

NORTH BERWICK, MAINE 03906

**MINUTES OF PLANNING BOARD JANUARY 8, 2009**

**Present:** Chairman Todd R. Hoffman, Julie Fernee, Shaun DeWolf, Barry Chase, Mark Cahoon and Lawrence Huntley, CEO.

**Absent:** Dennis Hartigan and Scott Strynar

**Also Present:** Normand Mason, Dorothy Mason, John Caramihalis, John Huthins (Corner Post), Charles Barto, Shirley Barto, Patti Clark, Amber Fournier, Jeff Fournier, Margaret Allaire, Art Allaire, Betty Hall, Chris Volovski, Jay Boston, Mike Fuller, Phil Rowe, Marcia Rowe, Charles Gary, Katy Gary, Mark Demers, Jane Serwacki, Stephen Serwacki, Emily Thornton, Jeff Thornton, Jason Claffey (Fosters), Bob Gashlin (US Cellular), Richard Trefton, Arthur Hall Jr., Jeanne Emerson and Tim Sheely.

**1. Call to Order:**

Chairman Todd R. Hoffman opened the Planning Board Meeting at 6:34 p.m.

Chairman Todd R. Hoffman moved Mark Cahoon to full voting status.

**2. Current Business:**

**A. Jackson Drysdale LLC, ---Applicant proposes a seven lot revision to the Varney's Crossing Subdivision, located on Buffum Road. (Map 1, Lot 62-11)**

John Huthins explained that I'm from Corner Post Land Surveying, Inc, Springvale Maine. This Project is part of an original subdivision it is a modification to that subdivision. The original subdivision was along Buffum Road and the other lot in the subdivision including a large one of 55.5 acres. The original subdivision left access points to the larger lot as to some day subdivide this piece. This is what we are proposing here today. Is to come in with a cul-de-sac with an approximate 600 foot road with four lots on that cul-de-sac and there will be three more lots that would be coming off the existing frontage on Buffum Road. The lots range in size, the largest lot is approximately 13 acres and the smallest 2.5 acres. Two of the lots are almost entirely within the field; two of the lots have parcel in the field but is mostly wooded area and the other two lots are mostly wooded in the back except for where the power line goes through. There is also a piece of open space that is approximately 8 acres where the other access comes in.

Chairman Todd R. Hoffman asked if marking of flags have been started.

John Huthins replied yes, but have not done the wetlands and soils. It has had the topography done.

Lawrence Huntley, CEO commented that the three lots you are showing on Buffum Road. The Town Ordinance does not allow for flagged lots. That means a three to one; one meaning the road frontage being 150 feet; three being the side lot. There is a quarter of a mile on a side lot and 150 feet on the road. There are two flag lots and with going over it as a Sketch Plan those are large lots, but they do not meet our Town Ordinance.

I received an e-mail from a concerned citizen and they wanted to make sure we were going to require underground utilities for all proposed lots. I did assure them that our ordinance requires underground utilities.

Shawn DeWolf asked the CEO the new cul-de-sac rule for dimensions.

Lawrence Huntley, CEO replied 600 feet long with a 55 foot radius the outside of the pavement and 65 feet to the outside of the right of way.

Chairman Todd R. Hoffman spoke that with major subdivisions we are required to have a Public Hearing and it would be before the Planning Board accepts a Preliminary Plan and the Final Plan.

Chairman Todd R. Hoffman opened the meeting to the public at 6:45 p.m.

Charles Barto asked that when I received my notice, it was written as a Conditional Use Permit. There are three lots that are irregular and I know the minimum is 150' feet for a subdivision for that size on the frontage, and it was 10 feet for every 10 thousand square foot of lot size.

Lawrence Huntley, CEO answered that the Conditional Use Permit. This is a Planned Unit Development and it falls under Conditional Use Permit in the Tables.

Shirley Barto asked to refer to Zoning Ordinance

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f. A lot abutting a Town way or an interior street within the proposed site shall have a minimum frontage of 100 feet for a 40,000 square foot lot. For every 10,000 square feet of lot area in excess of 40,000 square feet, an additional 10 feet of frontage shall be required.

Lawrence Huntley, CEO replied that he will research (Page 4-11, f.)

Chris Volovsk wanted to ask the Board why certain abutters were not notified by mail that the meeting was going to take place.

Lawrence Huntley, CEO replied that he is responsible for sending out the letter. There is a list and your name is on the list and it is checked off by the Town that it was sent out. I can not tell you where those letters are. The letters are all sent out registered mail.

