell said they are not expecting the Town to do offsite improvements, but he did want to point out the section of the TIF that specifically points out signalization at the intersection. He realizes that the decision for that is up to the Town

Chairman Lemoine said that the first step is to meet with the Town.

Attorney Gartrell said that that is not part of the timeline for the end of the year. They want to get plans finalized and blessed.

Vice Chairman Bourque asked when their current extension runs out.

Chairman Lemoine said today.

Vice Chairman Bourque suggested that an extension to October 23, 2007 at which time all portions that have been completed to this point and to October 23, 2007 would be documented.

Member Zydel asked what their timeline was?

Attorney Gartrell said they were proposing to the end of the year to get the plans finalized and to bring them back to the Board for approval. He noted that they have until the end of the year for the sewer capacity. He said that according to the conditional subdivision regulations, they would have one year which would run to September 26, 2007. He feels they can get the job done if they are given an adequate amount of time.

Member Topliff wanted to clarify that the Board's intention was not to interfere with Mr. Scott's plans but rather because of the sewer capacity issue, which precludes any further commercial development without building a sewer system, the Board wants to see some progress by Pembroke 600.

Member Zydel asked what the other alternatives would be if the project did not receive TIF financing.

Attorney Gartrell said that hopefully they would find a buyer/tenant. They may have to foot the bill themselves if they wanted to get this off the ground. There are a number of sub-issues that must be dealt with in order to get financing.

Alternate Member Krebs asked if the Town had a list indicating where the 35,000 gallons of sewage capacity would go if it was not used by Pembroke 600.

Chairman Lemoine said it would be on a first-come, first-served basis.

Member Topliff asked if it would be appropriate to ask for a monthly progress update.

Member Zydel asked what the applicant was targeting for the end of the year.

Mr. Scott said that they have prepared a schedule (which in the member packet) outlining a timeline. They are hoping to set up a meeting which will result in a design conceptual plan. He pointed out that when Laura Scott was involved, they were moving along, but when Troy Brown became involved, there was an orientation period and things began to move more slowly.

Chairman Lemoine said that any improvement updates should go through Troy Brown and that Troy should give the information to the Board. Laura Scott is the contact for anything else. Chairman Lemoine will convey this to Mr. Brown.

Attorney Gartrell said he apologized if the Board was expecting anything in writing about the project.

Chairman Lemoine said that he would like to be update with any correspondence that is received so that the applicant does not have to meet with the Board every month until the date that the Board decides on. It will allow the applicant to meet with Mr. Brown and the Selectmen to talk about this project.

MOTION: Vice Chairman Bourque moved to extend Pembroke 600's deadline to October 23, 2007 with the following condition: (1) any improvement or progress that is made toward the applicant's full approval (DOT, engineering, etc.) will be forwarded to the Board through Troy Brown, Town Administrator; (2) the Board will request that Mr. Brown send all correspondence to the Planning Board; (3) an outline of all progress and improvements that have been made to this date (July 24, 2007) and to October 23, 2007 be documented and submitted to the Planning Board. Seconded by Member Topliff.

Alternate Member Krebs asked if October 23, 2007 was long enough.

Mr. Scott said that October is also his target date.

Chairman Lemoine encouraged Mr. Scott to notify Troy Brown of any small improvements that are made so that Mr. Brown can inform the Board of their progress.

Member Zydel asked if HL Turner and CLD can complete the drawings in a month?

Mr. Scott answered that to the best of his knowledge, a month would be adequate.

Member Zydel when will the applicant get the plans to DOT?

Chairman Lemoine said that the Board has given the applicant until October 23, 2007 to complete the paperwork necessary to begin the project and, since the applicant is aware of the timeframe, he did not feel that it was up to the Board to set a date when they will have to submit their plans to DOT.

Member Zydel asked if the applicant is saying that they will have approval from DOT by October 23rd?

Vice Chairman Bourque noted that the applicant has three months to get their plans to the Town, KV Partners, and their engineers the submit them to DOT for approval by October 23, 2007. He said the Board cannot hold the applicant to that because if they were submitted in the middle of August and by October 23rd a decision has not been rendered by DOT, it is out of the applicant's control.

