

*Currie to appeal...**Salem Record*

Town beats Currie in court

By PAUL MCCARTHY
RECORD STAFF WRITER

An Exeter Superior Court Master has issued a report absolving the Town of Salem from any wrongdoing in the sale of town owned land off Lowell Road to Salem Professional Park Realty Trust (SPPRT).

Court Master R. Peter Shapiro, in his report issued December 31st and approved by Superior Court Judge Manias January 7th, found the Town of Salem acted "in good faith and were not arbitrary, capricious or fraudulent" in selling the land to the Stiles Road group headed by Dr. Bart Quirinale.

Director of Development Ross Moldoff expressed elation at the decision and, although he had yet to read the Court Masters' report, said, "in terms of planning implications, this clearly vindicated (the town's planning) procedure."

Raymond Currie, the plaintiff in the suit against the town, when reached at his Lowell Road office, said "Obviously, I don't like the court master's findings. He alluded to a number of items which I don't think he fully grasped concerning the case. I don't think he got the full feeling for what transpired."

Currie added, "This is not finished. I plan to appeal the finding to the New Hampshire Supreme Court, and if I fail there, I'll go to any court I can - even the U.S. Supreme Court - to have this issued resolved to my satisfaction."

In the Masters' report, he wrote that Currie "misconstrues" the directive given the planning board and the Conservation Commission (regarding their approval of the town-owned 15 acre lot off Lowell Road).

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Currie

Continued from page 1

The Master wrote, "There was no error in the procedure employed by the Planning Board or Conservation Commission in reviewing and approving the proposed terms for the sale .. of the property."

Currie also argued in front of the court that two members of the planning board (Emil Corrente and Larry Belair) "had prejudged the project and thus rejected his plan..."

"The evidence presented," the report said, "would not have convinced the Master that the action of the planning board members poisoned the proceedings ..."

The Master then wrote, "(Currie)...in his 'shotgun' approach to asking the town of Salem be enjoined from entering into a purchase and sales agreement with SPPRT has suggested there was conflicts of interest by the town assessor and a planning board member ... The allegations ...of the complaint are unsupported by the evidence." In regard to any selectman having a conflict of interest in the case, the Master said Currie failed to establish their decision was tainted by conflict of interest.

In regards to the fair market value of the property (SPPRT offered \$200,000 for the land, Currie later offered \$300,000), the Master found that the overall SPPRT proposal for land development (including a road linking Pelham and Lowell Roads which Currie's plan did not include) will benefit the town through an

improved traffic pattern, improved water and sewer systems and a better protected environment in the area of Porcupine Brook. "If the Town of Salem were asked to address the problems," the Master wrote, "it would result in substantial costs."

"The work to be performed by SPPRT," the Master continued, "will allow for an environmentally safer development of the area which could increase taxes. The Master finds that the proposed contract (to sell the land to SPPRT) will garner for the town of Salem the subject properties at fair market value."

The Master ended his report by writing, "The final 'pellets' in the plaintiff's 'shotgun' were aimed at the fact the Planning Board and Conservation Commission did not sign off on the final purchase and sales agreement." The Master said the boards approved the "conceptual plans" and when the engineered plans are brought forward, the town should have signed approval from both those bodies before the plans are finalized."

The Master concluded that Currie's petition to void the sale to SPPRT be denied and judgement be entered for the Town of Salem and SPPRT.

Anatomy of a law suit Pre 1972

Town of Salem owns 15 acres off Lowell Road.

1972 Master Plan

Plan calls for a corridor roadway running southerly from Pelham Road to Lowell

Road.

1983

"Agents" of the town of Salem suggest to SPPRT to investigate the possibility of purchasing the 15 town-owned acres which abut their 45 acre tract of land and extend Stiloes Road to Lowell Road.

Feb. 1984

Raymond G. Marcoux Jr. wrote a letter to the town expressing interest in purchasing the town property.



RAYMOND CURRY IN ACTION - Salem businessman Raymond Currie (left) is pictured in this file photo venting a little frustration in front of the Planning Board over town land he claimed he was denied a bid on.

No reference was made to Mr. Currie. Marcoux stated he was the owner of the land when, in fact, it was owned by R&R Associates Inc. - of which Ray Currie was a partner. The letter was addressed to the town manager (Salem didn't have one at the time) and the letter was never brought to the selectmen's attention.

March 1984

At town meeting, voters pass warrant article 59 which gives selectmen the right to sell the land for fair market value.

Dec. 6 1984

Salem Conservation Comm., on a 4-0 vote, approve SPPRT's conceptual plans for the site and tag on a list of amendments.

Dec. 11, 1984

Salem Planning Board has no problem with SPPRT's conceptual plans.

Dec. 27, 1984

Selectmen meet in executive session and approve the land sale to SPPRT for \$200,000 on a 5-0 vote. One third is to be paid immediately, one third the next year and the other third in two years (or sooner depending on development of the land).

Feb. 4, 1985

Selectmen presented final draft of the sales agreement with SPPRT. Currie said he was not given an opportunity to buy the land and cited the missing letter. He claimed he would offer the town \$300,000 for the land (his appraiser set the price of the land at \$400,000).

Feb. 25, 1985

Currie granted 60 days to present his plans for the site to the Planning Board and Con. Comm.

April 18, 1985

Currie presented his conceptual plans (sans road) to the Con. Comm.

April 19, 1985

Con Comm. asks selectmen for a 60 day extension so they can review the plans.

April 23, 1985

Planning Board presented with Currie's conceptual plans. They were not approved. Currie applies for a temporary restraining order in Superior Court to halt the sale of the land to SPPRT.

May 6, 1985

Currie loses the restraining order when Superior Court Judge Gray lifts it. Currie files suit in Superior court citing numerous reasons in his court petition.

Dec. 31, 1986

Court Master R. Peter Shapiro recommends Currie's petition be denied. His decision is approved by the Superior Court. Currie plans to file an appeal of the ruling to N.H. Supreme Court.



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Section 8

News & View

All it takes is Proper Planning

This column, compiled by Monique Duhamel, is made possible through the assistance of Director of Development Ross Moldoff. We encourage you to submit questions about zoning rules and land use to: Planning, THE SALEM RECORD, 366 South Broadway, Salem, N.H., 03079.

This is the first in a series of columns that will attempt to explain some of Salem's building and zoning laws. This column deals with conservation easements.

Conservation easement facts

New Hampshire's open space is fast disappearing as the state's population swells and pressure for development increases. Today's high land prices make it difficult and often impractical for towns and organizations to acquire land for public enjoyment.

For the conservation-minded landowner, donating land to a likeminded organization or a land trust is a means of relinquishing ownership responsibilities and maintaining the property as open space. However, many owners of large and small tracts wish to retain ownership of their property while maintaining it as open space.

Accordingly, it has become increasingly important to provide economical mechanisms to protection privately held open space. The conservation Easement, provided for by NH RSA 477:45-47, is one such mechanism.

A conservation easement separates the right to build, or the development rights, from ownership of the land. The landowner donating development rights continues to use and enjoy the land as before, and may receive significant tax advantages. The community receives and enjoys the benefits of the permanently protected open space.

The conservation easement is a legally enforceable two-party agreement (between a landowner - "grantor" and a conservation group or government body - "grantee", for example, the Town of Salem). Its purpose is to maintain land and water area in their natural, scenic, or open condition, or in agricultural, farming, open space, or forest use. It is flexible in its content and may impose restrictions on the use of the land, as well as encourage certain activities on the land, provided the limitations or activities comply with the protection of open space and environmental quality and fulfill conservation purposes.

Conservation purposes can be defined as:

- The preservation of land

areas for outdoor recreation by, or the education of, the general public.

- The protection of a relatively natural habitat of fish, wildlife, or plants or similar ecosystems.

- The preservation of open space (including farmland and forest land) where such preservation is:

1. for the scenic enjoyment of the general public, or
2. pursuant to a clearly delineated Federal, State, or local governmental conservation policy and will yield a significant public benefit, or
3. the preservation of an historically important land area or a certified historic structure.

So what are some of the benefits of a grantor, besides making brownie points with municipal bodies?

In addition to protecting the land, a grantor's conservation easement may be considered a charitable contribution, which may be tax deductible. It also reduces estate or inheritance taxes. Also, tax assessments (and thus the property tax) may be reduced accordingly at local discretion.

Conservation groups and municipal bodies can use conservation easements to further their open space plans and objectives. As potential grantees, they can identify land which they feel is worthy and in need of protection in their community and approach the landowner, or the landowner might even approach them first. Acquisition of a conservation easement can be a low-cost method of open-space protection.

It is an affordable way of protecting open spaces, an incentive to developers and landowners, and a benefit to all communities, including the town of Salem.

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All it takes is Proper Planning

Whether it be wetland, woodland, or open space, our land resources, both urban and rural, face constant danger from development.

A group of conservation organizations known as land preservation trusts or community land trusts (or simply land trusts) is struggling to maintain our ecological heritage in the face of current development.

Through their efforts, many parcels of land have been preserved for conservation purposes. They are entirely non-profit organizations, and run largely by volunteers. Private gifts and endowments are their greatest source of funding.

Land trust groups try to get land, either through dedication to them, or by outright purchase, with private or

federal funds or contributions of funds. They also accept rights to land and water.

Land trust groups can also work in the background by trying to pass legislation on a local, state and national level and by educating citizens about the importance of conservation.

Salem does not presently have a land trust but there is a land trust in Rockingham County.

The Rockingham Land Trust was formed in early 1980 with 62 charter members, and is dedicated to encouraging grass roots involvement in preserving desirable lands and waters for public use. It seeks to encourage owners of likely properties to sell or donate them, or the rights thereto directly to local conservation commissions or other conservation organizations. It also encourages and enables towns to acquire such properties. It always welcomes new members. The RLT also identifies

possible land donors and informs them of the desirability, feasibility and possible tax and estate advantages of contributing properties or certain rights thereto. The donation of the land or rights, which is filed on record with the state, is often in the form of a conservatio easement. The town is the enforcing body that ensures that this land is never developed.

The Land Trust Exchange was formed in Boston in 1982 and serves to unite the more than 400 local land trust groups nation wide. There are over 80 of these groups in Massachusetts alone.

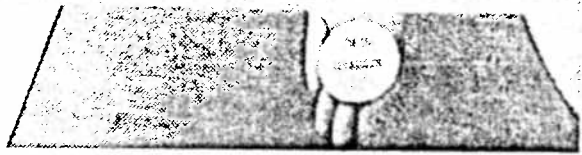
If you're concerned about preserving wetlands, the logical thing to do is to buy it, said Rosa Moldoff, Director of Development. He said that sometimes a land trust group will buy a parcel of land in a highly developable area, sell it to builders, and use the money earned from that to purchase parcels of land they want to save.

He also likened our current conservation commission to a public land trust, since it regulates the use of the town forest and attempts to preserve open space.

Preserving land is not the only function of the land trusts. They also encourage the use of these preserved lands for "passive recreation" which will not alter the land, and seek to protect water supplies, establish greenways along rivers, retain agriculture, maintain forests and educate others about conservation.

Like conservation easements, land trusts are just another way to preserve our lands and maintain the quality of life in New Hampshire. They can be an effective planning tool in shaping the future of our community.

This column, compiled by Monique Dubamel is made possible through the assistance of Director of Development Rosa Moldoff.



ASSISTANT PLANNER Kathryn Welch displays oxymoron button.
(Photo by Elizabeth Luciano)

1/30/87

Planners in Salem Too Busy To Plan

By ELIZABETH LUCIANO
Union Leader Correspondent

SALEM — Webster's Dictionary defines the word "oxymoron" as "a figure of speech in which opposite or contradictory terms are combined," and offers "thunderous silence" and "sweet sorrow" as examples.

But this community has its own illustration of an oxymoron: a town planner.

Salem's planning board and staff have been so besieged with development-related paperwork that they have had little time to do any actual planning, according to Town Manager Thomas Melena.

"There is so much development going on that someone suggested we institute a 30-day moratorium in accepting plans," Melena said.

Although that idea was set aside last fall, Melena did tell the planners during a work session that they were oxymorons.

The planning board and staff took Melena's comment to heart.

They showed up at a meeting last Tuesday night wearing large, colorful buttons which good-naturedly declared, "I AM AN OXYMORON."

A dozen buttons were made by the wife of one of the planning board members.

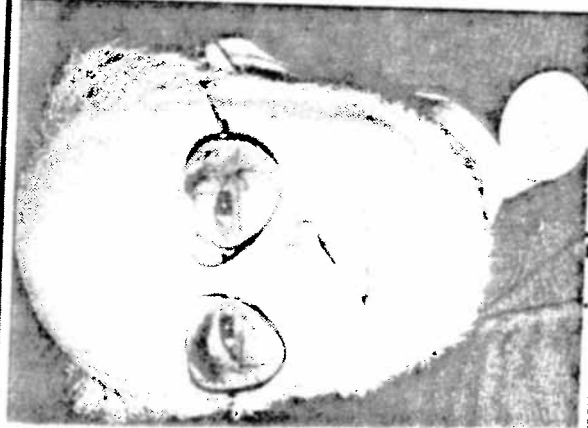
Melena, who was given one of the buttons by Planning Director Ross Moldoff, was pleased that his observation had been reflected on.

"I was hoping it would have an effect," Melena said. "I thought that maybe it was time to give ourselves a hard time."

The humor in the situation was far from lost on the usually formal town manager.

"You have to laugh at yourself once in a while," said Melena, who noted that the municipal office was in the midst of an oxymoron craze.

"Someone came up with 'jumbo shrimp' yesterday," Melena said. "Then we were having trouble with postal service, and someone said that was an oxymoron."



Oxymoronic Planners: Emil Corrente poses with his button, "I'm oxymoron."

Town planners are all oxymorons

They're proud to be 'contradiction in terms'

SALEM, N.H. — Town planners are oxymorons.

Ask them. They will admit it. They are even proud of it.

Planning Board members showed up at last week's meeting wearing colored buttons that said: "I'm an oxymoron."

About two months ago, Town Manager Thomas Melena called the board an oxymoron, a term that means "a rhetorical figure in which incongruous or contradictory terms are combined,"

according to the American Heritage Dictionary.

He said the Planning Board is a contradiction in terms because planners have not had enough time to work on a long-range plan for town development.

Since then, board members have been hunting around for someone to print up buttons proclaiming their oxymoronic state. The wife of planner Richard Gregory finally printed some up, and planners wore them to last week's meeting.

They like their buttons.

"Ross has his on today," Assistant Planner Kate Welch said. "I have mine hanging on a wall beside my desk. I think it's funny."

"That's not supposed to be an insult," said board Chairman Emil Corrente. "We didn't know what an oxymoron was until he called us one."

"Some people would say honest politician is an oxymoron," quipped Selectmen Planning Board Representative Stephen Bucu.

Woman demands Pelham return land to her brother

Supreme Court ruled property donation illegal

By Burt
Tribune Writer

PELHAM, N.H. — The town

Selectmen agreed, with the consent of Fedeles, to follow the procedure of Atkinson, N.H., for



4/5/57 5 Record



2/5/87 4: Record

All it takes is Proper Planning

The Cost of Not Planning

This column, compiled by Monique Duhamel, is made possible through the assistance of Director of Development Ross Moldoff. Please send your questions and comments for this column to PLANNING, the Salem Record, 366 South Broadway, Salem, N.H. 03079.

The 1986 Master Plan and the Capital Improvement Plan are good examples of recent planning, according to Director of Development Ross Moldoff.

But the town has not always

planned well or adequately planned for the future. "In general, there's apathy towards planning," said Moldoff, adding that people have a laissez faire attitude about the future.

This lack of foresight can lead to traffic problems, environmental problems, zoning problems, and many other difficulties. There is also a monetary cost to not planning.

Sometimes, we may foresee a problem and do nothing about it, hoping that it will go away. Salem Depot is a good example of this. The 1962

Master Plan noted traffic congestion in the depot, at the intersection of Main Street and Route 28. Twenty-five years later, the problem still exists, is probably worse, and there does not seem to be a solution in the immediate future.

The 1962 Master Plan also discussed the strip development on Route 28 and the traffic and aesthetic issues it presented. The town considered building an access road parallel to Route 28, which would allow shoppers an alternate path to the stores. The town even went so far as to purchase some of the land needed for this road.

The road never came into being, however, and we spent a great deal of money to upgrade Route 28. The town is now selling off some of the land they acquired for this road. Each year that we put off needed improvements of this kind, the cost rises higher.

Moldoff said the reason the road proposals were never

Continued on page 17

undertaken was due to lack of a constituency for them. There is a big constituency for schools, and police and fire protection, so schools "were built and our safety capabilities upgraded."

Another concern highlighted in the '62 Plan was the density of development in the Arlington Pond area. Obviously, nothing was done to curb this, and today, the area is even more densely populated and the threat of ground water contamination is ever-present, because of the many septic systems in the area.

"Part of planning is controlling growth. If we don't control it, and grow wildly, we'll have to spend additional money for roads, schools, fire and police," said Moldoff. "We really have to decide where we're going to grow and how we're going to grow."

The 1962 Master Plan also recommended that we find a way to control growth, before the "insatiable bulldozers" used up all the viable lands in town. It recommended attaining conservation easements, something the town is just now starting to do with any amount of frequency.

No one was concerned about wetlands 25 years ago, said Moldoff, so we filled them in. It produced water problems, and occasional flooding (example - Haigh Avenue). If we had a wetlands ordinance earlier, we would have been able to avoid these problems.

An aquifer protection ordinance would have prevented a situation like that of Duston Road. After the ground was contaminated there, the town had to pay to extend sewer lines to the residents there, and pay for a comprehensive study of the situation.

If we had implemented a hazardous wastes ordinance, people would not have dumped hazardous wastes anywhere they felt like it. Moldoff projects that there will be more hazardous waste dump sites found in Salem.

If we ignore planning, we are going to end up paying for it - one way or another. This is the fourth year the Town of Salem has averaged more than \$30 million of new construction per year. With this new construction, we have to consider housing, jobs, tax revenues, wetland and

aquifer protection, schools, police and fire protection, enlarging our highway and water departments, land conservation, transportation, farmland preservation, a town water supply, sewer expansion, health care, recreation, social services, elderly and youth services, and the proper form of government to best administer this community.

If we don't start thinking of these issues now, as well as how best to preserve Salem's indefinable quality of life, we could find ourselves in a situation no different from Lawrence and other cities and without the money, resources or ability to change the situation.

Feb 10, 1987

Illegal construction claimed

Town seeks to halt mall work

SALEM, N.H. — The company building a mall at the Rancho Motel illegally filled in wetlands and started work without town permits, according to Planning Department officials.

Town Planner Ross Moldoff said the town is taking Stratham, N.H. development company VIP Inc. to court, seeking fines and a stop-work order for the violations.

VIP wants to tear down the Route 28 motel and build a 70,000 square foot shopping mall in its place. Company officials were not available.

Moldoff said VIP dug out two acres of wetlands on the southern part of the lot and filled them with sand without getting required permits from the Planning Board and the Conservation Commission.

He also said VIP did not get a required site-work permit before starting excavating and landscaping.

"The key message that we're trying to give is that we're not going to tolerate any violations of our local wetlands ordinance," Moldoff said.

Arraignment will be held Friday in Salem District Court, Moldoff said.

Developer penalized

Work begun: Salem charges that mall developer VIP Inc. has illegally filled wetlands.