Chris Volovsk asked about the last meeting the Board had about this property. The builder proposed that the Hammer Head struck him at a couple of different right of ways. I see one right of way with a cul-de-sac and I understand that was ok with the Town. Is that cul-de-sac going to be paved and drained? The issue he came up with was wetlands up in the middle of the field.

Chairman Todd R. Hoffman replied that any roads for a subdivision have to meet Town Road Standards in the Ordinance.

Lawrence Huntley, CEO commented that only one cul-de-sac is allowed in a subdivision.

Chris Volovsk asked that concerning the right of way and what the code is for the drainage. The drain has been filled in with dirt to get over the culvert and it has no pipe. Permission was granted by Patco to use for logging. There is a drainage issue and the water is not draining properly. My question to the CEO is whether that has to have drainage in that culvert.

Lawrence Huntley, CEO replied that someone has been in contact with the Road Commissioner about that issue.

This is a Sketch Plan Review and what they are proposing for lots. The engineering have not been done on all these lots, the wetlands have not been delineated. These all have to be done before the Planning Board reviews all the engineering that involved in a subdivision and will be done at a future date before anything is approved. And you will be notified of future meetings. To clear up the flag lot situation on the original subdivision. The road frontage is 150' and most of those lots are 450' deep.

Patti Clark commented that she was concerned about the wetland and about the deed restrictions because they are very different from the ones we have now. At what point would we be hearing all these issues.

Lawrence Huntley, CEO at the Preliminary Plan. What you can do is stay in contact by calling my office and I will keep you updated on the information. It will also be on the Town's website when Jackson Drysdale Associates will be appearing before the Planning Board and posted out front of the Municipal Building. The citizens will also be notified and placed in Fosters Newspaper.

Shirley Barto commented on the three lots on Buffum Road they are a swamp.

Chairman Todd R. Hoffman answered that they will have to have their wetland engineer review. When we have accepted a Preliminary Plan and they get back there engineering; those plans will then be sent out to Town engineering for review.

John Caramihalis asked the Board's opinion about the regular shaped lots and open space before doing engineering.

Chairman Todd R. Hoffman answered that with open space it can be communal space for walking, hiking and any outdoor activities that can be written in the bylaws.

John Huthins asked about access to it and does it need to be accessed to the public.

Lawrence Huntley, CEO answered yes, open space has to be accessed.

Chairman Todd R. Hoffman suggested contacting a Land Trust for further information on open space.

John Caramihalis asked CEO to get back to him on frontage.

**To be completed by Jackson Drysdale Associates LLC:**

- 1. Escrow Account**
- 2. Look at lots 15, 16 and 17**
- 3. Wetland Building Envelope**
- 4. Legal Open Space (Association, Land Trust)**

Chairman Todd R. Hoffman closed the meeting to the public at 7:40 p.m.

**B. Arthur & Gloria Hall Family Trust---Applicant proposes to construct a 150' Telecommunications Tower at 3 Schoolhouse Road. (Map 5, Lot 37 A)**

Bob Gashlin and I work for United States Cellular and with us tonight are Art Hall property owner and our Attorney Richard Trefton.. The United States cellular has an FCC license to provide wireless service to North Berwick and the surrounding areas. And at this time we are not doing a very good job. On the visual you can see the colored area shows what our existing proposed coverage with some new sites that are going to be in the area. The white area in the middle of North Berwick that signifies a big chunk of our area that is not providing services. In our FCC license we propose to construct a Telecommunications Facility. It will have a cell phone tower.

Telecommunications Facilities in your Ordinance is an Essential Service and Essential Services are permitted in Farm and Forest District and are permitted pursuant to a Conditional Use Permit. Is it my understanding that the Board has the discretion to make a final hearing tonight or are we looking at a two hearing scenario.

Chairman Todd R. Hoffman replied that the Conditional Use permit that we would be granting you gives us the authority to demand conditions. The Board looks at what you are proposing, the input from the abutters and we will look at the North Berwick Zoning Ordinance Book.