Mr. Scott said he realizes that it has taken a long time but they are doing their best to complete the process.

Attorney Gartrell said hopefully the TIF will come to life.

VOTE: Alan T. – Y Cindy L. – Y Roland L. - Abstained
Robert B. – Y Kevin K. – Y Todd T. – Y
Mark Z. – Y

MOTION TO EXTEND PEMBROKE 600'S DEADLINE TO OCTOBER 23, 2007 WITH THE FOLLOWING CONDITION: (1) ANY IMPROVEMENT OR PROGRESS THAT IS MADE TOWARD THE APPLICANT'S FULL APPROVAL (DOT, ENGINEERING, ETC.) WILL BE FORWARDED TO THE BOARD THROUGH TROY BROWN, TOWN ADMINISTRATOR; (2) THE BOARD WILL REQUEST THAT MR. BROWN SEND ALL CORRESPONDENCE TO THE PLANNING BOARD; (3) AN OUTLINE OF ALL PROGRESS AND IMPROVEMENTS THAT HAVE BEEN MADE TO THIS DATE (JULY 24, 2007) AND TO OCTOBER 23, 2007 BE DOCUMENTED AND SUBMITTED TO THE PLANNING BOARD PASSED ON A 6-0 VOTE WITH ONE ABSTENTION.

Ms. Laura Scott returned to the Board.

New Public Hearing

Minor Subdivision Application. Case #07-04. Map 563 Lot 31 located at 507 Pembroke Street in the Limited Office (LO), Home Business Overlay, and Architectural Overlay Zoning Districts. The applicant, Don Duval of Duval Survey, on behalf of PGL Builders, LLC, is proposing to convert the existing two-family dwelling into two attached condominiums.

Ms. Scott pointed out the following items included in the member packets: (1) a memo from Ms. Scott dated 07/11/07; (2) memo from KV Partners LLC dated 07/07/07; (3) a memo from Duval Survey dated 06/26/06; and (4) a set of plan showing the condominium subdivision.

Ms. Scott's noted that in her July 11, 2007 memo, Nos. 1, and 2a, were completed. The Sewer Department had no comments. All other departments have reviewed the plans and have no comments or they've been addressed already by the applicant. The only technical review comments still outstanding were from KV Partners. Although the list of items on this memo seems very long, she explained that everything associated with No.3 were only her technical comments regarding the condominium documents such as typos. They do not relate to the plan. There have been waivers requested by the applicant which is on the memo from Duval Survey. She also noted that Don Duval and PGL Builders are present.

Chairman Lemoine asked if there was a technical review? Ms. Scott said all the departments received a copy of the plans and came back with "no comments", the comments have already been addressed by the applicant, or are included in the KVPartner memo.

Chairman Lemoine said it was his understanding that he would be invited to all technical reviews. Ms. Scott said they did not have a meeting because Troy Brown canceled the department head meeting. It was suppose to be handled at the same time as the department head meeting. Chairman Lemoine restated that he was not notified and Ms. Scott reiterated that the reason he was not notified was because they did not have a meeting. All departments received a plan for their comments.

Don Duval, Duval Survey introduced himself as representative of PGL Builders, LLC. He said that the application is for a condominium conversion of an existing dwelling. There will be no changes to the dwelling, except they will extend the pavement 10' in order to get a second parking space. There will be a slight widening of the driveway entrance to the state highway. They presently have a State driveway permit but when being reviewed by Ms. Scott, she found that the permit is noted for an existing single family, rather than an existing two-family. Mr. Gary Lawrence has spoken with DOT and has asked them to correct the mistake which they agreed to do.

With regard to the comments by KV Partners, Mr. Duval said that the plan notes a "Proposed Retaining Wall". The wall will be made with "alan" blocks, approximately 2 blocks high for a total of 18" high. Considering the height of the wall, Mr. Duval did not feel it was necessary to have engineered drawings or guard rails. He said that if the retaining wall was an issue, the owner was willing to swale the property since the wall was merely for cosmetic purposes.

KV Partners noted an "appropriate turnaround area should be provided". The intent is not to add any more impervious area to the site. The notation regarding sidewalk modification does not apply. There will be nothing done to the sidewalk.