Eagle-Tribune Photo By Ken Yuskus



First to violate new Wetlands Ordinance...

Town will take VIP Corp. to court

THE SALEM RECORD February 12, 1987

By MONIQUE DUHAMEL
RECORD STAFF WRITER

SALEM - The town of Salem has issued a violation notice of the new Wetlands Ordinance to VIP Corporation, and will bring them to court on February 13.

VIP Corporation, 232-234 North Broadway (site of the old Rancho Motel) is in violation of both site plan regulations and the wetlands ordinance, according to Director of Development Ross Moldoff.

Although the Wetlands Conservation Ordinance has not yet been voted on by town residents, it is in effect, according to state law, said Moldoff. Because it is stronger than the existing wetlands ordinance, and it was posted and published on December 18, 1986, the Planning Board cannot approve any plan which does not meet the requirements of the new ordinance.

Not only did VIP violate the Wetlands Ordinance, they also violated the town site plan regulations, and, as of Friday, February 6, 1987, had not even submitted a site plan for review to the Planning Board.

Moldoff said they are supposed to submit one for the February 24 Planning Board meeting.

Moldoff said VIP Corp. had received state dredge and fill permits, never applied to the town for any, and had two back hoes and one bulldozer on the site performing dredge and fill activities.

In a letter to the VIP Corporation, Moldoff stated that they were in violation of sections 268-5(B) and 268-5(C) of the Town of Salem Site Plan Review Ordinance and Section 309-77(B) of the posted and published Wetlands Conservation Ordinance. The wetlands ordinance prohibits dredge and fill activities without receipt of all local permits and approvals.

In the letter, Moldoff said they must "cease and desist all activity or the Town will pursue legal action."

The violation notice accompanying the letter required VIP Corp to "cease and desist all dredge and fill activities and install erosion control measures until all local

Continued on page 13

VIP Corp
Continued from Page 1

permits have been received. Although they stopped, Moldoff said it was a major violation. "I think we have to show them and the town that violation of the new wetlands ordinance will not be tolerated," he said.

Moldoff thinks violators of local ordinances are seen as having no respect for the local laws and they cause frustration on the part of officials and planning board members. VIP Corp claimed it did not realize it was violating local laws but Moldoff said "ignorance of the law is no excuse."

VIP Corp. had received state dredge and fill permits, never applied to the town for any, and had two back hoes and one

bulldozer on the site performing dredge and fill activities, according to Moldoff.

The official court records show that VIP Corporation, the defendant, did:

1. Start site work prior to applying for site work permit or site plan approval per section 268-5 B & C of Salem Site Plan Regulations; and

2. Commence Dredge and Fill activity in wetlands prior to applying for Conditional Use Permit per Section 309-77-B of Wetlands Conservation Ordinance (posted and published on 12/18/86).

So what does all this mean and what did VIP actually do? Based on the Salem Site Plan Regulations, VIP Corp. is in violation of these regulations because it did not obtain a site

work permit from the Town Engineer did not receive site plan approval from the Planning Department; and did not file a copy of the site work permit with the Building Inspector and the Fire Department.

VIP also failed to receive a conditional use permit from the Planning Board to fill in a wetland area. In section 309-77(B) of the Wetlands Conservation Ordinance, it states that a conditional use permit may be granted by the Planning Board for streets, roads and other access ways and utility right-of-way easements if ESSENTIAL to the productive use of land not designated as wetland and if so located and constructed as to MINIMIZE the detrimental impact of such uses upon the

THE SALEM RECORD February 12, 1987 Page 13

wetlands, and IF NO ALTERNATE ROUTES EXIST which do not cross the wetlands, or have a less detrimental impact on the wetland. ECONOMIC CONSIDERATIONS ALONE ARE NOT SUFFICIENT REASON FOR GRANTING A CONDITIONAL USE PERMIT.

An abutor to the VIP Corp., property, who wishes to remain anonymous, said that he met the surveyors who initially reviewed the site, and, at that time (late January 1987), they told him the area was wetland, and very little could be built on it.

He is in the process of selling his house and, if they don't get this mess straightened out, he threatened to sue. He said that prospective buyers are being scared off by the piles of loam

and granite that are towering over his backyard.

The court hearing will be held on Friday, February 13 at 9:00 a.m. in Salem District Court. VIP Corporation representatives will be there. Moldoff and other town officials will be there. The anonymous neighbor will be there.

It should be a good show.



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Moldoff said he would make the presentation to anyone who wants to hear it. If your group would like to view this presentation, or you have further questions, contact Ross Moldoff at the Salem Municipal Office Building, 893-5731.

Salem information books on sale

2/12/87
Record

Development Handbooks, Community Profiles and Land Use Control Books are now on sale at the Salem Municipal Office Building, in the Planning Department.

The Development Handbooks cost \$5. They provide a complete guide to the application process, permits needed and board approvals needed for any new construction in the Town of Salem. The role of the Planning Department, Building Department, Engineering Department, Assessors Office, Police Department and Fire Department in any new plan are discussed. It contains a sample building permit, sample board of adjustment appeal application, and the process for permit application. It lists fee schedules for all types of electrical permits, plumbing and gas service permits, and

building permits.

The Community Profile Book is also available for \$5. It is a valuable resource for anyone in the fields of marketing, merchandising, developing, and contracting. It is also a good resource for new residents of Salem.

The Land Use Controls Book, published twice yearly, is a complete guide to the town laws regarding zoning, land use, wetlands, signage, building restrictions, subdivisions, site plans, and all regulations concerning land or land use. It is available for \$10.

For more information on any of these resources or to purchase a copy, please contact the Planning or Building Departments at the Salem Municipal Building, 33 Geremonty Drive, Salem, New Hampshire, 03079 or call 893-5731.

News & View

Are developer incentives beneficial to Salem?

We have already discussed conservation easements and land trusts, but these are not the only ways to conserve land, nor are they the only incentives a town or city can offer a developer.

There are many agreements a builder and a planning board can legally and honestly reach that will benefit both the town and the developer. Density bonuses are one example, said Ross A. Moldoff, Director of Development. In this case, a developer could propose constructing 25 single family homes on a parcel of land. The Planning Board could allow the developer to construct 30 homes, but a certain percentage would have to be sold as low or moderate income houses (under \$100,000). This is one way to attempt the creation of affordable housing.

Although this is highly recommended in New Hampshire, there have been no examples of this in Salem.

In a similar situation, a planning board might allow a developer to build 30 homes on a parcel that would allow 25 homes under Salem's Zoning Ordinance, but a certain percentage of that land would have to remain open space forever, either in the form of a conservation easement, or specifically written as a deed restriction. This also is not very commonly used, although it is recommended.

According to Moldoff, height and density bonuses are the most common applications of incentives, but there are others. Street improvements and dollar subsidies are another good way to improve the overall condition of the town at very little expense. For example, if a developer wanted to undertake a major construction project, he could be asked to improve the street near his site. Or, he could be asked to contribute funding towards road improve-

All it takes is PROPER PLANNING

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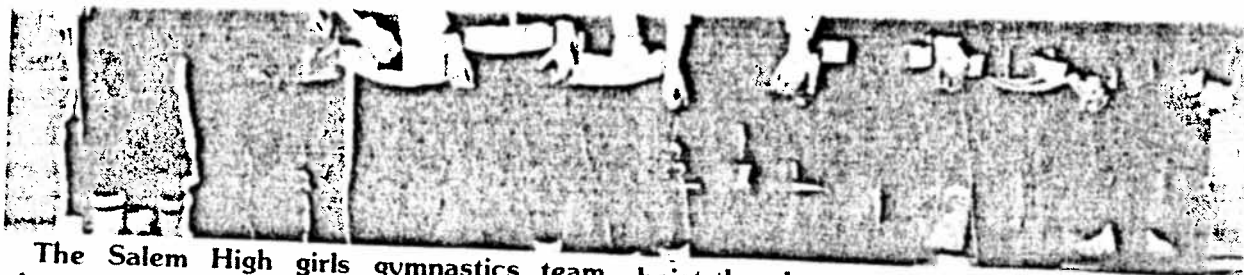
The impact of a new building on traffic is always considered by the Planning Board. Can the road leading to the new building handle the increased traffic load? Should traffic signals be installed nearby, or should existing signals be improved? If an improvement is needed, perhaps the developer will pay for part of the improvements.

Other questions considered by the planning board include the aesthetic value of the construction, conservation issues, inconveniences to residents, if any, and the benefit of the new projects to the town.

Through these kind of incentive programs, towns can receive parks, low cost housing, fire equipment, sewer lines, and streets, or the money to build or improve these things. Towns can literally fund capital improvements through incentive programs.

"We can regulate land use to get public improvements," said Moldoff.

In a town growing at the rate of more than \$30,000 in new construction per year for the past four years, Moldoff's idea is a pretty good one.



The Salem High girls gymnastics team showed just what they were made of on Saturday, as they won the team plaque for the best gymnastics team in the state. Team captains Elise Rogers and Tammie Bowlby

hoist the plaque overhead, as the rest of the team joins in on the celebration. For more photos and story on the gymnastics team's victory, see page 11 in the sports section.

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by Karen Ma
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New depot plan would cost less

SALEM — Town planners believe there may be ways to relieve traffic congestion at Salem Depot without phase two of the state's long-term Route 28 improvement program.

What is more, they think it may be possible to "revitalize" the area into the bargain.

Assistant Planner Kathryn M. Welch has worked out a proposal which would cost a small fraction of a second round of the two-year reconstruction which South Broadway merchants say hurt their businesses badly.

But it needs checking.

So Planner Welch has launched a survey of 35 property owners in the Depot area, to set their ideas on parking, traffic, pedestrian access and aesthetics.

The two-page form mailed to property owners last week leaves space for broad-range comments.

"Do you have any special concerns, with respect to the Depot area, which you would like the Town to address?" property owners are being asked.

A key difference between the

state's proposal (which got as far as detailed blueprints and a public hearing more than a year ago) and the local planner's, is that it may not be necessary to tear down any buildings.

It would double the size of the municipal parking lot at the corner of Main and Central Streets.

It would eliminate north-south sidewalks along Broadway near the Main Street intersection, using the space to provide stacking lanes for left turns.

And it would eliminate the traffic control booth.

It would encourage the use of sidewalks along Main Street, however, and a key to the plan is the encouragement of "pedestrian use of the Depot area through the use of a 'Barns Dance' at the intersection. (A "Barn's Dance," Planner Welch explains, is a four-way stop signal which allows pedestrians at certain times to cross safely in any direction).

Other factors involved in the plan: Aesthetics (open space and green areas throughout the Depot), building facade improvements, with a view

toward "preserving some of the history of the area), and site revitalization.

Salem planners have long shown an interest in finding ways, for example, to revitalize the historic Rockingham Hotel.

Welch is asking property owners to complete the survey and return their completed questionnaires "as soon as possible."

Hearing scheduled on Rt. 111 bypass

There will be a public hearing on the Route 111 bypass on Monday at 7:30 p.m. at the second-level conference room of the Municipal Office Building. Interested citizens are urged to attend.

'BUMPER STICKER OF THE WEEK

Be kind to animals... hug a hockey player!

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ketball for men 18 to 30 and 0 occurs each Monday, Tuesday and day from 7 to 9 p.m. at the Brook School. For men over 30, n is open Monday and Wednesday and is open Tuesday nights for men 0.

□ □ □

Don't forget a meeting tonight at the g Department. The Planning Board discussing capital improvements in he meeting will start at 7:30 p.m.

□ □ □

tonight, the Nesmith Library t its third book discussion of the f American Literature classics. gram starts at 7:15 p.m. at the with a literary specialist talking s about a book they were to read ious week.

ibrary will also host a music i for children on Thursday starting a.m.

□ □ □

was Selectman Peter Chulack i recommendation to state offi- nday night on constructing a road ld run through Windham to help some of the speed and traffic Route 111.

mentioned the creation of a new f Route 93, between exits 3 and 4, d run through undeveloped land ay to Routes 28 and 111.

PELHAM, N.H. — Select- men say department heads have told them the town's services are not yet ready to handle condominium development.

The townspeople will vote at Town Meeting next month on whether to allow the building of condominiums or townhouses in Pelham.

Last night the selectmen discussed their own personal views, but would not make any recommendations to the towns- people.

Drainage ditch illegal, say planners

SALEM, N.H. — Town planners say developer William Dickey illegally dug an 8-foot-deep drainage ditch in the back of his development site on Bridge Street.

Now they are taking Dickey to court to stop him.

Dickey wants to build duplexes on a 64-acre farm at 38-52 Bridge St. But Assistant Planner Kate Welch said Dickey dug the ditch without state and town excavation permits.

"When it's finished, it's going to be wider than the Spicket River," Miss Welch said.

Nonsense, said Dickey. He said the amount of dirt he was digging out did not require a permit.

"I feel that they are harassing me," he said.

Miss Welch said the town filed a building code violation complaint in Salem District Court. A hearing is scheduled for Friday.

"I think it's premature for the development to come in," said outgoing selectman Michael Marcinkowski, who along with Victor Spaulding, have been out-

ment.

2/25/87

The Middletons



"If you make a recommendation on this zoning variance, you'll have to do it to all of them," said Huston White, a member of the Board of Adjust-

Won't say: Selectmen/Chairman Raymond Cashman says the board shouldn't second-guess town planners.

condominium development. "That's what our department heads have said. But again, it's up to the townspeople and not us (selectmen)."

Selectman Peter Flynn said he wasn't prepared to give an opinion on the warrant article. He agreed with Cashman, saying a recommendation from the Planning Board is enough.

Eagle-Tribune Photo

By North And

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FOR OUR

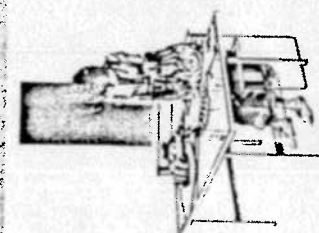
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OSTER CONTEST

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New Hampshire News

Rte. 111 hearing draws huge turnout

By BLAKE MICHAEL VARNEY
RECORD STAFF WRITER

It was called by one onlooker, "the biggest turnout for a town hearing in years."

More than 70 people from Salem, Windham and Pelham came to the Salem Municipal Offices Monday night to air their gripes about the ever-worsening traffic and safety conditions on Shadow Lake Road, which is state highway Rte. 111.

A state Public Works Subcommittee from Concord was on hand to hear the peoples' fears and complaints.

"I've seen children almost get hit by speeding cars on that road," said Glen Smith, 70 Shadow Lake Road, Salem. "I think they ought to do something about it and they ought to stop dragging their feet up in Concord. Somebody ought to get a kick in the butt up there (Concord). They've been talking about it for 20 years and haven't done anything."

State Representative Marilyn Campbell of Salem agreed. She has sponsored a Bill for \$12,000,000 which would be used to construct a bypass to alleviate the traffic congestion at the Rte. 28-Rte. 111 intersection near the Dairy Queen. But there can be no action on the Bill until next year.

Ernest Reavy, 103 Shadow Lake Road, Salem, said: "There's been two deaths on Shadow Lake Road—two pedestrians that have been hit. The road was a country road years ago, now it's become a major highway."

"The speed limit should be knocked down to 30-35 miles an hour," Reavy continued. "There are signs on Route 28 that are as big as a house that say 30 miles an hour. There are no signs on Shadow Lake Road."

He added, "There are two houses on Shadow Lake Road that cars have actually gone into. They've imbedded themselves in the house when they come off the road."

Reflecting the consensus of those in attendance, Salem Chief of Police John Ganley told the Subcommittee, "It's a

disgrace. I can't emphasize enough that something has to be done. The road is an Indian path that in this day and age cannot handle the volume of traffic that's there."

The people were angered that the Rte. 28-Rte. 111 intersection had been removed from a state priority list of hazardous traffic situations. Even problems which ARE on that list often take up to 10 years to get state attention, according to Gilbert Rogers, a state highways official.

"I don't see how your committee can say we can't do anything for 10 years," said Thomas Case, 8 Shadow Lake Road, Windham. "I look 10 years from now and I see so much traffic that you won't be able to move at all -- total gridlock."

George Miller, 84 Shadow Lake Road, Pelham, said: "The construction trucks are a problem too. They go by my house and shake the house. Not only has the traffic increased up there but the fumes from the trucks are terrible."

Many in attendance agreed that construction company trucks traveling Rte. 111 do so at a reckless rate of speed which endangers children and pedestrians. They said the truck drivers are often rude too.

George Miller said that since the houses are built very close to the road along parts of Rte. 111, and since cars and trucks travel far above the speed limit, it can even be dangerous trying to make a turn off the road. "There have been obscenities yelled at my wife," he said. "There have been people throwing cans out the windows at us. We get all kinds of grief just because we want to turn into our driveway."

Miller continued: "There is no sign there that tells the speed limit. There is no sign there that says 'Beach Area.' There is no sign there that says 'Construction Area.'"

Windham Selectman Peter Chulack presented a plan to the state Subcommittee which seemed to meet with approval from the people in attendance. Chulack proposed constructing a bypass which would run behind Shadow Lake out to Rte. 93. The plan would eliminate much of the rush-hour traffic at the Dairy Queen intersection. One person said



PASS MY BILL! - State Rep. Marilyn Campbell of Salem has sponsored a bill which would appropriate money for construction of a bypass for Rte. 111. Here, Rep. Campbell speaks next to a huge map of the problem area which was displayed to the more than 70 people at the hearing.



WE WANT ACTION! - Ernest Reavy was one of the many area citizens who let the state Subcommittee know that they are tired of talking about the dangerous traffic and safety situations on Rte. 111. They want something done.

rush-hour congestion can cause 45-minute waits at the traffic lights there.

Beaton Marsh of the state Public Works Subcommittee angered many in attendance when he said: "There are many, many reasons why this road should be repaired. This

Bill will be re-referred to committee, which gives us more time to analyze the problem."

"There is just so much federal aide though, and it's being reduced every year," he said. "There is also a time problem. It takes at least 60

months to start a construction program like this from scratch."

At the conclusion of the meeting, people were heard murmuring: "Well, that accomplished absolutely nothing." And, "I guess we're back to where we started -- nowhere."

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3/2/87 Lawrence Eagle-Tribune

Voters face building bar

By Tom White
Eagle-Tribune Writer

SALEM, N.H. — Town meeting voters will decide whether to slow development on North Broadway, ban building in wetlands, allow taller buildings and give all homeowners the right to add in-law apartments.

Town planners and residents have placed 12 construction-related articles on the town meeting warrant.

Key articles call for:

BANNING ALL DEVELOPMENT in the town's 4,600 acres of wetlands except for utility roads, farming or forestry, unless soil tests prove the land is not wetland. Assistant Planner Kate Welch said planners hope the law will protect wetlands that help control water pollution and flooding.

If voters at the town meeting reject the proposal, planners will try to strengthen the cur-

rent wetlands law by deleting some loopholes, including one that allows building in wetlands in commercial areas.