Bob Gashlin spoke that what were looking to do is fill this coverage gap and to do that we have to lease a 10 thousand square foot piece of property from the Hall Family Trust which is 100 by 100. First I will be spending time going through the site plan. Second spend a little time going down through the Ordinance and what your Ordinance requires. We have a luminance test here in Town on what we are proposing. On Morrells Mill Road a company by the name of Global Tower Partners came in within the last year or two and they got approved for a tower. It is going to be essentially the same thing that we are proposing, the same District about the same height. *Page 2* the most important thing that I'm going to have to come back to later on and discuss is the section on Erosion and Sediment Control Plan and Seeding and Re-vegetation Plan. *Page 3* is an overall view of the parcel. The proposed parcel is out on the North section of Lebanon Road and School House Road. We have a survey of the entire parcel and we also want to show were we are going to propose the tower within that parcel. An important thing about this

is that we took the time to show how far back from each property line were we are going to set the tower. From School House Road we set it back 199 feet from this property border 306 feet here and 152 feet down from Lebanon Road, it is 580 feet.

*Page 4* shows our overall facility. Lebanon Road is down on this side here, you take a left on School House Road about 800 feet to find the farthest property point here.

We are proposing from School House Road to bring in an access road and some utilities and we have an easement for those two items. Our access road we are proposing is a 12 foot dirt surface, also you'll see to the side here that we have drawn in our overhead utility line. We have a short run here so were only proposing one power pole coming in from School House Road. Once we get up here a couple of hundred feet that is were we are going to propose our 10 thousand square foot that I have been discussing. On the plan there are some dotted lines along the peripheral here and that signifies the 100 foot by 100 foot lease of parcel. Within the 100 foot by 100 foot area that is where our facility is going to be. We propose a 75 foot by 75 foot compound that compound is going to be fenced in, it is going to have gravel base. Inside the fenced in compound that's where we are going to have our 199 foot tower. We also propose a 10 foot by 12 foot equipment shelter that is where we are going to keep our radio equipment. The other items within our facility compound are for utilities a telephone box and a power cord in there. The final piece of equipment in here is for back up emergency power we propose a propane generator and the propane tank. What is also important about this page is that we have included a big circle around here. Your Ordinance doesn't require anything more than normal setbacks for these towers. Mr. Huntley recommended that we do a 100 percent of the tower height setback. The tower height is 199 feet, this setback line is 199 feet. The squiggly lines signify a tree line up there and you have a nice dense mature tree stand here. We tried to do two things by putting the facility up in the corner according to Mr. Huntley's recommended setbacks and utilize the existing vegetation for some sort of cover or buffer. This whole side of the field the 9.7 acres is open. There is a whole open field looking down on Lebanon Road, we did have existing foliage on this side, we are proposing a row of 6 foot tall arborvitaes here to provide some sort of buffer there. When we did our site walk, we brought A&D Environmental out to do an assessment of the property. There is a seasonal stream here, we had the A & D Environmental identify and flagged where the stream is. We are going to stack hay bales along the access road and down along the south end of our proposed facility during construction. If you're looking at the tower to School House Road we have a difference of 7 feet. The topography change is 7 feet over 200 feet so that is pretty flat and we don't anticipate a lot of earth work, gravel moving or bulldozing. Our engineers did not propose any type of culvert because it is so flat. There is a note at the bottom of the page indicating what type of soil, which is Milo fine sandy loam out there.

*Page 5* is a mechanical close up of our facility. We are proposing a 199 foot tower that is significant because once you hit the 200 foot level that is when the FFA requires a flashing light on top of the tower. We have no plans on anyone coming on our tower or our facility, but we do construct these big enough and strong enough that if another carrier comes to town and needs some sort of service, they are welcome to come to use our facility, our tower instead of building another tower in the neighborhood.

Chairman Todd R. Hoffman asked if there are other towers in Town with other corporations that you have used.

Bob Gashlin answered yes; the other tower that is located off of Route 4 on Morrells Mill Road United States Cellular is currently on that tower.

On this page it is labeled future lease area and each company that comes to in tower; they require the same things a set of antennas and an equipment shelter for the radios. We have three extra ground spots and three extra spots on the tower.

Julie Fernee asked if this is just for cell phones.

Bob Gashlin answered that is what we are proposing.

There are two sites in Sanford and US Cellular on those sites. The site in East Lebanon is with US Cellular. In South Berwick US Cellular is not on that site yet but were in the process of going on that site. We have a proposed location in Wells and that site is not built yet and it is my understanding that they have Planning Board approval and they have conditions to go through. The reason we selected this site is the coverage spot is generated by a team of professional radio frequency engineers. They have the computer model that they feed a lot of data that includes existing sites, locations, heights, topography, what type of ground cover, buildings and the power of each site and this is how they came up with our proposed site, and that it will work for us. This tower that we are proposing has to be in a specific location where it is close enough to one of the existing sites to communicate with that tower. This proposed site connects with our other sites and our PCS sites and we have to keep them close.