Chairman Lemoine pointed out that KV Partners noted that "no grading or construction details have been provided, therefore a review of the proposed construction . . .could not be completed." He noticed that the parking area, on the left, for the two cars is dug in.

Gary Lawrence of PDL Builders introduced himself and said that they dug in a little because the grading was against the wood frame of the house. They lowered it approximately one foot and will pave over it.

Chairman Lemoine stated that because of ground water, sometimes drainage is necessary.

Mr. Lawrence said he worked with the Water Department. He said that there was a footing drain that ran through the basement which they rerouted around the foundation and placed it back where it was. He has not seen any water buildup there.

Alternate Member Cruson wondered how the vehicle against the retaining wall accesses the space.

Mr. Duval said the same way that any other back-to-back parking space would be used – one car behind the other. There is no access to that parking space without moving the first vehicle.

Chairman Lemoine asked if the driveway area in the back was presently paved. Mr. Lawrence answered yes. Mr. Duval pointed out that they are proposing to extend the existing paving 10' for 31-B.

Chairman Lemoine asked how much of the area washed away in the last rain storms (for drainage purposes).

Mr. Lawrence said that the only thing that washed away is what was uncovered. Everything else was fine.

Chairman Lemoine asked if the proposed driveway widening would affect the sidewalk.

Mr. Duval said that he will have to redo it based on DOT's comments.

Vice Chairman Bourque pointed out that the applicant wants to make changes such as installing shutoffs, creating a wall, adding pavements without submitting any drawings.

Mr. Duval reiterated that the retaining wall will be 18" high. He said that KV Partners had to make an assumption of how high the wall was because there originally was no notation on the plans stipulating the height of the wall. He did not feel it would be necessary to require engineered drawings for a wall constructed of two landscaping blocks.

Ms. Scott said that the Water Department has signed off on their plans for the shutoffs and the applicant has gone through the proper steps with them. With the driveway, DOT granted them the driveway permit but made an error on the permit from a single family rather than a two-family. The driveway permit was granted for this configuration. They are proposing the additional paving for the rear parking space. She noted that KV Partners had to assume the retaining wall was a retaining wall and not 18" high because the height information was not provided.

Mr. Duval said that there is limited common area – the 2 parking spaces, everything else is mentioned in the condominium documents.

Chairman Lemoine asked if the condominium documents were submitted.

Ms. Scott said yes. Everything except the units themselves is shared.

Alternate Member Krebs asked what the reasoning was to change the building from a two-family home to condominiums.

Mr. Duval answered that there is a financial advantage. Each unit can be separately sold.

Selectman's Rep Lewis felt that the driveway presently functions poorly because it requires backing onto Route 3.

Mr. Duval said that they could construct a bump out for a turnaround (a hammerhead) behind the existing spruce trees to allow the vehicles to back up and drive onto Route 3.

Chairman Lemoine said he would like to see documentation that the retaining wall will only be 18" high.

Mr. Duval says it is already noted on the plans in his office.

Vice Chairman Bourque asked if parking area noted as 31-A allowed sufficient room to get the cars out from 31-B onto the road? Mr. Duval said yes and that if he created a turnaround, it could function as a second parking space.

Member Topliff pointed out that it would not be available to be used as a turnaround if it was a parking space.

Mr. Duval said that he could make the hammerhead larger to accommodate more room to turn around. He could place it behind the spruce trees up to the retaining wall.

Alternate Member Cruson asked Mr. Duval to clarify the topography from Pembroke Street toward the paved driveway to the setback.

Mr. Duval responded that it was flat and has a hump to get to the second parking spaces.

Alternate Member Cruson asked if there was any guest parking available. Mr. Duval said there was no requirement for visitors parking.

Ms. Scott clarified that two parking spaces are required for each dwelling unit for zoning and the applicant meets the requirements.

MOTION: Member Lewis moved to accept the application for review.

Vice Chairman Bourque asked that the waivers be considered before making the motion.

Chairman Lemoine noted that the June 26, 2007 letter from Donald Duval stated that they are requesting a waiver of Items I, K, L, M, N, O, U, and V of the Subdivision Checklist.