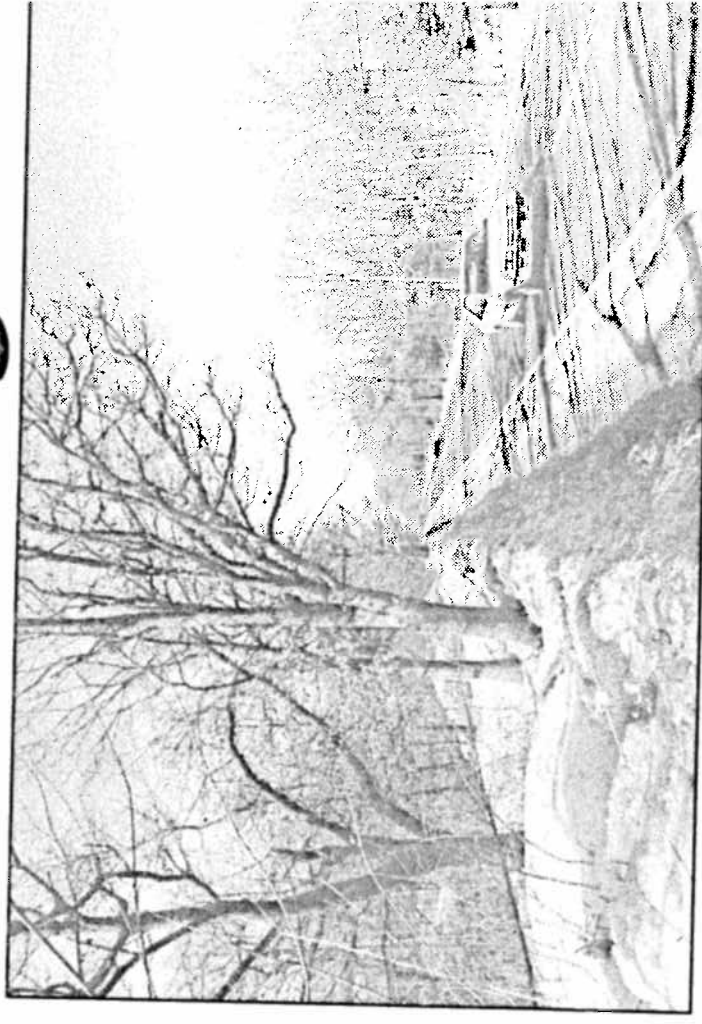
RESTRICTING DEVELOPMENT ON NORTH BROADWAY by letting the Planning Board make recommendations on curb cut requests to the state Highway Department. The proposal would also prohibit any pavement within 25 feet of the road. Miss Welch said the law will help prevent North Broadway, the section of Route 28 north of Main Street, from turning into another strip, like South Broadway.

CLUSTERING HOMES in residential developments in return for leaving other space undeveloped. Under current town law, houses have to be on at least half-acre lots. The proposed law would let developers

Please see Building
Page 10

Protect it: Salem town planners want to keep North Broadway, like this section south of Route 111, from becoming another shopping strip

Eagle-Tribune Photo



Cancer report finally release 7 months after completion

CONCORD, N.H. (AP) — A report suggesting links between some inhales and cancer deaths is

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police.

AP Photo

Irving, left,
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Fall 1986

L.L. Bean altered the catalog to make the hunter the company removed changed the face of the reoport, Maine, company

ect
ever

newest emerging ethnic gang.
ice and Jamaican scholars t many gang members are ie gunmen who killed an 600 people during the at 1980 elections in Jama-

some 57 grievances against Dimi-try.
Dimitry refused to comment on

Board wants to slow down

Building From page 9
group them on smaller lots in return for leaving surrounding land undeveloped. Miss. Welch said the



Sen. Robert Dole: Oppo-
nents say he is soft on taxes.

Opponents hit Dole on taxes

By Stephen C. Fehr
Scripps Howard
CONCORD, N.H. — Senate Re-
publican leader Robert Dole's ri-
vals for the GOP presidential
nomination are beginning to ex-
ploit what they think is his Achilles
heel — taxes.

The no-ice vote comes
after months struggle between

growth on North Broadway

law would help preserve open
space as well as cut development
costs in road construction and sew-
er and water lines.
ALLOWING BUILDINGS taller
than the current three-story, 35-

dent's refusal to renegotiate the
status of employees in the Law-
rence Education and Employment
Project (LEEP).
The nence vote is n
binding.

OF IN-LAW APARTMENTS

single-family homes as long as
apartment is occupied by relativ
ALLOWING MOBILE HOMI
in all residential areas, not just t
southwest corner of town.

Salem has highest car theft rate in county

**Applications are being ac-
cepted** for the following town
positions: Conservation Commis-
sion, Mosquito Control, Housing
Authority, Historic District Com-
mission, Council on Aging, Board
of Adjustment.
Applications must be returned
to the Town Manager's Office,
Town Hall, by Thursday, March
26, 5 p.m. Interviews with select-
men will be held Monday, March
30, 6 p.m., Town Hall.



**Tom
White**
Salem

ty. Police offer a few tips on
preventing your car from being
stolen:
NEVER LEAVE KEYS in an
unattended car, and make sure all
doors are locked.
PLACE ALL VALUABLES in
the trunk or glove compartment.
NEVER ATTACH A TAG
WITH YOUR NAME and address
on it to a key ring. If the keys are
lost or stolen, the tag will lead a
thief right to your car.
TURN WHEELS towards the
curb when parking, which makes
it tough to tow.
DON'T LEAVE YOUR CAR in
unattended in public parking lots
for a long time.
**CONSIDER INSTALLING A
FUEL SWITCH** which would pre-
vent a thief from driving your car
far before running out of gas.

Class play "Damn Yankees" is
scheduled for April 9, 10 and 11,
7:30 p.m. at the high school.
Tickets are available at the
high school and through cast
members. Proceeds go to the high
school prom and the senior ban-
quet.

**Northeast Rehabilitation
Hospital** and the American Dia-
betes Association are sponsoring
diabetes workshops the second
Thursday of each month, 7 p.m. a
the hospital.

**The Salem Boys and Girls
Club** chess team won its first
tournament in Manchester, N.H.
last month.

High school students that
need to get a Social Security Card
can file an application with the
Lawrence Social Security Office,
229 Essex St.

Tom White is the Solem report-
er. He may be reached by calling
him at 893-9555 or writing him at
the Eagle-Tribune, Box 100, Law-
rence, Mass., 01842.

The high school Senior

Ski tranedv iced to halm nreavnt others

Planning Board to hold public hearing on amendments

Observer
3/12/87

SALEM—The Planning Board will conduct a public hearing on Tuesday, March 24 at 7 p.m. in the Municipal Office Building. The public hearing will be held to receive citizen input on proposed amendments to the Salem Site Plan Review Ordinance.

Summary of the Site Plan Review Ordinance Amendments are as follows:

To bring the referenced RSA numbers up to date since recodification in 1985.

Site work permit to be granted by Building Department with approvals required from Engineering and Planning Departments.

Certificates of occupancy may be issued for a building provided any

unfinished site work is guaranteed by a performance bond or letter of credit.

The Planning Board may waive site plan review regulations in cases of hardship.

When the applicant for Planning Board approval is not the property owner, a letter of permission from the owner will be required.

Delete the reference to a two-stage plan review process.

Applications for site plan approval are not considered accepted until the date of the first public hearing.

Revised plans shall be submitted to the Planning Board Agent seven days in advance of the Planning Board meeting at which time they are to be

heard.

Clarification of abutters as defined by the appropriate RSA.

Residential areas shall be screened from commercial uses.

Planning Board may require additional impact statements and studies in order to review a plan.

An on-site soils survey shall be required prior to Planning Board approval.

Complete copies of the amendments are available at the Kelley Library and the Municipal Office Building. Citizens are urged to attend the public hearing or submit suggestions in writing prior to the meeting.

Observer 3/12/87

Land seminar scheduled

SALEM—The Planning Department and Conservation Commission are sponsoring an informational presentation entitled "Growing, Going, Gone: Techniques for Land Protection and Conservation," on Thursday, March 19 at 7:30 p.m. at the Municipal Office Building.

This topic is relevant to Salem's recent growth. For the past four years, an annual average of 150 homes and 20 commercial projects were built and over \$30 million occurred in new construction. While making commercial and residential progress, many farms, fields and forests were lost in the process.

The presentation will be delivered by Sarah Thorne, land protection specialist for the Society for the Protection of New Hampshire Forests. Thorne is also a program director for the Trust of New Hampshire Lands. Land protection problems and solutions for the Salem area will be the topic of Thorne's presentation.

Thorne will also describe the Trust for New Hampshire Lands, a statewide campaign seeking protection of 100,000 acres of New Hampshire's most important natural lands.

Interested people are urged to attend.

Observer 3/12/87

Town takes Dickey to court

by Frank Zabierek

SALEM—William Dickey, owner of Beaver Village Realty Trust, is scheduled to appear in Salem District Court tomorrow for performing unauthorized excavating activities over the past several months on his Bridge Street property.

Dickey, apparently, had three lots approved on the Bridge Street side of his property for a farm house and two single-family homes but it's the remainder of his property, the Elmwood Avenue side, that's in question.

According to Kathryn M. Welch, assistant planner, the Beaver Village owner is excavating the land to create a moat around his property. This process would improve the soil condition by getting rid of much of the top water. Unfortunately, digging a swale of this size would leave noticeable scars on the property making it close to worthless for any future use.

The initial allegation against Dickey stems from a letter sent by Ross A. Moldoff, planning director, on Sept. 17, which states, "no excavation, dredging, filling, grading, utility installation or paving shall begin prior to subdivision approval."

Moldoff attributed the letter to RSA 149 8—A, which regulates terrain alteration activities and requires State approval when more than 100,000 square feet of land is disturbed, or when any activity is proposed in or adjacent to a water surface of the state.

Several months afterwards, Welch wrote Dickey a letter on Feb. 10 with much of the same content as Moldoff's.

Welch's letter stated, "Chapter 182 of the Town of Salem code requires registration of an excavation site and a project permit for excavation work. Excavation is defined as removal of any soil, gravel, loam, sand or rock."

On Feb. 20, Moldoff, Welch and

Joe Chamberlain met with Dickey. The planners informed Dickey if he brought plans into the engineers office and received their approval, he could then continue work on his property.

On Feb. 24, Dickey submitted a hand-drawn plan of the proposed operation on his property but it was quickly rejected by the planners due to incorrect data. Excavating activities were still taking place on Dickey's property despite the proposed court actions from town officials.

In addition to the town of Salem, the State Wetlands Board and the State Pollution Control Commission also plan to impose violations against Dickey on the same property.

Dickey had been told numerous times by town officials, unless the swale on his property was approved by the engineers office, any work on that site would continue to be a violation.



A construction worker excavates the swale on the Bridge Street property owned by Beaver Village Realty Trust. On Friday, William Dickey, owner of the Beaver Village

Realty Trust, will appear in Salem District Court to determine if this activity coincides with state laws and statutes pertaining to prior approval before excavation.

News & Views

Growing, going, gone

Developing Salem

The Salem Planning Department and Conservation Commission will be sponsoring a presentation entitled "Growing, Going, Gone: Techniques for Land Protection and Land Conservation" tonight (Thursday, March 19) at 7:30 p.m., at the Town Hall.

In a community that has seen over \$30 million in new construction every year for the past four years, with a population nearing the 30,000 mark, this is an extremely important topic, and it's all part of proper planning.

This presentation will be conducted by Sarah Thorne, a Land Protection Specialist for the Protection of NH Forests and Program Director for the Trust for NH Lands.

The Planning Department and Planning Board has been holding several information and discussion sessions lately, the last one being on March 5. At the March 5 session, planners and developers sat down in an informal get-together to discuss planning board policy and procedure. The board explained why they do some of the things they do and developers voiced their concerns and what they would like to see happen.

The planners want developers to have all the necessary permits, state subdivision approval, and site specific approval before they appear before the Planning Board.

The developers want the Planning Board to establish a policy and stick to it - what they do to or require from one applicant should go for all applicants.

Developers also complained about the sometimes long time period it takes for their plans to get approval. The filing date for a plan is 5:00 p.m. on a Monday. The plan is then heard two weeks later, at

All it takes is PROPER PLANNING

This column is compiled by Monique Duhamel and made possible through the assistance of Director of Development Ross Moldoff. Your questions and comments are welcome. Please direct them to PLANNING, the Salem Record, 366 South Broadway, Salem, N.H. 03078.

the next open planning board meeting. If the plan is filed on a Tuesday morning, developers would have to file for the next session after that, which could mean a whole month of waiting. Sound confusing? You're right, it is. But if the planning department did not put a deadline on filing plans for upcoming meetings, you could have people coming in the day of the meeting, requesting to be put on that night's agenda. That would leave the staff with no time to review the plans.

It was nice to see so many familiar faces take the time to stop in at this session. In evidence were Larry Belair, Paul Fredette, Thomas Connell, Donald Jutton, George Merrill, James Sayer, Dennis Dunderdale, Stanley Lashoones and John Brennan, as well as many other local developers and contractors. Planning Board members and Director of Development Ross Moldoff were also on hand.

Jim Sayer said the Planning Board should have the time to give the developer a complete evaluation of what he has to do for



LET'S TALK THIS OVER - Local developers and town P sat down last week to discuss Planning Board procedure. This informal discussion attracted over 30 people. This developers and planners a chance to air their views a

his final hearing, but Planning Board Chairman Emil Corrente doesn't agree. If there's a checklist, he said, you almost shouldn't need the Planning Board. And then he'd be out of a position on the Planning Board, and we can't have that. What would Salem do without Mr. Corrente's wry sense of humor?

Planning Board member Robert Campbell pointed out that the Planning Board has more than just a checklist function. He brought up examples of plans where developers (usually ones from out of town - we like to think our local developers are an honest bunch of guys) submit plans with things in them they know are wrong. A checklist could never include all the things the Planning Board

looks for. These people who try to get things through the board, as well as those who violate the ordinances make it hard for the other developers.

Campbell also brought up examples where the plan may comply with regulations, but it may not be what the abutters were told or what they expect, which can lead to bad feeling between neighbors and a growing public distrust of all developers.

"We're here so that when somebody goes out to build something next to someone else they're not so ticked off they go out and take a potshot at someone," said Corrente.

The board is leery about granting conditional permits, especially for a driveway onto Route 28. The last two time the Salem Planning Board granted a conditional driveway permit onto Route 28, the state said "No go."

"Under what conditions will you grant one and under what conditions won't you grant one and stick to that for everyone," asked Donald Jutton.

Several developers said they wanted more direction from the board so they would waste less time and know exactly what was needed.

In addition to tonight's presentation, the Planning Department will be holding a public hearing on Tuesday, March 24 at 7:00 p.m. in the William T. Knightly Meeting Room at Town Hall. The purpose of this meeting is to discuss citizen input on proposed amendments to the Salem Site Plan Review Ordinance. Next week, this column will feature a complete list of the proposed changes and why the Planning Department wants to change them. These proposed changes are not final and your input can make a difference.

Hope to see you both tonight and on March 24.

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SALEM, NH



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Citizen rips Planning Board over approval procedures

3/19/87

By BLAKE MICHAEL VARNEY
RECORD STAFF WRITER

Norbert Pestana was mad. Pestana, who lives at 60 Haigh Ave., stood before about 30 residents at the Planning Board meeting on March 12 and told the Board that he didn't like their policy of granting conditional approvals.

"You, sirs, are the people who look out for the interests of this town," said Pestana diligently to the Board members, "and I think you're missing your duties."

Pestana's gripe came during a Final Hearing discussion of the proposed New Salem Company subdivision, which would create 34 lots for housing off Theresa, Diamond and Florence avenues.

Ultimately the Board did not approve or disapprove of the plan. They voted to continue New Salem as a Final Hearing.

But not before enduring Pestana's verbal whipping.

As is customary, the Planning Board had discussed the New Salem plan at several previous meetings leading up to this Final Hearing forum.

After about 15 minutes of hashing over the plan at this most recent meeting, one Board member finally made a

motion to approve it, subject to several minor conditions which still had to be met by the developers.

Among the Board member's conditions for approval were the anticipated receiving of an Army Corps of Engineers final O.K. for the project, which was believed to be forthcoming, plus an assurance that the proposed lots did not violate the town's new wetlands ordinance. There were also questions of street frontage access for certain houses.

Norbert Pestana was incensed.

He insisted that the Planning Board, which oversees much of the town's housing and business growth, should not be approving plans before all the loose ends are tied up.

He presented the following scenario: What if the Board approved the plan conditionally and the developer began work on the site, then suddenly it became apparent that the developer could not meet one of the conditions for approval. The Board would likely "feel sorry" for the developer, said Pestana, since money had now been spent, and the Board would likely approve the plan regardless.

It was explained to Pestana

that not one piece of dirt would be moved on the site until all of the conditions for approval had been met.

When large sites like the New Salem subdivision come before the Planning Board, there is often a demand to the developers, put forth by the fire department, which requires multiple access roads.

The fire department fears that unless there is more than one road into and out of a development, a potentially sizeable disaster could occur during a fire at the development.

In the case of the New Salem plan, the additional access road, as proposed, might interfere with a wetlands area.

Pestana was furious. "Every time that a wetlands is destroyed," he said, "the potential for flooding for surrounding areas goes up. We're setting a dangerous precedent here (by affecting a wetlands) that is contrary to the spirit and the intent of this (wetlands) ordinance. I hope you would reconsider this."

Pestana said in brash tones that an access road for safety is "nice", but not if it has to be constructed at the expense of a wetlands.

He said salt and oils flowing off such a road can damage a wetlands "that is purifying water for this town, and storing water for this town."

Just before the vote on whether or not to approve the New Salem plan, Planning Board Chairman Emil Corrente told Pestana that his arguments might carry more weight if they had been presented at one of the preliminary discussions on the project, instead of at Final Hearing.

As it turned out, the Board's 3-2 vote to continue the plan as a Final Hearing - instead of approving it outright - hints that Pestana's arguments carried some weight anyway.

Town taking him to court

3/24/87
Eagle-Trib

Developer's ditch angers Salem neighbors

SALEM, N.H. — Residents and selectmen are frustrated by a drainage ditch on a 64-acre farm off Bridge Street that builder William Dickey is developing.

One resident calls Dickey's ditch "a moat." Another resident says the water in the ditch could drown a child.

A selectman says Dickey's

possible punishment for digging the ditch amounts to no more than "wet noodles."

The town is taking Dickey to court, claiming he illegally dug the 5-foot deep, 2,000-foot long drainage ditch at the back of his property without permits.

Selectman Joseph Gagnon said Dickey faces a \$500 fine if found guilty. "We're throwing

around wet noodles at this guy. I mean \$500 is nothing," Gagnon said.

Stephanie Micklon, 163 Brady Ave., said a child could drown in water in the ditch. "He has a moat there," she said. "Until something is done, it's dangerous."

The state Water Supply and Pollution Control Commission

issued Dickey a stop-work order on the site.

Dickey claimed the amount of dirt he has dug out did not require a permit. "I feel they are harassing me," he said.

Selectmen asked Town Manager Thomas Melena to immediately look into ways to guarantee safety at the site and resolve any legal questions.

Suburban Scene



Timberlane winter concert tonight

PLAISTOW — The Timberlane Junior High winter concert will be tonight, at 7:30 p.m. at the junior high gym featuring the 8th Grade Band, Tiger Band, 7th and 8th Grade Chorus and the Chamber Singers.

Citizens for Orderly Growth to meet

PLAISTOW — Citizens for Orderly Growth will meet tonight, March 3 at Plaistow Public Library to talk about plans for the distribution of information at the polls and before town meeting. Members will distribute flyers explaining the group's position on recommendations they have made to change the zoning ordinances.