In your Town Ordinance there is one criteria that states if had to show need. Those are the existing site US Cellular is on that is why we picked this site.

*Page 6* shows our compound is fenced in, we have an 8 foot tall chain linked fence with a 12 inch barbed wire for security. Once we are in, we do all our wiring and place our utilities underground.

*Page 7* we have a cross section of our proposed road. We do a rip rap line swales so that there is proper drainage. The bottom right hand corners are antennas as they get installed on the tower.

*Page 8* What our foundation plans are. The equipment shelter, propane tank and generator all go on concrete pads.

Chairman Todd R. Hoffman asked how long the propane generator would last if the Town lost power.

Bob Gashlin answered that there is a two phase back up system. The equipment shelter has gel battery packs that would keep the site going for 7 to 8 hours and then once those batteries run out then it transfers over to the generator. It is my understanding that those propane tanks are approximately 109 gallons. There is enough there to keep the facility going for a significant amount of time.

*Page 9* is our equipment shelter detail. On the upper right detail; note- service light. Each one of these shelter they have a service light. These lights have motion detectors. When the maintenance man has to go out there the light will come on, but he will then go into the shelter to then shut it off. The shelter itself is approximately 11 feet tall, earth tone, prefabricated unit. We also have some HBAC units to keep the radio equipment at a constant temperature.

*Final 2 pages* are the gravity ground plan; there are no requirements about grounding in the Ordinance.

Chairman Todd R. Hoffman opened the meeting to the public at 8:15 p.m.

Joe Fournier asked if there were any guide wire. What size is the base of the tower?

Bob Gashlin replied that the tower is in the middle. We have three concrete pilings for each one of the legs. At the base of the tower each tangent space is going to be some where in the neighborhood of 18 feet.

Jeanne Emerson asked that if you had your tower on Oakwoods would your colors change, would that white color diminish

Bob Gashlin replied that the general answer is that our general network is if we move it, change it, it will affect the rest of the network.

Stephen Serwacki comments that he went on the North Berwick website and there were no mention of cell towers in the Ordinance.

Chairman Todd R. Hoffman replied that there isn't anything in our Ordinance book.

Stephen Serwacki asked then why can you say that this is an Essential Service.

Chairman Todd R. Hoffman replied because it is listed as cellular and that is federal. The FCC is calling it an Essential Service.

Jane Serwacki comments that I'm concerned with the noise, your talking air conditioning, generators. If we have regular power what kind of noise level is required? I like everyone likes living in that area because it is peaceful.

Bob Gashlin replied that is one criteria in the Ordinance that I would like to comment on but would like to save until we go down.....

Chairman Todd R. Hoffman spoke that Conditional Use Permit; we have performance standards and they are listed off and it has to do with sound, lighting, and any number of things. They have to have listed what their decibels are and it has to be under a particular threshold.

Art Allaire asked that you mentioned that you are going to have one pole off the road for power, yet all your services are going to be underground. Why can't you put underground services where you are going to be digging and putting n a road anyway?

Bob Gashlin answered that we are proposing 1 pole that will take us from School House Road right to the site and once we get to the site we are going to go underground. We did not see any reason to go underground, because once you leave School House Road there is a tree stand there and nobody is even going to see that pole from that whole area of School House Road. The underground utilities are pretty expensive and more difficult to maintain.

Chairman Todd R. Hoffman explains that's what usually goes down is the trees, and I'm not convinced it's less expensive.

Stephen Serwacki comments that the last storm he lost 20 to 30 trees.

Bob Gashlin answered US Cellular has approximately 350 sites in Maine and we have pretty good experience maintaining and watching our power lines and making sure there cut back pretty good. We have had pretty good luck doing over head utilities.

Mark Cahoon asked how often your maintenance people visit these sites.

Bob Gashlin answered the official answer is that you can anticipate the maintenance guys being out there one time a month. Sometimes you'll see them more sometimes less.

Art Allaire asked that once these towers are up are they up forever. If the technology changes and you're allowed to go 5 miles, will you leave the tower erected or do you take it down.

Bob Gashlin answered that we have entered into a 30 year lease with the Hall Family Land Trust, so legally we have a right to be there for 30 years. Who knows what technology is going to bring in the future. The lease has an abandonment provision and US Cellular does have to leave, US Cellular legally obligated to take this facility down to the ground.

Chairman Todd R. Hoffman comments that this could be a Conditional Use Permit that we could have on top of this with a bond.