Vice Chairman Bourque read what the Checklist Items represented: I = topography; K = location of storm water culverts and catch basins; L = connection and location of water and sewer; M = surface water collection and discharge; N = soil types and boundaries and identification of wetlands; O = location of soil test pits used in environmentally sensitive areas such as wildlife; and V = agricultural.

MOTION: Selectman's Rep Lewis moved to waive Checklist Items I, K, L, M, N, O, and V. Member Terrien seconded.

Vice Chairman Bourque asked if they anticipate any additional storm water runoff. Mr. Duval said mathematically yes, practically no. He asked if the driveway had to be paved. Ms. Scott said that the driveway does not have to be paved as long as it is not a parking space. Mr. Duval said he could put a gravel driveway and a gravel turnaround. It will not be a parking spot. Vice Chairman Bourque felt that they would probably use the turnaround as a parking spot.

Ms. Scott said it is listed in their condominium documents.

Selectman's Rep Lewis said that she only cares that the residents will not have to back onto Route 3.

VOTE: Alan T. – Y Cindy L. – Y Roland L. – Y
Robert B. – N Mark Z. – N Kevin K. – N
Todd T. – Y

THE MOTION TO WAIVE CHECKLIST ITEMS I, K, L, M, N, O, AND V PASSED ON A 4-3 VOTE.

MOTION: Selectman's Rep Lewis moved to accept the plan for review. Seconded by Member Topliff.

VOTE: Alan T. – Y Cindy L. – Y Roland L. – Abstained
Robert B. – Y Mark Z. – Y Kevin K. – Y
Todd T. – Y

THE MOTION TO ACCEPT THE PLAN FOR REVIEW PASSED ON A 6-0 VOTE WITH ONE ABSTENTION.

Chairman Lemoine opened the public hearing at 8:40 p.m.

Bruce A. Lambert stated that he has no problem with what the applicant is proposing because it will increase property values in the area.

There being no further comments, Chairman Lemoine closed the public hearing 8:43 p.m.

Mr. Duval explained that he understood the engineer's letter to say that "should" anything affect the sidewalk, it should comply with ADA regulations. Mr. Lawrence explained that the entrance is not being changed, it is merely being paved to the sidewalk.

Ms. Scott noted the following items that the Planning Board would like from the applicant: (1) A corrected DOT driveway permit; (2) The retaining wall dimensional information be added to the plans; (3) The condominium documents be corrected; (4) A

gravel hammerhead/turnaround for Unit 31-A on the South side of the driveway be added; and (5) Change the plan to show that the applicant is not affecting the sidewalk.

Vice Chairman Bourque asked Ms. Scott if there were any other outstanding issues. She said no. He suggested that the Planning Board also require a signoff by KV Partners and that the hammerhead must comply with Pembroke's parking space requirement of 9' x 19'.

MOTION: Vice Chairman Bourque moved to accept the plan with the following conditions:

1. A corrected DOT driveway permit
2. Add the retaining wall dimensional information on the plans
3. Correct the condominium documents
4. Add a gravel hammerhead/turnaround for Unit 31-A on the South side of the driveway and it must comply with Pembroke regulations of 9' x 19'.
5. Change the plan to show that the applicant is not affecting the sidewalk.
6. Final signoff by KV Partners

Seconded by Selectman's Rep. Lewis.

VOTE: Alan T. – Y Cindy L. – Y Roland L. – Abstained
Robert B. – Y Mark Z. – Y Kevin K. – Y
Todd T. – Y

THE MOTION TO ACCEPT THE PLAN WITH THE FOLLOWING CONDITIONS:

- 1. A CORRECTED DOT DRIVEWAY PERMIT**
- 2. ADD THE RETAINING WALL DIMENSIONAL INFORMATION ON THE PLANS**
- 3. CORRECT THE CONDOMINIUM DOCUMENTS**
- 4. ADD A GRAVEL HAMMERHEAD/TURNAROUND FOR UNIT 31-A ON THE SOUTH SIDE OF THE DRIVEWAY AND IT MUST COMPLY WITH PEMBROKE REGULATIONS OF 9' X 19'.**
- 5. CHANGE THE PLAN TO SHOW THAT THE APPLICANT IS NOT AFFECTING THE SIDEWALK.**
- 6. FINAL SIGNOFF BY KV PARTNERS**

PASSED ON A 6-0 VOTE WITH ONE ABSTENTION.