Salem permits listed

SALEM, N.H. — These are the building permits issued the last three weeks of February:

Dennis Habib, Lawrence Road, two single-family homes, \$200,000 each.
 Sanford Alan Associates, Sullivan Avenue, single-family home, \$60,000.
 Herbert Bernard, 5 Clover Court, single-family home, \$100,000.
 Rullo Construction Company Inc., Stone Post Road, three single-family home, \$140,000, \$145,000, \$160,000.
 John LeViness, 44 School St., residential alteration, \$3,000.
 Salem Inn Inc., Blue Box Restaurant and Lounge, 1 to 9 Keewaydin Drive, sign \$2,500.
 Gary Bergeron, 28 Olde Woode Road, fireplace, \$8,000.
 Colonial Shoe Inc., South Broadway, sign \$1,700.
 State Line Subaru, 500 South Broadway, sign \$3,000.
 Jim Massahos, 233 South Broadway, shed \$800.

315 Lawrence Road - Tr-16

No wood recycling plant, irate residents demand

By Tom White
 Eagle-Tribune Writer

SALEM, N.H. — About 50 residents crowded into Town Hall last night to tell selectmen they want a wood recycling plant at the Lowell Road landfill stopped.

"How long are we going to have to suffer through this ... all the noise and all the stink?" asked Ernest Consentino.

"I don't see how you could allow this type of truck traffic through a residential neighborhood," said Richard LaRochelle, 4 South Policy St.

"This town has an awful lot to lose," said Russell Richardson, chairman of Citizens Organized to Protect the Environment.

But selectmen think the



How long are we going to have to suffer through this ... all the noise and all the stink?

53

—Ernest Consentino

plant may help clean up the area and guarantee the safety of town drinking water.

Town lawyers Frank Hekimian and Bruce Barron, of Granite State Natural Products,

want to use a chipper to turn scrap wood into wood chips for sale. They also want to truck in other scrap wood for processing and reclaim loam, metals and other material buried at the landfill, which was closed down after a 1983 fire. They promise to remove twice as much scrap wood from the site as is trucked there.

But during about three months of hearings, residents have raised concerns about noise, toxic waste, traffic, air, other fire, and water pollution.

Last night, Richardson presented selectmen a petition with about 300 signatures opposing the plant.

Selectmen have asked a Rockingham Superior Court judge to decide whether the Granite State wood chipping

plant will violate a 1984 Town Meeting ban on opening any new landfills or reopening current ones.

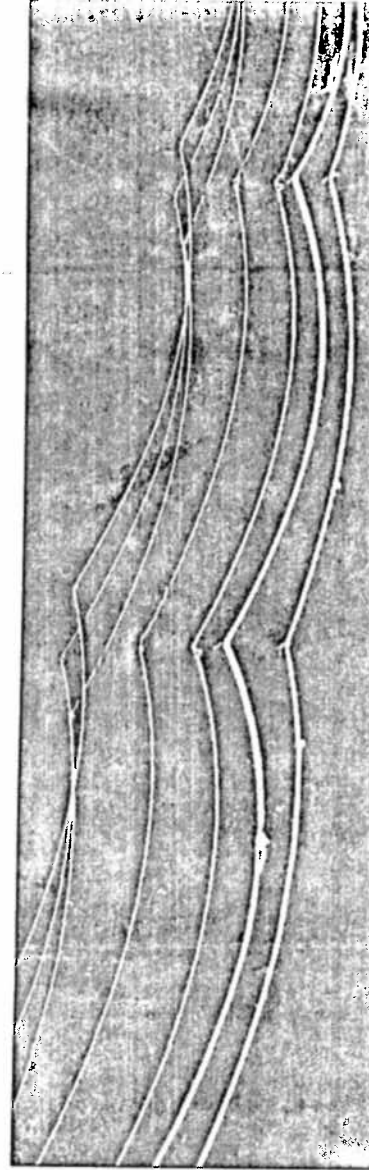
That was not enough for Richardson. He asked selectmen to seek a court order banning the wood chip plant if the court rules in Granite State's favor.

Selectmen refused. Chairman Howard Glynn said the plant may help clean up the site by removing material at the landfill. He said that would help guarantee the safety of town drinking water in nearby Turner Wells.

But if the court rules in favor of Granite State, Glynn said the town could hold a public hearing on what to do next. He said one option could be a special town meeting on whether the plant should operate.

Social club gunman admits guilt

MANCHESTER, N.H. (AP) — Edward J. Kirilla has pleaded guilty to killing one man and wounding a woman during a robbery attempt at a social club, says Attorney General Stephen Merrill.



Town to take Dickey to court again

By MONIQUE DUHAMEL
RECORD STAFF WRITER

The Town Planning Department has issued Beaver Village Realty Trust a violation notice and court summons for violations of the Salem Zoning Ordinance at their construction site located at 38-52 Bridge Street.

On February 19, 1987 after receiving a complaint, Assistant Planner Kate Welch went to the site and documented the earth removal activity.

The next day, Planning Director Ross Moldoff, Engineer Joseph Chamberlain and Welch met with William Dickey, owner of the site and served him with a violation notice and court summons.

After some discussion with Mr. Dickey, it was decided that if he brought plans of swale into the Town Engineer's Office and received their approval, he could then continue to work on the swale. Dickey assured the Town that he would have plans by the beginning of this week. To be acceptable, the plans had to be

completed by a certified engineer.

In regards to the earth removal activity, Dickey said it was within his rights to move loam off the site and to sell it, contrary to Chapter 182 of the Code of the Town of Salem, New Hampshire.

The violation notice said that Beaver Village Realty Trust is at fault for failure to comply with Section 278-2(B) of the Salem Zoning Ordinance; Chapter 182 of the Salem Codes, and RSA 149:8(a).

In a letter dated September 17, 1986, Moldoff requested Mr. Dickey contact the Planning Department before he did any more work on this site, warning him that he could be in possible violation of Salem's Subdivision Regulations, which states that: No excavation, dredging, filling, grading, utility installation, or paving shall begin prior to subdivision approval.

The letter went on to outline RSA 149 8-A which regulates terrain alteration activities and requires State approval

Continued on page 28

DICKEY

Continued from Page 1

when more than 100,000 square feet of land is disturbed.

In a February 10 letter, Moldoff contacted Dickey once again to notify him that he needed a terrain alteration permit from the New Hampshire Water supply and Pollution Control Commission in order to disturb more than 100,000 square feet of contiguous surface land. He also pointed out that Chapter

182 of the Town of Salem Code requires registration of an excavation site and a project permit for excavation work.

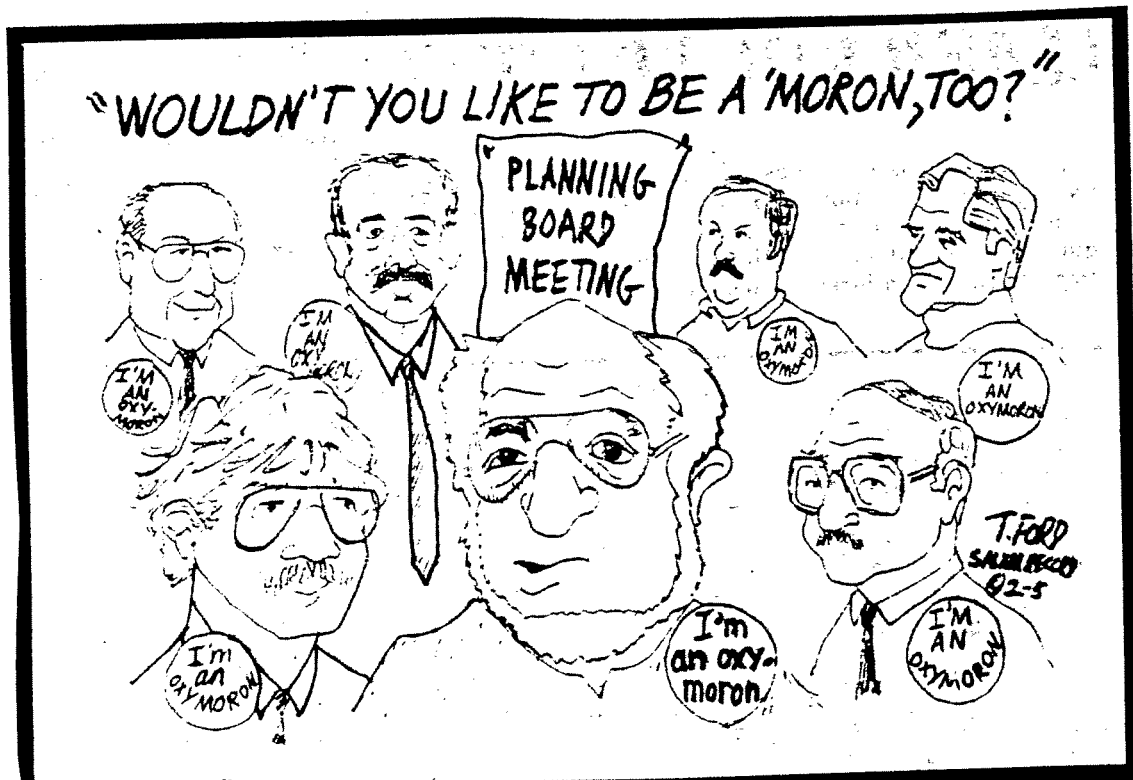
In the letter, Moldoff said that failure to register the excavation site or receive proper permits prior to commencing earth removal work shall result in a violation and immediate court action.

Said Moldoff, "In summary, the owner has, once again, failed to comply with local regulations. Until or unless swale is approved by the Engineers Office, any work on this site continues this violation."

Carol Schofield, Elmwood Avenue, is a neighbor to the property in question. She said she had been watching the land since it was sold in January of 1985, and had attended Planning Board meetings when that area came up.

"He (Dickey) took out truckloads and truckloads of sand, loam, and clay," she said. She also said he was using steam shovels, the snow had been plowed away and there were "mounds of dirt there". She compared the area of stripped topsoil to the size of a football field.

"When the snow melts, we're going to have a giant swamp out there," she said.



News & View

Growth in Salem

If you ever wondered why we should conserve lands, last Thursday's presentation *Growing, Going, Gone: Techniques for Land Protection and Land Conservation* answers any questions you might have.

Sponsored by the Planning Department and the Conservation Commission, the presentation highlighted Salem's land resources and how to protect them, and preserve them for future conservation and recreational use.

The evening started off with a speech and slide show by Director of Development Ross Moldoff, on the Master Plan recommendations for open space. These include obtaining public access to lakes, establishing greenbelts along major waterways, preserving farmland, and preserving scenic areas - such as Spicket Hill. Moldoff said these goals could be accomplished through local regulations and developer incentives.

The color slides were a beautiful complement to his talk, showing such local scenic areas as the Dyer Farm, Donabedian Farm, the Najuck Farm, the Scholz Farm, the Turner homestead, Canobie Lake, Arlington Pond, Captain's Pond, Taylor Reservoir, Worlds End Pond, and Spicket River. He also showed several wetland areas in town including areas near Salem High School, Salem-haven, Northeast Rehab and Worlds End Pond.

All it takes is PROPER PLANNING

This column is compiled by Monique Duhamel and made possible through the assistance of Director of Development Ross Moldoff. Your questions and comments are welcome. Please direct them to PLANNING, the Salem Record, 386 South Broadway, Salem, N.H. 03079.

Innovative Zoning: A Local Official's Handbook has given Moldoff many ideas on how to protect and conserve open spaces without sacrificing growth.

The town presently owns 1000 acres of land. The land is occupied by schools, the town hall, the public works garage, and reserved for future use. Only 223 of that 1000 acres is dedicated to open space.

Sarah Thorne, the Director of the Trust for N.H. Lands, then gave a speech on land development throughout the state, and the purpose of the Trust.

"The most involved people who determine the future of land in our state are the landowners," she said.

Thorne pointed out that while federal monies help to purchase lands for conservation purposes, that money is tapering off, and there will be no more by 1989, because the federal government has redirected that money into

Continued on page 20

Bill 1) that would set aside \$50 million over the next five years for purchases of land and conservation easements.

The Trust would be able to double this amount by using it as matching funds for New Hampshire communities. A town or city could appropriate a certain sum of money for conservation and the Trust could match it.

The Trust also supports innovative zoning changes, such as cluster development, because large lot development eats up more land than high density development. With cluster zoning, developers could build all their houses on one parcel on only a portion of that land, and leave the rest as open space.

This Trust has a five-year life span, said Thorne, because five years is a realistic political horizon. Also, if we wait more than five years, most of the land worth conserving will be gone. The Trust's goal is to distribute \$2½ million for conservation purposes within those five years.

Several people at the meeting expressed an interest in forming a local land trust and signed a list. If you are interested in helping to form such a group, contact Ross Moldoff, 893-5731.

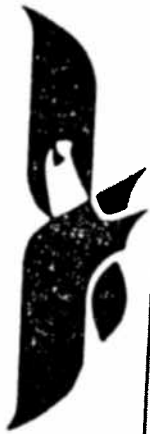
other programs. Since New Hampshire once received \$8 million per year for land conservation purposes, the loss of this funding will be sorely felt.

There is very little state funding for conservation purposes in New Hampshire, said Thorne, none for the Fish and Game Division, and little for parks.

On a local level, some communities are actively conserving lands. Salem, believe it or not, is a good example. The Town has a Town Forest, a Conservation Commission, and actively seeks conservation easements from developers. The Town Meeting, however, cannot appropriate enough money to purchase many more lands, especially without the prospect of federal matching funds.

This is where such organizations as land trusts, watershed associations and the Trust for NH Lands fit in. They can gain more lands for conservation purposes.

The Trust for NH Lands is a mix of public and private groups. It is a non-profit organization which seeks to gain donations and legislation for the purposes of land conservation. They are presently supporting a bill in the state legislature (Senate



LAWRENCE EAGLE-TRIBUNE MARCH 30, 1987

New Hampshire

Editor: Alan White, 685-1000

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Law forbids restriction

Mobile homes head for Salem

By Tom White
Eagle-Tribune Writer

SALEM, N.H. — Residents in Salem and Pelham may have shot themselves in the foot when they voted against more mobile home parks.

Voters in both towns this spring defeated proposals to allow more mobile homes in residential areas.

But a state law passed last year says towns that restrict mobile home development have to allow them in all residential areas starting June 1.

That means more mobile homes could be built in towns like Salem, despite the voters' wishes.

It could also mean law suits. "I would say that if they are challenged any time after June 1,

they do not have the grounds to turn it down," said state planner Marcia Keller.

Mobile homes are an important source of low-income housing, officials said. State Planner David Scott has said mobile homes make up 10 percent of all Granite State housing.

But some towns discriminate against mobile homes through restrictive zoning laws, lot size requirements and high land prices.

Londonderry bans any new mobile home parks.

Derry allows mobile homes only in mobile home subdivisions 30 acres or more.

And Salem allows them only in the southwest corner of town.

All these towns have mobile homes that were set up before

zoning laws were passed and so are exempt from current local laws.

The state passed the new law to curb discrimination against mobile homes. "Love it," said Glenn Gidley, part owner of Salem Trailer Sales. He said the law will help increase mobile homes gradually over the next four or five years.

"We support the law. We feel that we've been treated as second-class citizens too long," said Alfred N. Levesque, president of the Mobile-Manufactured Home Owners Tenants Association.

But Salem Planning Director Ross Moldoff said he does not think the state law will affect the town much because Salem already has about 700 mobile homes, and land is too expensive for new ones. There are no plans to build new

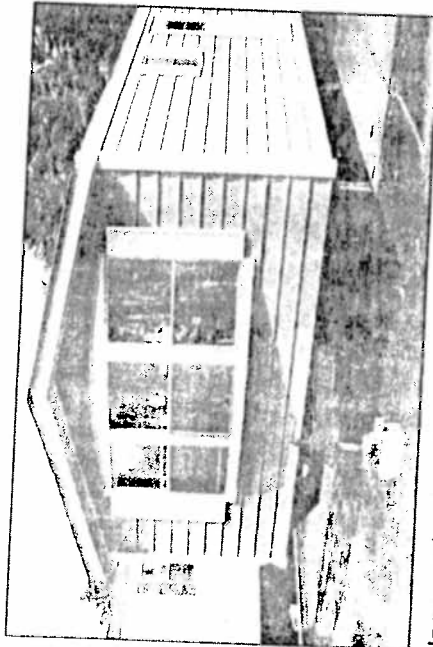
mobile homes in Salem, he said.

Pelham Selectman Victor Spaulding said his town allows mobile homes in a mobile home district. "We feel that we have accommodated the mobile home situation," he said.

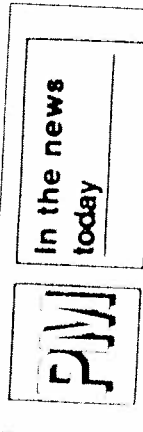
But Moldoff, Spaulding and Keller all agreed Salem, Pelham and other towns may have to defend their restrictions on mobile home laws in court.

Moldoff said town officials may have a hard time preventing someone from building a mobile home outside current mobile home parks.

And Spaulding said courts may have to interpret the law to decide whether towns provide enough mobile homes already. "It's mass confusion at this point," he said.



Inexpensive housing: Mobile homes like these may become more common in Salem, despite a vote by townspeople.



Dramatic welfare shift

Tidying up



The Salem Record

Volume II Issue No. 45

893-1667

A GOOD CITIZEN IS A WELL READ
CITIZEN

24 pages

April 2, 1987

A hot topic: Growth in Salem



In the past two decades, Salem has grown a great deal. But has that growth been good for Salem?

In this issue, Record staff writers Blake Michael Varney and Monique Duhamel examine the town's development, conservation, and related issues in a special close-up look at growth in Salem.

To get the information for these articles, we went right to you, the people. We spoke to local conservationists and developers — people who have been in this community for many years and have seen it grow. We also went to the 'average' citizen on the street for their views.

No one was indifferent. Some people felt Salem was turning into a city. Some people felt that if growth was controlled, it would be better for the community. Some people felt growth was good for Salem. But everybody felt very strongly, one way or the other.

Nearly everyone interviewed thought that conservationists, developers and town officials have to work together to improve and protect Salem for future generations.

Why does Salem have to become a city?

By BLAKE MICHAEL VARNEY
RECORD STAFF WRITER

Salem is becoming a city. That's the opinion of at least one resident, and he says the town's burgeoning growth rate has to stop.

He's not alone, either. One woman stood at a recent Planning Board meeting and asked if it's mandatory to build on every square inch of land in town. She asked if there's a law against having grass in Salem.

Growth: Pages 12, 13

Rampant growth is one of the most decisive issues facing the town of Salem. Planning Board Chairman Emil Corrente notes, however, that before you can discuss growth you have to define it.

"Growth is a funny thing," said Corrente. "You can look at growth as a baby being born. But you can also look at the growth of a cancer."

The town's biggest development of course see growth as the town's "baby." The town's

outspoken conservationists see it as the "cancer."

Corrente said the Planning Board, of which he is Chairman, is the arena where the two sides meet to discuss and debate growth.

In order to satisfy Corrente's request for an operational definition, The Record explained growth in terms of the currently unused land in town which will soon be gobbled up and built upon by developers. What is now woods and wetlands might soon be houses and businesses. That's "growth" for the sake of this argument.

"If you happen to own a piece of property," said Corrente, "you should have free use of that piece of property, up to the point where it infringes on someone else's rights — you'll notice I didn't say 'desires' I said 'rights' — and essentially that is what the Planning Board is there to effect, the rights of the developers, and the rights of the people."