Bob Gashlin discussed that we are investing a couple of hundred thousand dollars in building this tower and it will probably take ten years to recoup that capital.

Julie Fernee asked how tall the tall strand of trees is.

Stephen Serwacki replied you gone by Marshwood High School and have you seen the tower in the skyline, there you go.

Katy Gary discussed that we have this beautiful farmland. We have lost property value already in this market; no one is going to buy your property when it is next to a 200 foot tower.

Bob Gashlin replies that if I may, a lot of these questions are criteria in the Ordinance that are in my next section.

*Bob Gashlin discussed the abutter's property lines and what the abutters had for a buffer regarding the noise and view of the tower.*

Chairman Todd R. Hoffman discussed that since you were already talking about the site and site interruption and the effect on abutters. You haven't done a balloon for visual impact.



Bob Gashlin replies that we have not and the reason for that is it was not required in the Ordinance.

Chairman Todd R. Hoffman comments what we could do is request that they float a balloon up to 199 feet. It would have to be a day of acceptable weather so you can see it. They take photographs from different locations and to also get a visual of the height.

Bob Gashlin replies that I'm not going to state that this tower is going to be invisible. There is nothing in the Ordinance that says these towers have to be. What I am attempting to point out is that we have put some energy into litigating the impact of this. That is why I 'm taking some time pointing out, distances to neighbors. I think that it is a pretty good site where the visual aspects have been litigated.

Bob Gashlin explained that now I'm going to go through the North Berwick Zoning Ordinance. The North Berwick Zoning Ordinance section 6.9 talks about Conditional Use Permits and the criteria that the Planning Board has to review.

#### **6.9.4 Conditional Use Application Procedure:**

A). A Conditional Use Permit Application has been filed with the Planning Board in conjunction with this letter.

*I-8:* All requested information is included in US Cellular's site plan and attached to it a Conditional Use Permit Application

*B-E).* US Cellular agrees with the provisions contained in this section to the extent they are relevant.

#### **6.9.5 Public Hearings:**

*A).* US Cellular understands that the Planning Board shall undertake the public notice process. Attached please find a list of abutter.

*B-E):* US Cellular agrees with the provisions contained in this section to the extent they are relevant.

#### **6.9.6 Factors Applicable to Conditional Uses:**

*A-1).* The Facility is compatible with adjacent land uses and other property in the Farm and Forest the District. For instance Global Tower Partners has constructed a similar facility in the Farm and Forest District at Morrells Mill Road.

*A-2)* The Federal Communications Commission (the "FCC") has issued US Cellular a license to provide wireless service to North Berwick and the surrounding areas and US Cellular is not currently providing adequate service to this license. Specifically, US Cellular lacked adequate coverage, connectivity, network capacity in this area and has used computer modeling to determine that the proposed site will fulfill these objectives. Applicant plans on supplementing radio frequently plot information showing its need for the Facility.

*A-3).* The Facility not impact local population because it will be unmanned. It is not anticipated that the Facility will require significant Police Department services considering the Facility will

be surrounded by a chain link fence with barbed wire for security. Also, it is not anticipated that the Facility will require significant Fire Department services considering the Facility's low propensity for fire due to its non-combustible steel and electronic orientation.

A-4). The Facility will not impact transportation facilities including roads. It is anticipated that, after initial construction, the Facility will generate one vehicle visit per month on average for routine maintenance.

A-5). The Facility will be constructed and operated pursuant to all applicable local, state, and federal laws to insure that maintenance of safe and healthful conditions.

A-6). The Facility will be constructed on relatively flat topography as shown on the attached to site plan (see page C-2). The Facility will be located in the Northwest corner of the property in order to use existing vegetation to the north, west, and south for cover. Landscaping will be added to the east as shown on the attached site plan (see page C-2).

A-7). US Cellular uses a comprehensive erosion and sedimentation plan as shown in the attached site plan (see page G-1). Also, runoff will be significant issue because of the Facility will be constructed on relatively flat topography as shown on the attack site plan (see page C-2).

A-8). The Facility is not located in a flood plain or wetlands. The Facility has been set back at least 75' from and intermittent stream as shown on the attached site plan (see page C-2).

B). The project will be constructed in conformance with performance standards listed in Article 5. Such standards are listed at the end of this document.

B-1). There will be safe ingress and egress in the Facility. The access road will be off School House Road and will have a minimum 500' sight distance in both directions.