Mr. Lawrence commented that he wanted to Board to know that Ms. Scott was exceptionally helpful with regard to this project.

Meeting Minutes – Review and Approve

- June 26, 2007 – minutes were discussed and revised.

- July 10, 2007 – minutes were discussed and revised.

MOTION: Member Topliff moved to accept the minutes of June 26, 2007 and July 10, 2007 as amended. Seconded by Member Zydel.

VOTE: Alan T. – Y Cindy L. – Y Roland L. – Abstained
Robert B. – Y Mark Z. – Y Kevin K. – Y
Todd T. – Y

MOTION TO ACCEPT THE MINUTES OF JUNE 26, 2007 AND JULY 10, 2007 AS AMENDED PASSED ON A 6-0 VOTE WITH ONE ABSTENTION.

Subdivision Regulations

Information/Research on Road Design Standards

Ms. Scott, at the request of the Board, researched other town road design standards. At Alternate Member Crean's suggestion, she reviewed the Town of Amherst and has enclosed their subdivision regulations in the member packets. She searched the Office of Energy and Planning online data, American Planning Association (APA) data, and other national websites. At a Board member's suggestion, she looked at Arizona and Oregon's information, but since they do not have state zoning, there was no website outlining the design standard unless the specific community name was known. She placed a request for information on an e-mailed list server that most planners and planning board members access. She did not receive information from any town that said that they did not allow cul-de-sacs or that have hierarchical standards. She did receive information that stated that some towns allowed cul-de-sacs with limits on the length or number of homes, or that they require fire suppression systems. She also inquired with KV Partners and their response is in the member packet.

Vice Chairman Bourque expressed interest in the loop lane.

Member Topliff wondered if, since the Board liked the idea of a loop road rather than a dead-end street, if the Board could devise an economic incentive for the developer which would encourage him to choose to construct a loop road. For example, to allow more houses on a loop road, or allow the street to be narrower. For clarification purposes, a loop road is a U-shaped road. He also said that in a recent conversation with Chief Paulsen, it was pointed out that emergency vehicles have problems when there is something blocking the entrance to a cul-de-sac. A U-shaped road would be best because it offers two ways in and out.

Member Topliff clarified that if the Board came up with a formula, for example, that allowed a developer to build 20% more houses on a piece of land and allowed them to make the streets narrower if they built a U-shaped road, the developer may migrate to that road shape rather than coming up with a hierarchical plan.

Ms. Scott asked if he meant that in order to make a U-shaped road more attractive, the Board could make allowances such as reducing the setback or the lot size. Member

Topliff said that he didn't necessarily mean to reduce the setback or lot size, but merely to allow the builder to increase the road length to a maximum of 1000' if the builder found that he had topography issues or wetland issues which prohibited him from building, for example, 12 houses in a 600' road. The Board may allow him to extend the road just enough to build the 12 desired homes as long as the road did not exceed 1000' and he created a U-shaped road.

Member Topliff clarified that the concept would limit the length of the road to a maximum number of homes on a dead-end street but if the developer wanted to put in a connecting street, a loop/U-shaped road, the Board could allow the builder to make use of more of the land.

Ms. Scott asked why a developer would create a U-shaped road if he could only get 5 lots per year under the present growth management ordinance? Member Topliff said that the 5-lot standard disappears at Town meeting if the Board does not re-enact it.

Chairman Lemoine stated that the Board could deny cul-de-sacs if they did not believe that it fits well in an area.

Vice Chairman Bourque said that he has seen a few well planned U-shaped developments by the Manchester Airport where homes are placed on the inside and outside of the road.

Alternate Member Cruson pointed out that Deerpath Lane is a successful U-shaped development with homes on the inside and outside of the development.

Member Zydel stated that he liked Member Topliff's idea of encouraging other concepts.