Which means, of course, that if a developer buys a piece of property, he therefore has the go-ahead to do what he wants with it, pending Corrente's "rights" oration.

Corrente said it's important to realize that the current rapid growth rate of the town has been allowed to occur by the electorate. He said zoning ordinances and such, approved by the town, allow for the growth.

Norbert Pestana is one of the town's most outspoken conservationists. Pestana, 39, is originally from Tewksbury, Mass. and has lived in Salem since 1971. He is a Materials Manager for the M/AComm Corporation. He has two children, and says he plans to live the rest of his life in Salem.

"The town is growing too fast," he said. "There are a lot of positive things that growth can do for us, but I'm afraid that right now what's happened is that we're getting ourselves into a situation where we're going to start

taking on the characteristics of cities and larger towns.

"What I'm concerned about is that we'll get into a situation where you have a lot of homes in very close areas. And a lot of psychological studies have been done over the years and they find that the character of the people in the town will change as its density of population changes."

"Growth is a funny thing," said Corrente. "You can look at growth as a baby being born. But you can also look at growth as the growth of a cancer."

Pestana said that as the construction density of a town increases, and the population density increases, we will slowly but surely become "city people." He defined "city people" as those pressured people who have lost the

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This Week

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the rules
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Cluster zoning: the answer?

Professionals discuss growth



Apartments and condos have been a key part of Salem's growth since the 1970's

By MONIQUE DUHAMEL
RECORD STAFF WRITER

Professionals in the field of developing and engineering think cluster zoning is the best way to conserve open spaces.

They also think that some of Salem's zoning laws are restrictive, that people in Salem are using conservation practices to restrict growth, that the public needs to be educated and that Salem is NOT growing too fast.

Larry Belair, developer and builder says there's no question that growth has changed the town and the pace and quality of life for the people in Salem, especially those here before 1960.

Salem adopting zoning in 1960.

Belair thinks that growth in the early years led to a lot of the problems we are currently facing. Rules and regulations couldn't keep pace with growth. Land was cheap in tax-free New Hampshire. "You have to remember who was buying the baby-boomer generation from after World War II. A lot of the growth then was clearly intended for low income first-time buyers and new families," said Belair.

In the 1960's, Salem experienced a 118 percent growth rate. During the 1970's, the regulations tightened up and the growth rate dropped dramatically to 25 percent, or 2 1/2 percent per year.

By 1980, the people who had come to Salem were now well-established businessmen and upper-level management people in large companies. Their children had begun to leave home, they had better jobs, higher incomes, and the desire for a larger, better-quality home, without any of the problems they might have had when buying their first homes. Belair thinks this aging process led the community to a slower growth rate but a higher quality of development.

The population increase is expected to drop to .5 percent per year in the 1990's.

"The emphasis of by the Town and the Planning Board over the last eight to 10 years has been on the quality of growth and I think that's great! Each year, we tighten up the laws."

Belair thinks the Town can afford reasonable growth to house our children who grew up here who have come of age as well as those current residents who wish to relocate within the community.

"The key to our staying fiscally solid will be in tempering the residential growth with high-quality commercial-industrial growth at a reasonable rate of increase, in the order of one to

three percent," says Belair. But the boom-growth potential for Salem just isn't there anymore. It's more likely to happen in communities such as Londonderry.

Cluster zoning could be the answer to our conservation concerns said Belair, but only cluster zoning that "maintains the present density but encourages the preservation of a lot more open space, like 35 to 40 percent of a tract."

"The demand is there for high-quality clustered multi-family dwellings. I think that's really the only ingredient missing," he said. "There's no question that well-thought-out cluster density is the only way this community is going to protect its attractiveness and its functional viability."

The way to do this is for the town to adopt some tightly regulated provisions in the next year or two. Belair sees continued use of the grid-subdivision method as a terrible waste of land and resources.

Belair only builds 10-12 homes a year, and has been able to find enough land to keep busy. Although it gets to be more difficult each year, "if you do a good job, the strong will survive and I expect to be here for as long as I want."

John Brennan, developer and architect, does not think Salem is growing too fast but "Salem's just not planned for fast growth. It's not growing too fast but it's growing faster than they can plan properly for."

Brennan would like to see Salem upgrade its image. He thinks the way the town is broken up really limits any major development. By limiting major development, you're limiting developers to small, piece-meal development projects that are more difficult than large projects. He said single-family housing developments cost the same as cluster housing developments, but cluster housing improve the town and preserves open space.

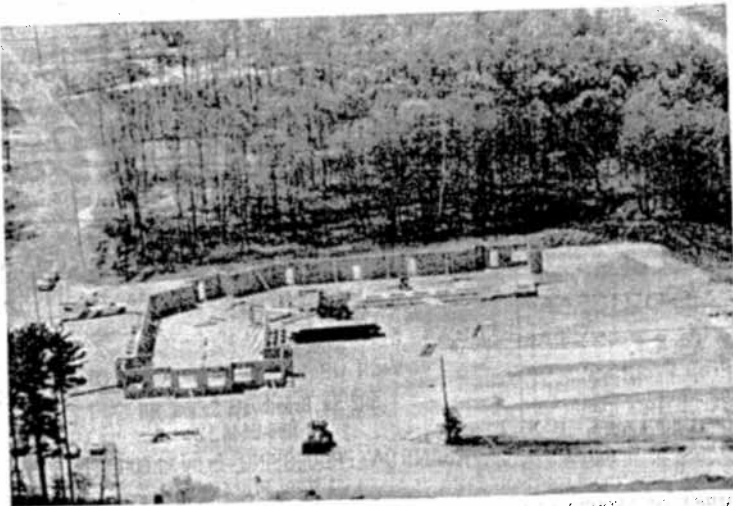
Brennan thinks people want to come to Salem and we should let them. People generally have larger incomes today, but there are not too many places in Salem where they can purchase quality product. He thinks strip malls will not attract high-quality stores. He is hoping that the Breckenridge development will help change this.

The way to conserve land, according to Brennan is through cluster zoning and major development projects. "When you have a major development project, you have a lot of negotiable conditions avail-

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Ribbon cutting at new stores has become a common happening all around town



Residential and commercial construction has been rampant

What do the people think about growth?

The Record asks

The Record asked how citizens feel about Salem's rapid growth rate. Here's what the people had to say:

"I like it. Like on Route 28 with all the new stores, and they're making the Rockingham Mall bigger. When we get all the new stores in here it gets more people to come here and shop. More people will hear about Salem too. It used to be you'd say 'Salem' and people would say 'Where's Salem?' Now people know Salem and where it is."

Lynn DiBenedetto
18-years old
Salem

"Growth is good I think. It brings a lot of business. Business in the town represents more money. Everyone wants to come to Salem to beat the taxes."

Jay Souza
34-years old
Rockingham Mall superintendent

"I don't like it. I moved up here to be in the suburbs and now it's just the same old rat-race we used to have in Massachusetts. Also, people from Mass. get into the town government and they bring their government processes with them from Mass. when what we already had was fine. People want services like sewer and trash and everything, but then it shows up on our taxes."

Gerry Gallipeau
Salem

"I lived in Salem for 15 years and then I moved to Londonderry. I moved to Londonderry because the growth rate in Salem was going too fast. With the tax rates and everything it's becoming city-like."

A native's view

Marilyn Campbell, a Salem State Representative and Salem native has mixed feelings about growth. When she graduated from high school, there were probably 3500 people in Salem, and only 29 in her graduating class. "I feel there's a need for it out there or it wouldn't be growing," she said. "I think if the demand is there it's good for the town. Growth is certainly not a nasty word."

"I see people saying we don't want any more in Salem. What if the oldtimers had said that years ago? Many of these people who are saying this wouldn't be here today. I don't think we can close the doors on people who want to come to Salem."

Campbell said she thinks the Planning Board, Conservation

"Salem's a small town. I'm from Detroit originally, so Salem is small to me."

Heather Greco
31-years old
Londonderry

"It's growing too fast because they're not accomplishing some of the things they said they'd do -- water, sewer. I think they should take care of the people who have lived here for 10 years. Give them the sewer and water and then expand."

Harold E. Whitten
76-years old
Salem

"I think I dislike growth because I fear having a house on every 1/3 of an acre. The fact that Route 28 is overdeveloped is bad too. It's hard to drive 28 on weekdays, and on weekends forget it."

"Plus, from the business point of view, I can't see how they're all going to survive. If you look from the Methuen line all the way up to the chip factory, there's two of everything. I think we're opening a big can of worms and then a lot of the small businesses will go out of business."

William McKernan
27-years old
Salem

"I was born here. I think it's growing too fast. They can't seem to handle the growth. There's not enough services."

Peter Castiglione
61-years old
Salem

"It's (Salem) the same as where I come from in Dracut. There used to be places where I'd go for walks that was all so beautiful and grassy and rocks -- now it's 200 new houses and that's only one development."

John Gumbiris
Dracut, Mass.

Facts about growth in Salem:

SALEM'S POPULATION was 4,805 in the year 1950. It was 9,210 in 1960.

By 1970, the population was 20,142. In 1980, it was 24,124.

According to the State Office of Planning, the town's 1986 population was 25,100. That figure is expected to reach 30,000 by some time in the mid 1990s.

INCLUDING APARTMENTS, single family dwellings, mobilehomes, and multi-family dwellings, there has been a total increase of 2,717 housing units in Salem between 1970 and 1985.

In 1963 there were 112 businesses in Salem, according to the U.S. Census of Business. In 1982 there were 257 businesses.

In 1963, the town's business payroll for the year was approximately \$1,865,000. In 1982, the

town's business payroll for the entire year was approximately \$22,935,000.

Between 1963 and 1982, Salem's total retail sales revenue in dollars per year, increased by more than 10 times.

In 1962 1.2-percent of the town's land was used for business. In 1981, 8.1-percent of the town's land was used for business.

In 1962 a total of 29.8-percent of Salem's land was "open land" or farm land. In 1981, only 4-percent was open land or farm land.

(Note: The above information was taken from the 1986 Salem "Master Plan Update" which was compiled by Planning Director Ross Moldoff, consultant Hans Klunder, and more than 20 Salem residents who participated in the "Master Plan" project.)

Continued from page 1

relaxed peace of mind that rural living brings.

"It's a style that many people have moved away from," said Pestana. "They've come to places like Salem to find a mindset different than city folks."

Selectman Charles Coll doesn't want to see growth becoming an uncontrollable monster.

"The only thing I want with growth," said Coll, "is to make sure that we control it, and it doesn't control us."

"The town boards -- Planning Board, Board of

Selectmen and Conservation Commission -- must know and follow strict accordances with all the laws. That's what I mean by us controlling it. And that has a lot to do with who sits on those boards."

"If we don't do that, growth just runs rampant and gets out of control and it's wagging us instead of us wagging it."

Coll said he doesn't like the town's serenity being ruined.

"I don't want to see the town grow to 80,000 people," he said. "I like the rural atmosphere. I'm not totally against growth. I realize that we have to grow -- but it's the

Women's Club meets April 7

The Salem Women's Club will meet Tuesday, April 7 at 1:30 p.m. at the home of Marilyn Bokhan, 28 Settlers Lane, Salem.

For directions please call Marilyn Suszek or Ruth Vernon.

This should be a fun time, as Laura Haddad will give a presentation on 'Garde Marge'.

We will also have nominations of officers for the coming year.

We are celebrating our 60th year of community service and looking forward to many more new memberships joining us.

Annette Cooke and her committee will be in charge.

rate of growth which concerns me."

First-year Selectman Douglas Micklon said he sees growth as a matter of course in Salem. But he wants growth to be steady, not sharp.

Micklon said growth has to be kept at a pace where the town can keep up with it in terms of services. He mentioned police, fire, welfare and human services as examples. He said there is a danger of the population growing before such services have a chance to expand in line with the growth.

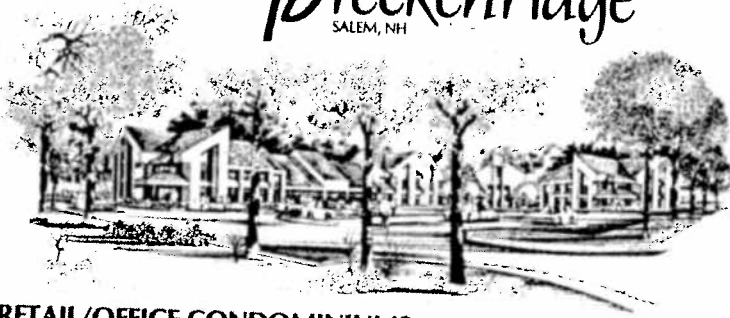
Micklon also said he wants the growth to be of a quality nature. He wants to see businesses come into town that will be good for the town.

The good of the town is the battle cry of many who oppose rapid growth in Salem. Let's grow like a baby, they say, and let's not grow like a cancer."

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Continued from page 12

able to you to allow what conservation really is.

"It's [conservation] not just a way to make the water cleaner. I don't think people even care about that. People do care about the fact that it limits growth. conservation control will also help limit growth. There's a lot of things that people are doing but if they were really concerned about our water source, they'd put sewers all over town and around every bed of water and lake you have.

"But what I see it [conservation] doing is just a way to control growth. The fact is, I don't think anybody gains in that situation."

If the town were to allow major development to go through, Brennan thinks the developer and town could sit down and discuss the negotiable areas of the projects. What's the Town really want? A new ballpark? Maybe the developer could give it to them. According to the size of the project, the Town could gain significantly.

"As the project area per square foot goes up, the cost per square foot goes down and you can do a lot more with that money to make everybody happy," said Brennan.

"I think good major development is an asset to the developer and to the Town. Everybody benefits from that. But it's got to be controlled and the town's got to solve a lot of problems first."

Engineer Paul Fredette does not think that growth has hurt Salem. "I think the current development you're seeing is an improvement in the class of development. The new development is upgrading for Salem," he said. Fredette also does not think the town is growing too fast.

So what would he like to see happen in Salem? "You have to see zoning changes that will allow the preservation of open space in Salem," he said. "I suggest that you do that by zoning for high intensity or the cluster zoning in some areas. There's a finite need for development in Salem and if you put it all in one section, it will benefit the town and preserve open space."

If people are truly interested in the issue of conservation, (Mass) the issues on both sides of the coin are. Fredette thinks they North will come to a compromise in the terms of conservation.

The present regulations are for dictating large open spaces growth and large parcels of land, says Fredette. If the regulations were changed, you could accomplish more conservation.

Don Jutton thinks that, overall, development has been positive for Salem. "Certainly, there have been some prices we have paid - increased traffic congestion is probably the most notable, but it has

enhanced our tax base," he said.

He feels that while growth may appear to be intensive, if you look at it over a ten-year time span, it is neither substantial nor sustained.

"I think that one of the things I'm most concerned about is the recognition by the voters in this town that over-regulation produces negative development, not quality development. In the last few years, we've seen some attempts to introduce incentive zoning concepts like cluster zoning or open space development, which in the long run will tremendously benefit Salem. They seem to be greeted with skepticism and, as a result, are defeated," said Jutton.

People have a right to use their land to its highest use, says Jutton. They should not be forced into something less than quality development. Route 28 is a prime example of this. "I think that people would generally agree that Route 28 is something less than aesthetic and any reasonable person could offer suggestions as to how it might have been done better."

"What we fail to recognize is that Route 28 is the product of the zoning ordinances and site plan regulations we have in place today. It looks like what it looks like largely because that's the kind of growth that was forced upon the landowners on Route 28."

Jutton thinks that people in Salem have tried to control growth with increasingly stricter density requirements on land. An example of a wasteful requirement is 150 feet of road frontage per house. What people fail to realize, says Jutton, is that the crisis we are presently dealing with in our water and sewer systems is a direct result of that kind of planning, which Jutton refers to as "short budget planning."

"The theory was that if we make the developer or builder put in 150 feet of road for every house lot he's going to develop, there would only be a limited number of lots developed. To some extent that's true, but what's happened in Salem is because of its location not only in New Hampshire but in the northeast, the economics of developing the land have exceeded the constraints put on it by having to build 150 feet of road. As a result of that, we now have a community that has hundreds of miles of roads in disrepair that the developers don't have to repair but the taxpayers have to."

"We have areas of town that desperately need sewer, and its going to cost millions of dollars to get the sewers there principally because instead of having a 40 or a 50 foot frontage requirement, so that by running 40 or 50 feet of sewer line that can service two houses, we have to run 150 feet of sewer line to service two

houses. The same thing is essentially true with the water line. It's a crummy way to plan. Probably, that kind of density control is 40 years beyond its effectiveness."

"You're far better off to control growth by density restrictions - saying you're going to restrict the development of the parcel of land to one dwelling unit per acre than you are to require 150 feet of frontage."

"All you have to do is look closer to the urban area to realize that one acre of land with the proper utilities can effectively support four or five or ten families. The question becomes the density per acre, not necessarily how many feet of road frontage."

"What we've come up with is a self-defeating equation by saying that you've got to have extensive frontage in order to build a single family dwelling unit. The economic pressures eventually are going to force Salem to recognize the folly of this kind of zoning and move more in the direction of incentives and more flexible zoning, not necessarily less restrictive. You can impose restrictions on a developer or builder from the perspective of aesthetics, environment, density, location or demographics within an area but to try and impose objective external physical is only going to lead to more of what we have now."

"What we have now is wonderful in a lot of respects but it's terribly burdensome if you look out over the next hundred years to find what has to happen in order to effectively support what we have today. You can't support and maintain the water sewer and highway system we have today in the town of Salem. Even if there was no more development, eventually the system we have in place would not be able to support the development."

Jutton thinks we can achieve a balance between development and conservation by incentive zoning. "Identify your priorities," he said. "If your objective is to keep 50 percent of the developable land as open space, then prioritize the type of land you want to keep open. Exercise the rights the Town has under the laws of the state statutes today. There's a provision in the state statutes for designation of prime wetlands. That's a responsibility that falls on the Conservation Commission. The Conservation Commission has never elected to do that, for whatever reason."

Jutton also pointed out that not all wetlands serve a purpose. There are two types of wetlands - "nuisance wetlands which serve no purpose, produce insects and cause unpleasant odors and pristine wetlands which serve all kinds of functions, including purifying our groundwater and feeding the animals."


"All of these things must be considered and weighed," said Jutton. "There are myriad ways to attack the problems, for example, we can establish land trusts. The concern that I have is that we are not working for any balance. We continue to use regulations as the sole vehicle to try and

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Continued on page 24

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protect and preserve and that is the weakest vehicle because it provides an incentive for poor development, to try and find ways around the rules. It doesn't reward the individual who plays by the rules. In fact, it rewards the person who cheats. The consequence of that is a continued burden on everyone."

Protection of the environment is far better served by offering incentives than by trying to over-regulate, says Jutton.

"We have things backwards with regard to cluster zoning. It's in the municipality's best interest to have the developer build as few miles of road as possible, to serve as many residential units as the land will responsibly support. Because there's fewer miles of road to maintain and many more taxable dwellings."

Jutton says requiring a developer to comply strictly with all zoning laws, lay down 150 feet of road, sewer line and water line per house, and then ask him for a conservation easement or a dedication of land to the town, at his expense and with no incentives or return for it, in order to achieve a political goal, is not reality nor sound business. "You don't conduct your business that way. Any voters who go to the polls who have voted against cluster zoning, increased height, and incentive zoning don't run their business affairs that way. The only way to precipitate responsible growth... is to give the developers an incentive to do it properly."