B-2). The parking and loading area at the Facility will be approximately 20' x 50' as shown on the attached site plan (see page C-3) and will be as ample for the Facility's use. Vehicles will also be able to park and turn around inside the fence in compound. The Facility's parking and loading area will not impact the economics, noise, glare, or odor on adjoining properties.

B-3). The Facility will have no refuse areas.

B-4). Above ground utilities will be provided from School House Road as shown on the attached site plan (see page C-2). The utility line will pass through existing vegetation so its visual impact will be minimal.

B-5). The Facility will be located in the northwest corner of the property in order to use existing vegetation to the north, west, and south for cover. Landscaping will be added to the east as shown on the attached site plan (see page C-2).

B-6). US Cellular may installed a 11' x 16' sign on the compound gate. The sign will not be lighted; it will be painted white, and will have FCC identification and an emergency contact telephone number. The equipment shelter will have a 100-watt service light with a motion detector, downward reflector shield, and a full interior cutoff switch as shown on the attached site plan (see page C-7). The sign and the service light will not impact glare, traffic safety, economics, and will be compatible with the properties in the district. No lights are proposed for the tower unless required by the FAA.

B-7). The tower will be setback at least 199' from the closest property line as shown in the attached site plan (see page C-2).

### **6.9.7 Conditions attached to Conditional Uses:**

A). US Cellular agrees with the provisions contained in this section to the extent they are relevant.

*B-1).*Information concerning ground contours, ground elevation, groundwater conditions, soils information, and vegetative cover is shown in the attached site plan.

*B-2).*Soils information is showed in the attached site plan (see page C-2).

*B-3).*Locations of proposed buildings, parking areas, traffic access, driveways, open space and landscaping is shown in the attached site plan (see page C-2). There are no existing buildings on the property. No walkways or piers are proposed.

*B-4).*The Facility will be unmanned and will have no water or sewage. Plans of US Cellular's equipment building are shown on the attached site plan (see pages C -2, C-3, and C-7).

*B-5).*US Cellular agrees with the provisions contained in this section to the extent they are relevant.

*C).*US Cellular agrees with the provisions contained in this section to the extent they are relevant.

### **6.9.8 Violations:**

US Cellular aggress with the provisions contained in this section to the extent they are relevant.

### **6.9.10 Community Facilities Impact Analysis:**

US Cellular proposed Facility will not significantly impact municipal infrastructure facilities and should not require an impact fee. The Facility will be unmanned. It is not anticipated that the Facility will require significant Police Department services considering the Facility will be surrounded by a chain linked fence with barbed wire for security. It is not anticipated that the Facility will require significant Fire Department services considering the Facility's low propensity for fire due to its non-combustible steel and electronic orientation. The Facility will not require water or sewer service. The facility's electric service demand will be similar to a single-family residence. The Facility will not significantly impact transportation facilities including roads because it is anticipated that, after initial construction, the Facility will generate one vehicle visit per month on average for routine maintenance.

### **ARTICLE 5 – Performance Standards:**

Section 6.6.9(B) requires US Cellular's project to conform with provisions contained in this section to the extent they are relevant.

**5.1.1: Traffic and Highway Access.** There will be safe ingress and egress to the Facility.

The access road will be off School House Road and will have a minimum 500' sight distance in both directions.

**5.1.2: Noise.** The Facility will have 2 HVAC unites on the equipment shelter that will produce intermittent noise similar to a residential unit. The Facility will also have an emergency back-up power generator that will operate during emergence situations and for routine maintenance that will take place during 8AM – 5PM. The generator will not create a sound pressure level in excess of 60dBA.

Stephen Serwacki asked what size are the generators.

Bob Gashlin answered it is a 4 KG.

Sue Serwacki asked how long to build this tower if you are approved.

Bob Gashlin answered that the build out time frame is 12 weeks.

5.1.3: Air Emissions. The Facility will not create dust, dirt, ash, fumes, vapors, or gasses.

5.1.4: Odor. The Facility will create no odor.

5.1.5: Glare. The tower will be constructed of galvanized steel that will weather to a dull gray finish that will blend with the typical Maine sky.

5.1.6: Stormwater Runoff. US Cellular uses a comprehensive erosion and sedimentation plan as shown in the attached site plan (see page G-1). Also, runoff will not be a significant issue because the Facility will be constructed on relatively flat topography as shown on the attached site plan (see page C-2).

5.1.7: Erosion Control. US Cellular uses a comprehensive erosion and sedimentation plan as shown in the attached site plan (see page G-1). Also, runoff will not be a significant issue because the Facility will be constructed on relatively flat topography as shown on the attached site plan (see page C-2).