Selectman's Rep. Lewis stated that unless the Town makes cul-de-sac's unacceptable, the builders will build cul-de-sacs because it's less expensive. She said that if a developer has a large piece of land, he will place a loop road with cul-de-sacs off of it.

Member Topliff said that the length of the road could justify the number of houses to be built.

Selectman's Rep. Lewis said that the only way that his idea would come close to being equal to the cost of a cul-de-sac would be if both sides of the road were filled with houses. She also stated that the Board could merely not allow cul-de-sacs or allow cul-de-sacs but as private roads.

Ms. Scott noted that Town meetings could change that (having a private road become a town road).

Selectman's Rep. Lewis said that there are reasons why the Board should discourage cul-de-sacs. (1) snow placement; and (2) repair and maintenance of curbing due to the plows hitting it.

Member Topliff said his concern is not allowing cul-de-sacs and not being able to legally justify the decision.

Chairman Lemoine stated that the Board could remove it from the regulations. In special circumstances, the Board could grant a waiver. Ms. Scott said that the Board would not be able to grant a waiver if it is not in the regulations.

Chairman Lemoine stated that the difference between a U-shaped road and a cul-de-sac is if the builder does not have the land to create a U-shaped road.

Alternate Member Cruson asked why cul-de-sacs are always the cheapest way to go if it is possible to build on both sides of a loop road.

Selectman's Rep. Lewis answered that the initial cost is much greater because the builder must develop more lots and create a longer road.

Alternate Member Cruson still maintained that it was her opinion that it is still possible to have reasonable housing lots for a reasonable amount of money for developers to pursue on something other than a cul-de-sac.

Chairman Lemoine said that New Hampton allows cul-de-sacs only if there is suitable topography.

Vice Chairman Bourque commented that the question is how the Board would defend not allowing cul-de-sacs considering that they have been allowed in Pembroke for quite some time.

Chairman Lemoine said that the Board could change the zoning ordinance and have public hearings for the public to input.

Ms. Scott asked what the reasoning would be not to allow cul-de-sacs and Chairman Lemoine replied that he just doesn't like them. Ms. Scott commented that that would not be the best defense. There should be reasoning such as the fact that maybe DES standards had changed or some other type of regulation change prevented them. When the Town makes things harder, that is when they will be challenged. The Board should be prepared to defend their decision.

Vice Chairman Bourque stated that considering Member Topliff's point that the Town cannot eliminate cul-de-sacs without being challenged in court, is it possible to limit the number of homes in a cul-de-sac and discourage it? The Board should consider discouraging it by encouraging something else. By limiting the number of houses on a cul-de-sac would create the incentive to consider other designs.

Member Zydel questioned the reasoning for not allowing cul-de-sacs other than the snow removal problem.

Selectman's Rep. Lewis said it was also a safety issue because there is only one point of entrance and that police and fire have issues when there. She also said it was terribly expensive to pick up trash in a cul-de-sac because the truck must come in and out without picking up.

Chairman Lemoine said with cul-de-sacs the town is not building the infrastructure. He would like to see a subcommittee look into this subject.

Member Topliff said that input from everyone rather than merely a few people on a subcommittee is better. The Board should invite police, fire, public works, and other people to express their thoughts on this subject.

The Board agreed to meet on August 21, 2007 from 7-9 p.m. to specifically discuss cul-de-sacs. Ms. Scott will invite police, fire, public works, and the roads committee. She will enclose the current regulations along with an outline of what the Board has been talking about and why. She will meet with Chairman Lemoine to create an agenda.

Correspondence

Ms. Scott said the other pieces of correspondence in the member packets were for the Board's information. They included a memo dated 07/13/07 regarding White Sands Proposed Site Plan; July/August 2007 NH Town & City "What is the Role of Alternate Land Use Board Members?"; LGC Municipal Law Lecture Series information. (Ms. Scott said anyone interested in attending the Law Lecture Series should fill out the form and submit it to her as soon as possible.); LGC Volunteer Awards.

MOTION: Member Terrien moved to adjourn. Member Zydel seconded.

Vote was unanimous in favor of the Motion.

The meeting adjourned at 9:35 p.m.

Respectfully submitted,

Jocelyn D. Carlucci
Recording Secretary