"I think with the continued consumption of land in a more or less irresponsible fashion, forced by our existing zoning, and the desire of people to convert their land into some sort of cash resource, the developers opportunity window is being narrowed. The unfortunate part is that the more the developers opportunities are narrowed, the more the opportunities of the entire town is respectively narrowed. Because the developer's business is nothing more than the business of the town."

"Once a community has stopped growing, it starts to stagnate, look at Lawrence (Mass.). Lawrence is probably the single best example in the Northeast. It is largely what it is because it has consumed it's developable opportunities."

"For Salem to try to stymie growth as a community is only going to foster it's own demise," said Jutton. "Because if you're not in a state of growth, you're in a state of decline."

"It shouldn't be the development community vs. the conservation community. Quality growth in a community is dependent on both, and on effective use of our resources. All the factors have to be cranked into the formula - the capacity of the environment to deal with man's waste, our hazardous wastes, our system of schools."

"Growth is not the enemy. Irresponsible growth, uncontrolled growth is the enemy, and ignorance is perhaps the biggest enemy because we are legislating out of ignorance, out of fear. We're not legislating out of a planned sense of direction."

EDITORIAL

4/2/87

Growth is unavoidable

Growth is a very important issue in Salem.

It's so important that we have devoted a great deal of time, effort, and newspaper space to provide accurate coverage to the subject. We regularly report what happens at Planning Board meetings, public hearings, and workshops. But these articles, spread out over many issues of this newspaper still do not provide an accurate, intensive look at growth in Salem.

We hope that this week's special articles on the pros and cons of growth will provide that extra needed insight.

If the community stops growth entirely, it will stagnate. If growth goes unchecked, the town will not be able to keep up with it. Services will be of poor quality. There will not be enough schools for our children, parks for family fun, or roads for the increased volume of traffic.

The growth spurt of the 1960s has already left Salem in severe need of many things. Water lines, sewer lines and roads need to be constantly maintained, improved, and extended. Our sixth grade students are faced with the prospect of being shuffled off to Haigh School, because there just isn't enough room for them.

Farmlands and woodlands are disappearing. Are we being properly compensated for this loss? Can we be properly compensated for this loss?

We are faced every day with the spectre of our own poor growth practices - Route 28. Although the driving conditions have improved, with a price tag of several million dollars, the road is still not aesthetically pleasing, there are too many driveway cuts and signs jump out at you wherever you look.

We do not have the answers to our growth problems. We would not presume to tell you that there is one surefire way to control growth and conserve lands.

What we are saying is - look, here are the issues and the people of this community must band together with the government and make some important changes. The Master Plan was a good start but it is not enough. Should the community offer developer incentives, make stricter zoning laws, ban development, form land trusts? We don't know. We are simply saying that growth is unavoidable, and somehow, someday, the people of Salem had better be prepared to deal with it.

News & Views

She won't let a bad knee take her love

This is the story of 13-year-old Oodbury Jr. High student Theresa Scott and her love affair. Her love affair is with the game basketball. Her ripped up right knee is trying to steal her love away.

But Theresa Scott, daughter of William and Laura Scott of Merion Way in Salem, is a

as a sensitive young lady is not ready to do, Theresa sobbed asked all of the "Why me?" questions for about a month after finding up her knee this past summer. She had been out training, preparing herself for the coming Woodbury basketball season when she stepped in a hole destroyed knee ligaments and age.



down on it and it twisted," Theresa. "My body went numb and my leg went numb," doctors later

For the Record...



By BLAKE MICHAEL VARNEY

"Basketball was my life," she said. "I was real good at it. I didn't feel pressure at it. It kept me away from alcohol and drugs and that stuff. I could be safe and happy."

Theresa Scott is of quality stock. Alcohol and drugs aren't on her menu regardless of whether or not she is firing away from the top of the key.

After the "no hoop for two years" diagnosis -- and after laying down her crutches two weeks earlier than she should have, refusing to use them any more -- Theresa began a rugged regimen of physical therapy.

She lifted weights with her bad knee. She exercised the knee rigorously. She spent hours at the "New Shapes" health club on South Broadway working the knee on the Nautilus equipment.

And she will continue her



DOUBLE VISION - Well, almost. Director of Development Ross Moldoff had a visit from his twin brother Seth, who lives in California. Which one is which?

Citizens request GSNP be stopped

By MONIQUE DUHAMEL
RECORD STAFF WRITER

A citizens' group, Citizens Against Re-Opening the Landfill (CAROL), spoke up at Monday night's Selectman meeting to request that

The Town is presently seeking a declaratory judgement from Rockingham County Superior Court. Town Attorney Robert Ciandella said he thinks that by seeking the declaratory judgement the

proposing is for the site is "firmly ecologic."

"I don't think I'm raping and pillaging the Town," he said, speaking to both the Board and the audience. "You live in the

The Salem Record

Volume II Issue No. 18

893-166

A GOOD CITIZEN IS A WELL READ CITIZEN

24 pages

April 23, 1987

Salem stages political version of 'Superfight'



AND ROUND ONE BEGINS... - Salem merchants and town officials discuss sidewalk vending at a Wednesday afternoon meeting. Pictured above are Joseph Cuomo (foreground), Town Manager Thomas Melena, Director of Development Ross Moldoff, SBPA President Leo Bealieu, and State Rep. Bert Ford.

If you don't like soap operas, you won't like Salem politics.

If you do like soap operas, this ensuing episode, though lengthy, should hold your interest until its conclusion.

What follows is a Salem Record exclusive blow-by-blow description of an unscheduled, yet heated meeting which took place this past week.

According to Selectman Joseph Gagnon, this is how the plot originated:

Flower salesman John Duerr came to the Salem Municipal Offices early last Tuesday and asked for permission to sell flowers in the parking lot of Le Vendome restaurant on Route 28. Duerr had apparently arranged with Le Vendome to rent the necessary parking spaces from them.

Duerr was told he would have to come to the Planning Board meeting that night (Tuesday) for approval to sell the flowers.

Regardless that Duerr was

not on the Planning Board agenda that night, he was spontaneously granted permission by the Planning Board to sell the flowers.

The next morning, however, there arose a zoning-oriented dispute involving Duerr, Le Vendome, and town officials.

It was discovered that there is no specific Salem ordinance which permits sidewalk-style vending. Although there is a New Hampshire state law allowing it, there is no town law governing it.

So the following day (Wednesday) town officials reversed the Planning Board decision. Duerr was told he couldn't sell his flowers.

A meeting was called to discuss the situation.

Following are some excerpts from that meeting.

(Beware, prior to reading the excerpts, that the meeting vacillates from flower sales disputes, to vendettes against a Salem businessman, to arrests, and on and on and on...

SALEM RECORD REPRESENTATIVE RON BELANGER: "I'm (Salem Record) located on Garabedian's property right across from Le Vendome. It's obvious that the business that they operate over there (Le Vendome), they do not have enough parking for the existing business. What happens is, when they have (too many) people over there, they park across the street in Garabedian's parking lot, which then, becomes a hardship on Ruderman's Furniture, Discount Beauty, The Salem Record, Tanorama, and New Shapes."

SELECTMEN CHAIRMAN HOWARD GLYNN: "I think we can go one step further than that. I might be wrong, but I think Le Vendome is in violation to begin with, because they don't have enough parking for what they have there."

SALEM PLANNING DIRECTOR ROSS MOLDOFF: "You're right, they don't. But they came in with an

agreement which the ordinance allows them to do. An abutting property owner -- Daddy's Junky Music Store -- rented them, or leased them a certain number of (parking) spaces because Daddy's isn't open at night, and that's when their (Le Vendome's) big parking demand is going to be.

"When they came into the Planning Board, that's what they had. And that gave them enough parking."

RON BELANGER: "Excuse me, as a tenant on Garabedian's property, and you can verify this any night of the week or any day, when that place (Le Vendome) is doing business the people aren't parking at Daddy's Junky Music, they're parking across the street at Ruderman's Furniture."

(The discussion fiddles and diddles for awhile. So let's pick it up a bit later).

BILL MCKENNA (former manager of The 88 Restaurant, which is now Le Vendome

Continued on page 20

This Week

Permit controversy
Page 6

Salem schools
not up to par
Page 7

Haigh Ave.
remains hot issue
Page 7

Easter in
pictures
Page 12

SHS tracksters
trounce opponents
Page 18

SUPERFIGHT CONTINUED

under different management: "I'm familiar with the [Le Vendome] property, and I'm also familiar with the limited parking. They have to have a certain number of parking spots for the customers. Now they go ahead and they lease off six spots to someone to sell flowers. It's going to look like Salisbury Beach coming up Route 28.

"You're trying to upgrade Salem, and you've got people spending millions of dollars on the property and you're going to let somebody sell flowers out there and it's going to be detrimental to the other people."

"And also -- how can you let someone, if they lease six spots and they don't have enough spots to operate the property to start with, and you let them lease six spots off, why don't you close the property."



TOM MELENA

TOWN MANAGER THOMAS MELENA: "Let me break in here for a second. I'm just getting a little PO'd about it. You say 'How can YOU let? How can YOU let? How can YOU let?' It's not this Board [Selectmen] that's 'letting.' Maybe I'm getting defensive for this Board [Selectmen], but very honestly I'm getting PO'd about it. Last Monday night, this Board sat through four hours of pure hell for issues they they didn't control. It was issues that the PLANNING BOARD controlled!"

"I've seen this time, and time, and time again. And maybe I'm coming on too strong on this, but I'm trying to point out to you, it's not this Board [Selectmen] that is doing these things. It's not this staff [Planning Department] that is doing these things. When you say 'How can YOU? Let's not say 'How can YOU'. It's 'How can the PLANNING BOARD do these things?'"

"Then let me take it one step further. What we have to do is start deciding what we want for controls. For crying out loud, we've got him [Melena points at Joe Cuomo, owner of Cuomo's on Broadway] in court on a sign ... **CUOMO:** [interrupts Melena and says loudly:] 'That's got nothing to do with this, Tom. NOTHING! And I don't want it brought up. **MELENA:** 'I'll bring it up because'"

CUOMO: [interrupts Melena again, and shouts very loudly at Melena:] 'Keep that don't! Don't you point your finger at me, kid! Don't point your finger at me! If you've got a vendetta against me, hold it outside! Don't you start that with me, kid!'"

HOWARD GLYNN [calmly

and professionally]: "Mr. Cuomo. I am the Chairman of the Board of Selectmen and I want order in this room. And if the gentleman [Melena] is speaking, allow him to speak. And if you don't like what he's saying then you can rebut. We're all here for the same reason. We have a concern."

CUOMO [Quiet. Sombre]: "I didn't like when you laughed at me. Don't laugh at me, because you don't get away with that with me, Tom."

MELENA: "Let me finish my statement. As I started to say, we've got this gentleman in court."

CUOMO: [loud again]: "What does that got to do with it?"

MELENA: "Let me finish the statement and I'll tell you what it has to do with it. Because this is one time I'm coming to your defense, Joe."

CUOMO: [Mad] "The one time! Right! The one time in all the years!"

MELENA: "We've got you in court on one of the most dumbest things we can. On a sign issue. But somebody's got to change it. All we can do from a [Municipal] staff standpoint is enforce the law. But guys, the law is dumb."

"Why is it we've got him [Cuomo] in there on two signs?-- because we've got a lousy sign ordinance. Why is it that we don't have control over this [flower vending]? -- because we don't have a law to do that. The Planning Board has got controls over it."

RON BELANGER: "Excuse me. Can I ask something, Tom? If the Planning Board last night acted as far as granting somebody permission to conduct their business by renting six parking places, I would feel that our Town counsel [attorney] should then be advising the Planning Board. 'Hey, I think you're doing something wrong by taking away six parking places.' Maybe something illegal is being done by the Planning Board which they probably don't know at this point."

MELENA: "We can advise them [Planning Board], but all they have to do is say, 'Forget it, we're not taking the advice,' and then the ludicrous thing is, then WE have to defend them [Planning Board] in court!"

"When they make a lousy decision, we have to defend them to make that lousy decision. This is the first community I've worked in in 15 years where the Planning Board is totally independent and is not an advisory board to an elected body. The elected body here [Selectmen] appoints them, and that's the last control they have over them. The Planning Board doesn't report to anybody, you guys. And that's part of our frustration."

"And that's why I'm coming down strong on this. Because, Joe, I'm not trying to have a vendetta against you."

CUOMO: "You're not trying, but you have it."

MELENA: "All I'm trying to do is enforce the law -- and the law is bad law. I'd be the first to admit it."

CUOMO: "As long as you brought this up, Tom, let me ask you something: Does [Planning Director] Ross Moldoff work for you?"

MELENA: "Ross works for me."

CUOMO [taking off into a

completely different issue: "Why did you send him [Moldoff] to have me arrested? When you said you suspected I was going to have something hot-topped in the height of Christmas. I paid \$850,000 to Pizzaland. I spent God knows how many millions of dollars to have my place finished. I needed the hot-top, and you sent two of your men -- who you say you don't have any control over, to have me arrested. That's no vendetta??? Get off your horse. Get off your horse. Come down."

[Melena, who has been trying to interject, finally gets in]:

MELENA: "I have control over our people. I have control ..."

CUOMO: [stops Melena mid-sentence]: "You certainly have! You certainly have!"

MELENA: "A site plan has been approved out there [at Cuomo's, we presume]. 'We have to go with that site plan. My point is, is that site plan valid?'"



JOE CUOMO

CUOMO: [loud and mad]: "What site plan are you talking about? Back to me again, Tom? What are you bringing me into this for? What have you got against me? What the hell do you always come back to me for?"

GLYNN [calmly and professionally]: "That's it. I don't want to hear any more."

CUOMO: [still aggravated]: "Well then tell him to keep his mouth shut."

GLYNN: [still calm] "That's it. Because if it's not it, I'm going to call this meeting off."

[Things eased to a more civil pace for awhile, until John Duerr, who is seeking to sell the flowers in Le Vendome parking lot, ventures into a shouting match with Bert Ford, who is related to a Salem florist.]



JOHN DUERR

DUERR: "I've sold Christmas trees in this town and I've never had to do it [get a Hawker's and Peddler's License] before. One little guy gets you guys all paranoid. What's the problem?"



BERT FORD

BERT FORD: "You know what the problem is? You come in here, and you're going to do business for one week."

DUERR: [mad] "I'm not doing business for one week. I'm doing business for two-and-a-half months."

FORD: [very loud and upset]: "What the hell do you think we're doing?! We're in business 52 weeks [a year]. You listen to me. I've listened to your bull--- long enough. We're in here and we pay big dollars. We pay big rents."

DUERR: "You also make big money, don't you?"

FORD: "We're not making big money, my friend. You're coming in here and hit-and-run this town."

DUERR: "Hit and run sh---! Hit and run sh---!"

FORD: "You hit and run it at Christmas time. You hit-and-run it again now. You did it last year down at the corner and you did a hell of a business!"

GLYNN: "At this point in time I'm going to adjourn this meeting."

DUERR [loudly and gruffly disregarding the fact that Chairman Glynn had adjourned the meeting]: "And I'm going to do a hell of a business there this spring too, pal!"

FORD: "Not up here, pal!! Not up here if I have anything to do with it!!"

[And if this little soap opera should happen to continue, be sure to tune in next week, for another episode of a "Another World."]

NOLAN COMMENDED Continued from Page 4

Kevin was in the vicinity. He not only made being stranded in a strange area less fearful, Kevin assisted me in every way possible in getting transportation back to Boston.

Kevin is a wonderful human being and a credit to your department.

Sincerely,
Pat Dombrowski
Somerville, Ma.

POLICE LOG

Continued from page 2

2200: Caller requests assistance for a domestic problem. Her ex-husband has her child and he was supposed to have returned the youngster on Sunday.

WED. APR. 15 TAX DAY!

0024: Wife called police to look for her husband. She called back to state she had found him.

The SALEM RECORD... for all your Salem news.

FLOOD WORKERS Continued from Page 4

Police Department
*Police Chief John P. Ganley
*Police Commander James Ross

Fire Department
*Fire Chief Donald Bliss
*Fire Marshall Michael Roberts

Captain David Shanteler
Captain Walter Putnam
Captain Kevin Kimball
Captain Daniel Breton
Lieutenant Arthur Barnes
Lieutenant Roderick LaFerriere

Gary Buchan
Mike Scanlon
Will Bodwell
Fred Doucette
Jim Goucher
Rusty Schwartzberg
Warren Seckendorf

And the rest of the Fire Department in its entirety for picking up the duties while these other people were in flood operations.

Public Works

*George Sealy
Dan Pacheco
Bill Duma
Alice Perrault
Bill Bailey
Ray Bonney
Roger Brown
Bill Donahue
Herman Harrison
Charlie Lilley
Ron Mariano
Paul St. Onge
Doug Wiley
Bill Cavanaugh
Peter Folgridia
Gary Goodwin
Marla Kurisko
Bill Wells
Bruce Snow
Rob Eyssi
Dale Merrill
Chet Lear
Dave Cantor
Cy Arsenaault
Herbie Hutchinson
Ron Paul

Dispatchers for 24-hour Public Works switchboard

Rena O'Connell
Marilyn Pearson
Rusty Schwartzberg
Lydia Esnel
Tommy Sharpe
Brian Fraser

Civil Defense

Tony Coco
Don Roulston
Jack True
Sandy Roulston
And many other Civil Defense workers.

Sandbag Helpers

Dave DeFruscio
Jon Cole
Bruce Moers

Volunteers at shelter located at the Senior Center

*Sally Sweet
Isabel Bushway
Irene Krikorian
Zak Krikorian
Janet McPherson
Al Tanguay
Bill Ritchie
Frances Berube
Helen Chmielecki
Woody Chmielecki
Moe Levy
Vicie Levy
Vera West
Carol Ritchie

Thanks also to Gayle Hubickak for manning the Flood Emergency Hotline, Catherine Violette, Administrative Secretary, and Sam Zannini, Health Officer.

Special thanks to Petrolane Gas and Palmer Gas Companies for their support in monitoring gas tanks and shutting them off as they deemed necessary.

SPECIAL SECTION

SALEM

Learning to adjust to a boom

By Nancy Pieretti

The way I see it, the last few years have brought profound changes to the town of Salem," says Don Jutton, director of administration for the Salem office of Kimball Chase Inc., a regional engineering firm. "And Salem really hasn't had a chance to adjust."

Jutton, like many long-time residents of this Massachusetts border town, has watched head-spinning development occur in the area, causing the town's population to double every 10 years since 1950. The population now stands at 30,000, according to town officials.