5.1.8: Setbacks and Screening. The Facility will be located in the northwest corner of the property in order to use existing vegetation to the north, west, and south for cover. Landscaping will be added to the east as shown on the attached site plan (see page C-2). The Facility will also be setback from all property lines by at least 199’.

5.1.9: Explosive Materials. The Facility will not utilize explosive materials.

5.1.10: Water Quality. The Facility will not affect water quality.

5.1.11: Flood Protection. The Facility is not located in a flood plain.

5.1.12: Soil Suitability.

5.1.13: Off Street Parking. The parking and loading areas at the Facility will be approximately 20’ x 50’ as shown on the attached site plan (see page C-3) and will be is ample for the Facility’s use. Vehicles will also be able to park and turn around inside the fenced in compound. The Facility’s parking and loading area will not impact the economics, noise, glare, or odor on adjoining properties.

5.1.14 – 15: Sewage and Waste Disposal Systems.

5.1.16: Wells. The facility will not require a well

5.2.1: Reserved for Future Use. Not applicable.

5.2.2: Earth Material Removal.

5.2.3 – 18: Not applicable.

Attorney Richard Trafton explained that US Cellular is FCC license requires them to serve this area. They have a duty to serve their customers through that area that they were showing on the colored map in white. Not only do they have the right to do it, but they paid for the license. The license for this area can be revolt, unless it provides service. That means that a customer of US Cellular traveling through the area that was shown in white may have a dropped call. That is a failure of service by US Cellular.

Bob Gashlin has gone through your Ordinance very carefully showing you that a complete application has been submitted. And what we would like tonight is for the Planning Board to find that US Cellular has submitted a complete application. I’m looking at specifically at the item on sections 6.9.4 that are listed saying this is what an application shall require. We have gone

through the items, one the plan which meets all 8 items and that after your determination that there had been a complete application. You can determine whether or not you need to set a Public Hearing.

That's not saying you can't ask for more things, we will obviously work with you and provide answers to questions raised as well, as well as the public raised. At least we have a complete application at this point of time. We would ask you to make that determination. An item that has not come up tonight is the height issue. Your Ordinance has an interesting provision on building height of 35'. The question could come up. What right does US Cellular have to propose a structure of more than 35'? The only section is the Essential Services definition in your Ordinance.

Section 4.2 the General Requirements of your Ordinance for Building Height:

On any new building, the highest part of any eaves or parapet wall shall not be more than 35 feet above the average ground grade on any side of the building. This facility that we are proposing has no eaves, has no parapet, we are not triggering your definition of building heights.

If you ask Bill Plouffe a good friend of mine that I hike with all the time and for an interpretation as to whether a building height of 35' applies to the tower. I think you will get an opinion that no it does not apply to this tower.

The detail definition of building height in section 4.2: Towers may exceed 35' in height but shall be set back from the nearest lot line a distance not less than the height of that structure. The Code Enforcer properly advised Mr. Gaslin that the Ordinance suggests, even though the building height is not an implacable issue here, that there be a set back of at least 199 feet on the base of the tower. There are many opinions by appraisers that say that there is no diminution in value caused by a tower, but there are other studies that show that towers do have an impact.

The point is that you have an Ordinance that limits your scope and you don't have a lot of control over the esthetics of this application. What we hope tonight is that you would explain to us what your process and further request for information might be.

Chairman Todd R. Hoffman replied that you asked about procedure, but you have raised a couple of issues. I would like to give a history of the last towers. Before the one that is before us that we did approve and did not approve. Several years ago we had two tower proposals before us; Tower on Morrels Mill Road that is well off the road and a perfect location. The other tower was proposed behind the library and was visible everywhere that was not approved.

Chairman Todd R. Hoffman read into the record: used in determining the tower behind library.

*Article 1- General:*

*1.2 Purposes*

- e. To balance the right of the land-owner to use their land with the corresponding right of abutting and neighboring land owners to live without undue disturbance from noise, smoke, fumes, dust, odor, glare, storm water run-off, and other disturbances.
- f. To encourage new development to be integrated harmoniously into the community;
- h. To protect property values;

*Article 5 – Performance Standards*

*5.1.8 Setback and Screening*

- b. Buffer Areas: No industrial or commercial buildings or uses shall be established in, or abut, a residential district or use, unless a landscape buffer strip is provided to visually screen the uses.

Chairman Todd R. Hoffman comments that further North West on the hill; there is high trees and to have a second look at other locations.

Attorney Richard Trafton replied that site is in fact an explore. There is a title problem with two brothers, who both think that they own the property.

Emily Thorton asked if you have explored putting it across the street at the far end of Hall's field where not very many people are going to see it, and that field runs deep.

Bob Gashlin answered that there are 5 sets of neighbors; that elevation is low, and you have another set of neighbors back here. I don't believe there is as much vegetative coverage that this site offers.

Mark Cahoon spoke that he disagrees with the counselor that we should ignore the public's feelings because that is not what the Planning Board is here for.

US Cellular presented them very well, but you also said there are no emissions; it has a propane tank and known to leak and no safety packs for this. There are batteries and they crack. There are no safety retainments for the fluids. What are the plans for fire protection and a well on site for the fire departments use?

Is there any alarm systems to protect the people? The maintenance man going out once a month anything could happen in between visits.

Bob Gashlin replied that we have our hole facility wired to a central computer system and it is monitored 24/7.

Mark Cahoon comments is it installed in each facility and where is it noted.

Bob Gashlin replied that it was not asked for in the Ordinance.

Mark Cahoon comments that this is one of the things that I'm going to ask to see before I can make a decision.

Art Hall it is not the intention to sell off the field so we have house lots and have lots of neighbors, but to be used by the trust and maintained for everybody.

Jeff Fournier commented that you mentioned Betty Hall's lot, Betty is my mother-in-law. I think that a quarter of a mile on this spot. There are all kinds of forest. You would be placing the tower in our back yard not our front yards.

Attorney Richard Trafton replied that if we move the tower to the north, east or west we get a new set of neighbors saying not in my back yard. What your Ordinance provides is bring us an application and if it meets the requirements of the Ordinance we will approve it. If we think that it should have conditions for approval, give us the conditions. You can't have an applicant walk around Town and file different applications for different site. We asked you to review this

application, determine it is complete based on your Ordinance. If it is not complete tell us why it is not complete on those provisions of your Ordinance.

Shawn DeWolf asked if this facility will be plowed in the winter.

Attorney Richard Trafton answered that US Cellular facilities are not plowed in the winter.

Tim Sheely asked that if other companies want to lease the tower from you. They will also have generators and propane tanks. There could be up to 3 generators and propane tanks in there.

Bob Gashlin replied they may or they may not. They all will bring in their equipment shelters, some do and some don't bring in generators and propane tanks.

Mark asked if the generator would be housed which would squash the noise.

Attorney Richard Trafton answered that if that was a condition that Town required we will go back and get the information.

Lawrence Huntley, CEO asked why this tower has to be 200 feet high, when all the other towers are 145 feet. The proposed tower would be 300 feet, Oakwoods tower is 150 feet, and just being on the ground up there would make you higher than any other tower in Town.

*Shawn DeWolf moved to accept the application, Barry Chase seconded a motion. Vote, 3-2*

**To be completed by US Cellular:**

- 1. Balloon Test, photo simulation**
- 2. Road built to North Berwick Town Standards**
- 3. Housing for generator**
- 4. Letter signed off from Fire Chief**
- 5. Another site on property**
- 6. Pole, underground power**
- 7. Tower height 200 feet down to 145 feet**
- 9. Fire and Safety Prevention Hazards**

Attorney Richard Trafton asked for a Public Hearing date.

Chairman Todd R. Hoffman answered when KJK has completed their research.

Chairman Todd R. Hoffman asked to be on location when the balloon test is done.

Chairman Todd R. Hoffman closed the meeting to the public at 10:00 p.m.

**3. Preview next agenda:**

**4. Other Business:**

## **5. Preview Previous Minutes:**

The Minutes of November 20, 2008 and December 11, 2008 were tabled until next meeting.

## **6. Adjournment:**

Mark Cahoon moved to adjourn at 10:00 pm, Julie Fernee seconded a motion. Vote, 5-0

Lawrence Huntley, CEO  
Planning Coordinator

Respectively Submitted:  
Anita Lambert, Stenographer

Chairman: R. Todd Hoffman

Julie Fernee

Shaun DeWolf

Barry Chase

Mark Cahoon

Dennis Hartigan

Scott Strynar

Copies:  
Chairman R. Todd Hoffman  
Julie Fernee  
Shaun DeWolf  
Barry Chase  
Mark Cahoon  
Dennis Hartigan  
Scott Strynar  
CEO  
Town Manager  
Selectmen  
Christine Dudley  
ZBA  
File