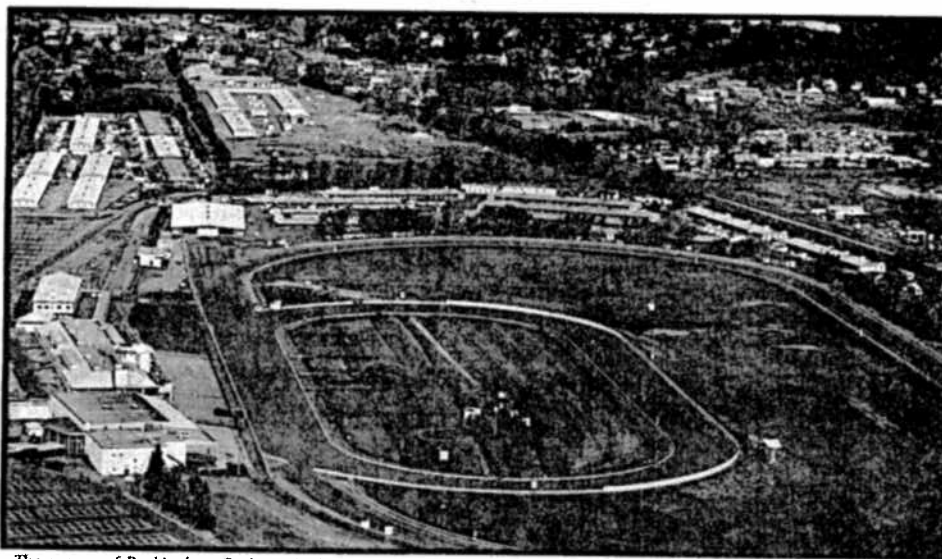
"But the last four years have really seen a surge in the development of Salem," says Ross Muldoff, the town's planning director. "We've mirrored the national economic recovery, making Salem a boom town."

Statistics bear that out.

In 1982, construction activity hovered at \$8 million. But by 1983, that figure jumped to \$33 million, and by last year, residential, commercial and industrial construction activity reached \$36 million. In 1986 alone, 22 commercial properties were developed, along with 130 homes.

For all intents and purposes, the boom doesn't appear to be stopping. "We have 200 house lots in the pipeline, with 87 already approved for this year," says Muldoff. "A large hotel is scheduled to open next week, and 80,000 square feet of retail was approved. Nearly 60,000 square feet of industrial is also in the works."

Statistics compiled by Salem-based Demaris Associates, a commercial industrial real estate broker, show 339,000



The owners of Rockingham Park are looking into developing a million-square-foot shopping mall near the track.

square feet of new space coming on line in 1987. The average sale price for office space is \$100 a foot, with lease space going for \$12.

Even the owners of Rockingham Park racetrack — once the town's few claims to

fame — have been hit with development fever. The Rockingham Venture is talking to a Washington, D.C.-based shopping mall developer about the prospect of building a million-square-foot shopping center at the racetrack's choice 100-acre site.

"They're talking about putting in some

To what does Salem attribute its growth spurt?

Located just 40 miles north of Boston, Salem is bisected by Interstate 93, making it an easy commute to Boston and an attractive tax-free alternative to living in Massachusetts.

"We're a suburb of Lawrence. But as Route 93 grew, we became more influenced by Boston," says Wilma Willson, a commercial real estate broker with The Norwood Realty. "So in many ways we cater to both those markets."

Nowhere is that influence more apparent than in the housing market. The average price of a Salem home is \$165,000. It includes three to four bedrooms, 1-3/4 baths and is a cape or older garrison.

"Salem isn't a first-time home-buyer market any longer," says Willson. "It's primarily a market where people have equity."

"Since we're just 10 minutes from Andover, we're very much affected by it, and

our prices here are considerably less than there."

New homes in Salem average \$86 a square foot, with prices ranging between \$200,000 and \$350,000. Most capes and split entries are in the \$130,000-to-\$175,000 range.

"We get a lot of calls from out-of-state developers who specifically want Salem because in spite of what we consider high residential price tags, homes are still more expensive in Massachusetts," says Willson.

But high housing costs and a Boston orientation have produced difficulties for the town. More than one person interviewed cited Salem's lack of identity as a real problem.

"There's very little sense of community," says one resident. "Since many live here but don't work here, they're not as interested in contributing to the community."

"Salem is a community without any substantial history," says another.

Continued on next page

Even the owners of the Rock have been hit with development fever.

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Guyre Associates offers variety of services

Founded in 1979 as an "applied marketing resource," Guyre Associates of Windham offers a combination of

"Without a centralized business center. There's very little sense of community. Even the Chamber of Commerce is in Nashua."

Like other growing towns, Salem is trying to balance its new development, its ability to offer services and its desire to retain some of its rural characteristics.

"There's been a pressure on landowners to develop their farm land," says Planning Director Muldorf. "We're working to create incentives that will allow more land to remain open. Our goal, I'd say, is to maximize the change that's so quick in coming and take the good out of it, while minimizing the negative. It's a real challenge."

marketing, consulting, advertising, graphics and office services.

The firm "not only develops solutions for marketing problems, but also accepts responsibility for implementing them," said Robert P. Guyre Jr. "To accomplish this mission, GA is staffed by a balanced team of professionals, educated and experienced in marketing, market research, business development, sales, engineering, data processing, copywriting, graphic arts, illustration, audiovisual, and more."

The firm's in-house facilities include computers, computerized typesetting, and photographic equipment.

"GA is structured to be the most complete marketing/advertising resource available to solve marketing, business development and communications problems for technical and industrial companies in the business-to-business marketplace," said Guyre.

Some typical assignments include market identification, competitive analysis, communications program design and implementation, inquiry fulfillment and lead qualification, sales force support with sales tools and promotions and technical manuals, he said.

Salem firm wins Bell Ringer award

Mate Communications, a Salem-based one-person public relations and advertising agency launched less than a year ago by the former product publicity manager at Wang Laboratories, has won a prestigious Bell Ringer award from the Publicity Club of Boston.

The award, presented to agency founder Tom Eifler, cites Mate for its product publicity campaign conducted in behalf of one of its clients, Pied Piper International of Plaistow.

Eifler, 42, said that he "couldn't believe the agency had won such a prestigious award because Mate Communications was just a one-person firm."

Mate Communications, one of 300 firms that submitted entries in the annual Bell Ringer competition, was the only New Hampshire-based company to win an award. The awards committee, which consisted of PR professionals from New York, Chicago, Philadelphia and Florida, cited Mate for its success in obtaining extensive television, radio, newspaper and magazine coverage in behalf of PPI, which manufactures Mice Cubes, a mouse trap that enables users to catch mice without ever having to see or touch them.

As a result of the publicity, Pied Piper — in just nine months — went from a company with neither a marketing plan nor a finished product to a firm with thousands of traps sold and distributorships in both the United States and Canada.

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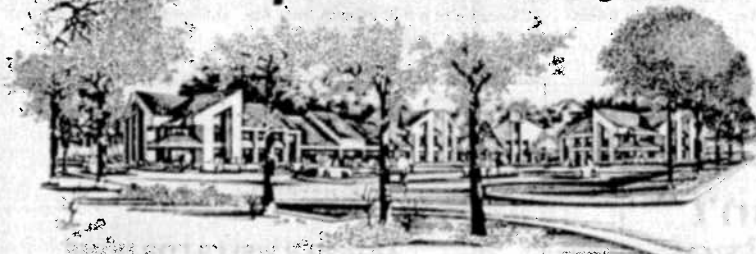
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New CAD/CAM firm formed

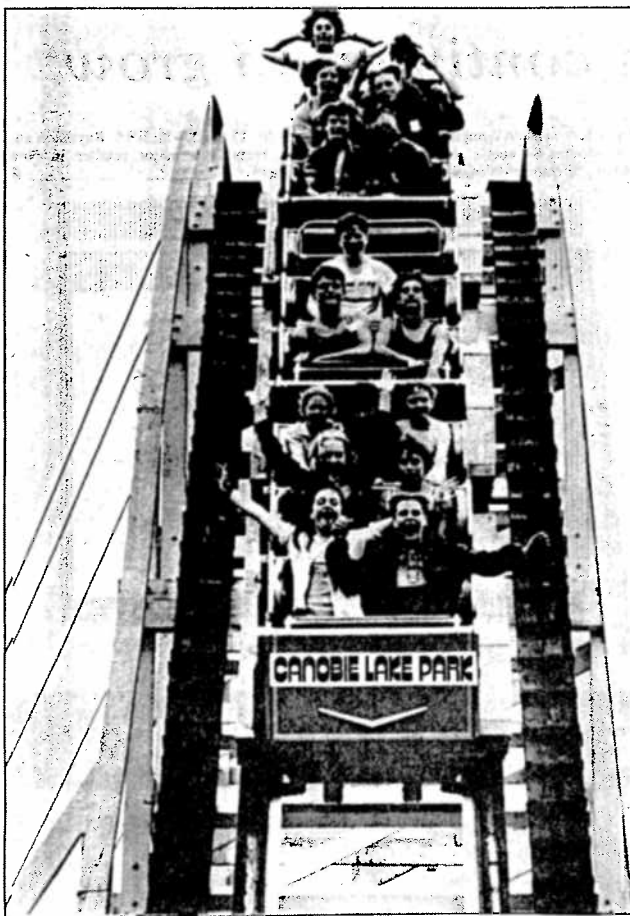
A new manufacturing engineering software company has been formed out of the assets of Encode Technology Inc. of Nashua.

The new company, Encode Inc. will develop and market computer-aided manufacturing products, focusing on the needs of high-precision metalworking companies, according to president Kenneth W. Peterson.

Peterson, president of Encode from 1981 to 1983, organized a group of investors that purchased the company and its proprietary products — Geneasis, a multi-axis programming system, and Encodraft, a mechanical design/drafting system based on the popular AutoCAD computer-aided design/drafting software.

An important aspect of the new company's formation, according to Peterson, is the involvement of CAD/CAM Integration Inc. of Woburn, Mass. as a principle investor. CAD/CAM Integration develops and markets factory automation products for monitoring shop floor activity and on-line access to CAD and CAM database information.

Another key investor in the new company is an Encode customer that uses five-axis machining centers to produce manufactured components for the injection molding and extrusion industries.



Canobie Lake Park celebrates 85 years

Canobie Lake Park is celebrating its 25th year of offering family entertainment on the shores of Canobie Lake in Salem.

Originally developed to generate leisure excursions on the Salem Division line of the Massachusetts Northeastern Street Railway, the park was opened to the public on Aug. 23, 1902. Within a year of its opening, it became one of the leading resorts of its kind in New England.

Although the park has evolved

technologically and has grown tremendously since its opening, it still remains famous for its tranquil lakeside setting, flower gardens, tree-lined promenades and entertainment facilities. An aggressive management team has ensured growth and prosperity for the facility.

Canobie's giant roller coaster, "The Yellow Cannonball," remains one of the park's most popular rides. Built in 1936, it is one of the few vintage roller coasters still in operation today.

Other rides include an antique carousel with hand-carved horses dating back to the 1890s, a 24-gauge steam train, a paddlewheel riverboat, a log flume ride, a pirate ship, and its newest attraction — the "Haunted Mine."

Beginning Memorial Day weekend, the park will be open every day. ■

Salem architecture firm plays role in town's growth

A stateline location offering tax benefits and a close proximity to metropolitan Boston is a recognized formula for rapid growth, and the Salem-based architectural design and engineering firm of Brennan/Dunderdale Associates has been an integral part of that growth.

Among its projects in the area are The Vehicle Valet, Wickson Corners, Triumphant Cross Lutheran Church and Salem Professional Park. The firm also is working on Breckenridge, a 40,000-square-foot shopping center under construction on Route 28 in Salem.

"The more growth, the more sophisticated the demand for design, the appetite for design becomes more sophisticated," said a spokesperson for the firm.

According to the firm, Salem's proximity to Boston has a direct effect on the area's residential and retail markets, but the effects of the closeness has a negligible effect on the business of architectural design and engineering.

"Salem creates its own market in this aspect," the spokesperson said. "Admittedly, in the Salem growth pattern, the scale of design is not as large as it is in Boston, but the opportunity for creative design and the number of projects is greater. There is less competition among an overabundance of competing interests. The greater percent of architectural firms is in the Boston area, and the competition is in direct relationship to that number. The small company has a better opportunity of surviving and developing in an expanding area than the firms of Boston." ■



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Route 28 mall expansion makes road a gold mine

Mini mall mania



Eagle-Tribune Color Photos By Ken Yuzkus

Netles Mall: Bob Yennaco built this mall at the site of Granz Marine.

By Mary Beth Donovan
Eagle-Tribune Writer

PROPERTY ALONG ROUTE 28 in Salem, N.H. is so valuable that perfectly good buildings are being razed to make way for more efficient buildings.

THE LUTHERAN CHURCH on North Broadway was knocked down to make way for a mall.

THE LODGE RESTAURANT was bulldozed, and a mini mall will be built in its place.

"The values are so high, it makes sense to tear down a perfectly good building to build a shopping mall," said Ross Moldoff, town planning director.

When people talk about the growth on the five-mile strip, which starts at the Methuen, Mass. state border and ends at Windham's town line, they use words that have faintly violent rings to them.

Words like "explosion," "boom," and "burst."

Route 28 has a serious case of development fever.

In the last three years and including projects now under construction, more than 600,000 square feet of building and renovation has taken place on Route 28. That work could fill more than 12 football fields.

The buildings aren't the only things that are going up on Route 28.

As developers scramble to buy, prices have been soaring, Edward Dalton of Demaris Real Estate said.

"The market along Route 28 is realistically equal to Route 1 in Saugus. There's the same type of demand factor," he said.

Moldoff estimates that the average price of an acre of land along Route 28 is now \$400,000.

Dalton said that during the past year, property prices have increased 20 to 30 percent.

That breaks down into about \$100 per foot average sales price for office space and \$12 per foot to lease it.

The strip is made up of mainly mini malls, with a handful of restaurants and car washes. There is still a smattering of farms and single family homes.

Robert Yennaco, owner of



"The values are so high, it makes sense to tear down a perfectly good building to build a shopping mall."

Ross Moldoff
Town planner

Granz Marine, tore down a gas station and two buildings to build the Netles Mall a year ago.

He has been running the business on Route 28 for 27 years and remembers when the strip was "nothing but an old cement highway," surrounded by farmland.

When he joined his father-in-law's business, Kealey Farms (now Alexander's market) was a small roadside stand. The present Newman Ford car dealership and the site of the state liquor store was all farmland.

The move to build on Route 28 started "in piecemeal maybe 10 years ago," Yennaco said.

The building boom really started about five years ago, he said.

There are many reasons for the boom.

The town's location doesn't hurt at all, said Dalton, the Realtor.

"Anything along the Route 93 corridor is exploding," Dalton said.

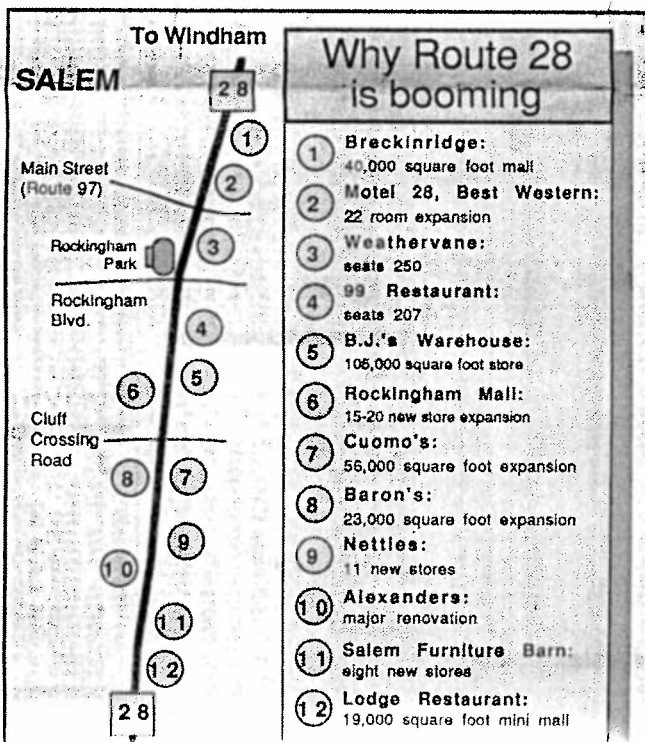
Many companies are finding rents and land prices near Boston are just too expensive and are moving north, along Route 93 which bisects Salem.

The town also has quick access to Route 495, and is a gateway city to New Hampshire. New Hampshire doesn't charge sales tax, a big draw for Bay State shoppers.

But there are drawbacks to the development.

Dalton calls shopping on Route 28 "puddlejumping."

"There's no one big place where you can park your car



Proof of the growth

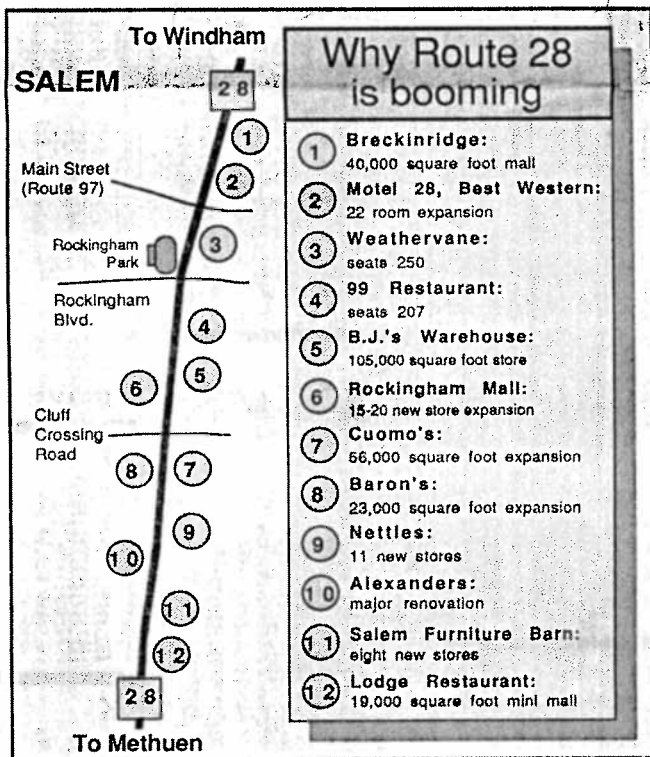
Here are some of the Route 28 projects, and the years they received approval:

1984

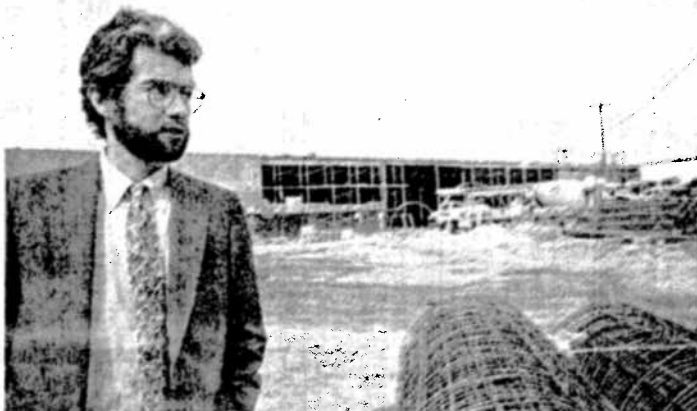
Dodge Grain Inc.: expansion
Motel 28/Best Western Conversion: 30 unit expansion



Nettles Mall: Bob Yennaco built this mall at the site of Granz Marine.



Eagle-Tribune Color Map



Rockingham Mall: Robert D. Power, mall manager, near new store construction.

ROBERT ALORA
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1984

Dodge Grain Inc.: expansion

Motel 28/Best Western Conversion: 30 unit expansion

Service Merchandise: opened

Weathervane Restaurant: opened

Salem Furniture Barn Mall: expansion

Baron Appliances: expansion

1985

Nettles Plaza: opened

Proko Honda: expansion

Cuomo's: relocation and expansion

Kamal's Car Wash: opened

Car Care Car Wash: opened

1986

Ninety Nine Restaurant: opened

B.J.'s Warehouse: opened

Alexander's Market: renovation

Haffner's Car Wash: opened

Breckinridge Mall: new mall under construction

Best Western: expansion

Rockingham Mall: expansion under construction

1987

Mini mall at Lodge Restaurant site under construction

Steve's Ice Cream/D'Angelo's at Concordance under construction



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New Hampshire doesn't charge sales tax, a big draw for Bay State shoppers.

But there are drawbacks to the development.

Dalton calls shopping on Route 28 "puddlejumping."

"There's no one big place where you can park your car and walk. You have to drive from one mini mall to another." He said a large mall, with large anchor stores, could really stop people.

That may change.

A "major, major" shopping mall may be built right next to Rockingham Park race track.

Max Hugel, co-owner of the race track, said many people have approached him wanting to develop the 88 acres of empty land next to the track, and one of the developers wants to build a "major, major mall" there.

Hugel would not give further details, saying there are no definite plans yet.

"We get so many people interested in being in Rockingham Park, it isn't funny anymore," Hugel said.

"There's some good and bad things about the growth," Moldoff added. "Mainly, there is a lot of traffic. And it's a challenge for us to minimize the bad things."

He points to some developers making an investment in Route 28. The developers of the Rockingham Mall have started a three year, one million dollar expansion project.

CONTAMINATED LANDFILL

Recycling project in Salem has vocal foes Citizens' group says private company, public health don't mix

By Peter Spink
Special to the Globe

SALEM — Elizabeth Deignan feels that the idea of allowing private industry to try and profitably recycle the contents of the contaminated Lowell Road landfill, with the intended result of remedying a health risk to the community, is a bad move.

Deignan, a Rhode Island native in her third year as a Salem resident after moving from Framingham, Mass., said the extent of her concern is evident by her involvement as president of the vocal, 12-member action group Citizens Against Re-opening the Landfill.

"An environmental person I'm not, I'm also not a community action person. The landfill's a quarter of a block down the street from my house, and the access road they want to open runs past my house," Deignan said.

"People here have two problems with the situation: They (officials) don't know what's on the site, and they (the people) would like a more public entity to clean up the site if that's needed. It's just not a good idea for a private company to come in when there's a question of public health."

It is not easy to see the landfill from Lowell Road. It stands behind a corrugated metal fence protecting a nearby auto junkyard and another neighbor, the town's auto car pound.

Looking down the entrance road of the junkyard, past the maze of wire fences and rows of stacked autos, a bulldozer is dwarfed in the landfill area as it



Globe staff photo Bill Ryerson
Lowell Road landfill off Route 38 in Salem. Part of the auto junkyard is shown at right.

moves earth across the huge mound that rises up in two levels and far out to the trees that lie in the distance.

Evidence of contents

According to Salem Fire Chief Donald Bliss, evidence of the fill's contents, demolition debris, is stacked high to the left of the working bulldozer.

Bliss, referring to a report on the landfill completed for the town by G & Underwood Engineers Inc. of Portsmouth in February 1984, said that 441,300 cubic yards of

steel girders, wire mesh, broken concrete, rotted wood and other building debris is buried in the landfill, more than the 220,500 cubic yards of debris the fill should ideally hold.

The landfill's cleanup is part of a business venture proposed by Salem lawyers Bruce Barron and Frank Hekimian, the principals in Granite State Natural Products Inc. Hekimian, the company's

treasurer, said the venture would restore the landfill property for possible future development through its collection and sale of loam and other recyclable materials, as well as its production of a wood chip fuel.

"It's the perfect melding of capitalistic incentive and public good," Hekimian said. "There is a mountain of waste on the site. It is more to our benefit to have commercial/industrially usable land than have materials there. Clean land is the payoff. It's expensive, and we'd prefer not to do it, but that's the deal."

Hekimian said Granite State would focus on removing and selling the organic materials on the site, which he estimated would take three to five years.

"I made a deal with the state," Hekimian said. "We will take out loam. We figure half of it is loam and another 30 percent is wood remnants. We're going to process the rotted wood into mulch."

● In July 1986, after more than 2½ years of monitoring and periodic testing, Bliss, Salem's fire chief, declares the landfill fire has been extinguished.

● In February 1987, Johnson enters into a consent agreement with the state, agreeing to properly close the site, provide future monitoring of ground water and pay a \$35,000 fine.

At the time Johnson signs the agreement, there are two other legal actions against him and the landfill, stemming from ground water contamination allegedly affecting the purity of abutting private wells contracted to provide drinking water to the town.

John Minichiello, assistant director of the waste management division, Department of Environmental Services, said contamination of the ground water did not mean there was hazardous waste on the site, though it didn't eliminate the possibility either.

"We don't know if there's any hazardous waste [buried] on the site," Minichiello said. "We do know the hazard constituted in the ground water looked like a result of the fire, but the levels [of contamination] have been dropping."

The well water wells have resulted in a \$1 million attachment being placed on the landfill on behalf of the well's owner, Turner

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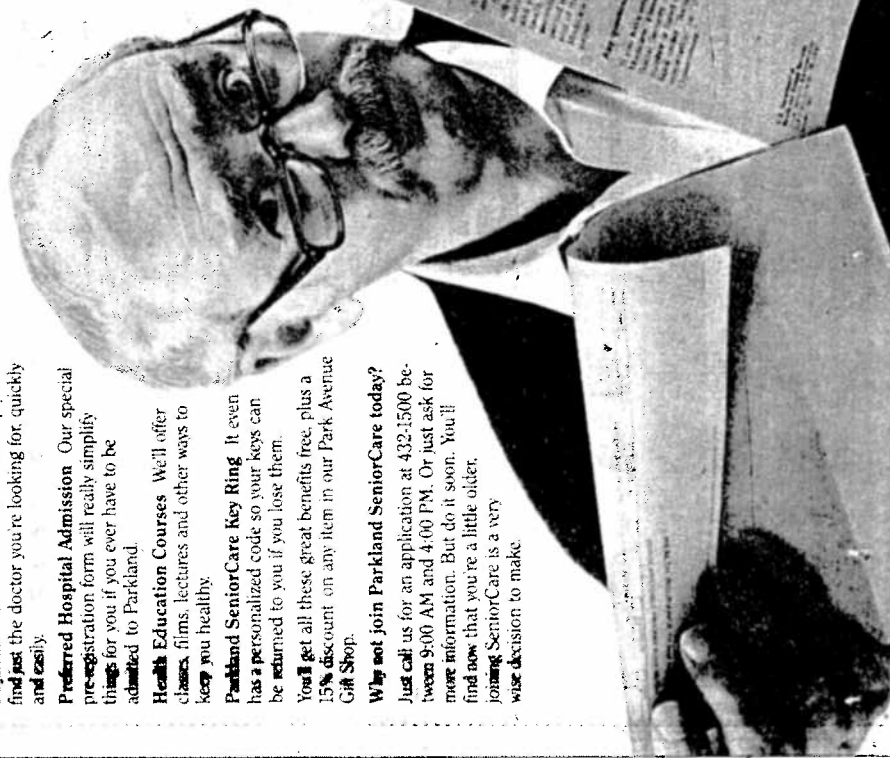
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Hekimian said the opposition to his plan is unfounded.

"There are only two things you can do with the site. One is to isolate it from the rest of the world for the rest of time, or clean it up. Most of our opponents would like to leave it there," he said.

History of landfill

The history of the landfill is detailed in files in the state attorney general's office:

- In 1978, the company of L.L. & S. Inc. opens the Lowell Road landfill for demolition debris. Peter Johnson is identified as the company's sole shareholder.

- In 1981, the state discovers Johnson's operation and requires him to apply for a solid waste permit, which he receives and continues operating.

- In November 1983, an underground fire consumes five acres of the landfill. Firefighters, unable to extinguish the blaze with certainty despite flooding the area with water, decide to contain it by digging a fire wall trench, filling it with sand and sealing the area with a clay cap, hoping the fire will burn itself out.

Ground and surface water tests in and around the landfill soon after show levels of acetone, benzene, toluene, trichloroethylene and 17 other toxic chemicals commonly found in petroleum fuels, paint solvents and cleaners.

- In February 1984, the Bureau of Solid Waste Management issues Johnson an administrative order freezing use of the site until further notice and sets requirements for dealing with the problems of the fire and the ground water.

- In September 1985, Johnson leases the landfill to Lawrence J. Burns, president of the Somerville-based Metropolitan Processed Materials Inc. The company violates the injunction against Johnson, disposing of material on the site Dec. 4 and 5, screening disposed materials on the site Dec. 5-10 and dumping incinerator ash from a Portland, Maine, incinerator on site Feb. 4. Both Burns and the company are fined \$20,000 each, which has yet to be collected.

- In July 1986, Johnson begins operating the fill in violation of court orders. The state files a second preliminary injunction.

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The well water suits have resulted in a \$1 million attachment being placed on the landfill on behalf of the well's owner, Turner Homestead, as well as another \$1 million attachment granted to GeoArm Inc., the company planning to distribute the well water to the town, said Wayne Beyer, attorney for Turner Homestead.

GeoArm Inc. has also filed a second \$1 million suit against Salem for failing to keep an agreement to buy the water pumped from the private wells. Further litigation in all three suits is pending.

Considered a solution to present and possible future contamination problems at the landfill, Granite State Natural Products was excused from filing with the state for a new permit to operate the landfill.

As part of the state consent agreement, Johnson's landfill permit was taken, modified and transferred to the company in the hope the company's recycling efforts would remedy the extensive environmental damage sustained by the landfill under Johnson, Minichiello said.

"The permit modification was part of the court settlement," Minichiello said. Granite State Natural Products "was formed to take over the site from L.L. & S. and recover material north of the fire break. By reducing the material on the site, they were also reducing the future problems and possibly restoring some semblance of the former topography. We felt the proposal from GSNP was the best of both worlds."

Despite the state's confidence, Deignan said she and many other residents in town feel the recycling plan would hurt more than help.

"It's a heavily residential area. The noise from the processing will be a lot," Deignan said. "Mr. Hekimian's example is a vacuum cleaner running constantly. They'll be dust - lots of dust from the processing as well as the open trucks hauling material and moving dirt," she said.

"We estimate the 50-ton trucks will be making 200 trips a week through residential neighborhoods. The whole thing stinks. It just makes me feel any better. It doesn't make me feel any better than not doing anything at all, and neither is a great solution."

In a show of strength, Deignan and numerous supporters packed the selectmen's March 13 meeting, presenting a petition signed by more than 350 residents asking the selectmen to "uphold the spirit of Article 71," a local regulation adopted at the March 1984

Continued on next page

Recycling project in Salem has vocal foes

Continued from preceding page

Town Meeting that bans the re-opening or creation of any landfill in town.

The town, uncertain whether the regulation would apply to Granite State Natural Products' landfill operation, has filed for a declaratory judgment on the legality of the article with Rockingham Superior Court, Town Attorney Robert Clandella said.

Clandella added that he hoped the expected court decision would clarify whether Article 71 would

prevent Granite State Natural Products from operating the site as a demolition landfill once the recycling process was complete.

The court will also rule on another article passed by residents at the same 1984 Town Meeting, to take effect if Article 71 is struck down, which divides regulatory responsibility for the operation of town landfills between the planning board, the zoning board and the board of health.

The number of interested parties to the case expanded recently,

after the June deadline to rule if either article applies to the proposed plans of Granite State Natural Products.

With its building permit already approved, Clandella said Granite State Natural Products could begin construction of the recycling plant immediately, despite the uncertainty of the judge's anticipated ruling.

Salem Building Inspector Kenneth Diodati said Granite State had not yet enacted its permit to begin plant construction.

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Town of Salem

Planners nix mall due to wetlands

By PAUL MCCARTHY
RECORD STAFF WRITER

The Salem Planning Board and Conservation Commission both agreed to deny a conditional use permit to VIP Corporation for a 90,000 square foot mall adjacent to the Rancho Motel on North Broadway.

The reason for the denial - its proximity to a wetlands.

The William T. Knightly room was crowded as VIP's lawyer, John Ryan, addressed what he felt were salient points regarding the eight criteria to be met for a conditional use permit to the wetlands ordinance.

He had a bevy of experts waiting in the wings including engineers, a soil consultant and a certified wildlife biologist. Even an impassioned plea by a principal owner of VIP, George Conway, was heard by the commission and board - but the end result was denial.

"I feel I'm being abused."

George Conway

The issue revolved around three wetland areas on the site which make up approximately 15 percent of the lot. In the back there is a 1.6 acre wooded swamp, in the front and side of the lot there is two, 1/10th acre "pocket" wetlands.

BACKGROUND

The town threatened suit last February against VIP Corp. for being in violation of both site plan regulations and for being the first to violate the new wetlands ordinance after hearing there was dredge and fill operation going on at the site. VIP had allegedly started work at the site prior to submitting a site plan to the planning board.

Salem's Director of Development, Ross Moldoff, sent off a missive to the company to cease and desist all work by the two backhoes and bulldozer at the site until they conformed with town regulations.

At the time, Moldoff called VIP's action a major violation of the posted wetlands ordinance. VIP said they had received state dredge and fill permits and didn't know they needed town approvals. Moldoff countered, "Ignorance of the law is no excuse."

The case never did get to court, Moldoff said in a telephone interview Monday. "The case was settled out of court with three stipulations. One, VIP must apply for ALL town permits and adhere to Salem's site plan regulations. Two, they post a bond of several thousand dollars to restore the disturbed land and three, they pay a \$250 fine."

Moldoff said the fine has yet to be paid.

APPLY FOR PERMIT

The original plans by VIP Corp. called for a 130,000 square foot mall. Because of the wetlands to the rear of the lot, the project had been scaled down to 90,000 s.f.

What concerned members of the conservation commission, however, was the fact that a fire lane protruded 25 feet into that rear wetland.

Dick Bradbury, of the engineering firm Kimball Chase Associates, sided Atty. Ryan in addressing the difference between the larger plan submitted before and the one presented last Tuesday before the board.

Then Barry Keith, a certified Wildlife biologist was summoned to the front of the room to describe just what kind of wetland presently occupies the site.

Keith said the largest section is "wooded swamp" with red maple trees, high blueberry bushes, dogwood trees, etc.

He studied the flora and fauna and could find no reason why the back wetland couldn't be dug out and "replicated" with cattails and seeded with reed canary grass.

John Levine, an engineer with Rivers Engineering Corp., then was summoned to explain the process of "replicating" or re-creating the swamp once it had been gutted out.

He said after studying three criteria at the site, the hydrologic function, the vegetative and wildlife



GREAT PRESENTATION, BUT PETITION IS DENIED - George Conway, one of the principals in VIP Corporation, appeared in front of the Planning Board with engineering and wildlife experts seeking to receive a conditional use permit for a 90,000 s.f. shopping plaza near the site of the Rancho Motel, 234 North Broadway. The board praised him for his thoroughness, but denied his request 4-2. It was a joint meeting with the Conservation Commission, which also unanimously voted down the petition.

functions, he evaluated whether there would be an increase or decrease to the value of the wetland; which he termed an urban wetland.

He said he found there would be a "betterment" of the present condition with the VIP proposal and an increase in the wetland value. Besides being an area where water runoff could be retained, the site would also attract migratory water fowl which would enhance the area as well as provide for the present residents of the site which include mice, amphibians and reptiles.

"We definitely feel its use will increase," Levine said.

Chairman Corrente, however, was perplexed that the red maples were to be replaced by cat o' nine tails. He felt the maples provide high screening for a buffer zone between a commercial and residential site.

Planning member Bernard Campbell questioned the increased runoff from the site with the addition of a detention

pond.

Levine said the pond was to be used as an engineering structure and WOULD NOT increase any runoff into neighboring property. In regards to Corrente's comments, Levine said his firm evaluates the function of a wetland, restores it and replicates it.

CON COMM. WANTS PROJECT MOVED

This caused conservation commission member George Jones to wonder why they had to touch the swamp at all. "Is it true," he asked Atty. Ryan, "that if the project was downsized a bit and moved forward, there would be no need to disturb that rear wetland?"

Atty. Ryan averted the question only to be cornered by Jones who wanted a "yes or no answer" to his question.

"It's irrelevant," Ryan said, "we're hear for a conditional use permit for THIS plan. Not any other."

Board member Bernard Campbell then picked up Jones' gauntlet and asked if the

project were moved 25 feet forward, would it be out of the wetland?

Kimball Chase's Dick Bradbury answered "yes."

You could sense at this point that feelings were running high and the prospects for VIP to get their permit were dwindling.

George Jones then fired a salvo at the VIP experts.

"Early in the summer of 1986," Jones said, "this project was turned down flatly by the commission and we asked the State Wetlands Board to do the same. The applicant then went to the wetlands board with a revised plan we never saw. It wasn't until recently we were asked what we thought of it."

"The wetlands board felt it was a definite improvement over the first plan," Jones continued. "They judged the plan on its merits in regard to the old wetlands ordinance. With the passage of the new ordinance in March, I think I can say with a great deal of confidence after having been instrumental in drafting it that it WAS NEVER anyone's intent to allow someone to come in and dredge a wetland, replace it and call it a one-for-one replacement."

Building up to a full head of steam, Jones leveled with VIP and its consultants. "The main thrust of the wetlands ordinance is to protect EXISTING wetlands. I, for one, am not willing to give up this

Continued on page 17

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LAWSUIT CONTINUED

doff, when contacted about the suit, said, "We heard more and more people were thinking about this (suing over land taking), but based on my information, these suits won't hold their own weight."

Moldoff said Dahood's suit concerns a parcel of land north of the Potato Chip factory. Last March, the town put before voters at town meeting Article 9, which regulated development on North Broadway.

"What the article essentially did," Moldoff said, "was three things: limited permitted uses (no gas stations, junkyards or truck terminals); called for more landscaping in the front of the parcel to be developed and regulated the number of driveways. The latter means a plan may require connector roads between sites that are to be developed."

Moldoff said, "there's not much merit in the threat of a law suit. We don't feel Article 9 is wrong or unconstitutional. The

"The Supreme Court has finally caught up with N.H. law in the protection of private property from over-zealous regulations."

-Atty. H. Bernard Waugh Jr.

article, if anything, is planning for the future. We knew there would be development on North Broadway, it has already started. We didn't want to see North Broadway end up looking like South Broadway."

THE SUPREME COURT SUIT

The much ballyhooed Supreme Court decision, written by Chief Justice William Rehnquist, came down on June 9. It concerned the First English Lutheran Church of Glendale vs. County of Los Angeles.

The breakdown of the suit is as follows: A rule had evolved in the California

Court system that someone whose land has been unconstitutionally "taken" by a land use regulation (zoning or otherwise) couldn't get money awarded by the court, but was only entitled to a declaration that the land use regulation was void.

In this case, the First Lutheran Church owned a campground and religious retreat area in Los Angeles County. All the buildings on the land had been washed away in a flood. The church was not able to rebuild on the land because of a "flood hazard area" regulation. The church brought a law suit asking for money damages because the ordinance "denied them all use" of the property. The California court dismissed this claim.

The U.S. Supreme Court, in their decision, overturned the California Court and held that the "taking" clause of the 5th and 14th amendments of the U.S. Constitution required California to consider the church's money damages claim on its merits.

WON'T APPLY TO N.H.

Moldoff referred to a preliminary analysis done by H. Bernard Waugh Jr., the legal counsel to the N.H. Municipal Association.

In this analysis, Waugh told local officials in N.H., "Don't panic. In fact, the case has **NO EFFECT** on the law in N.H."

"The main effect of this case, unfortunately," Waugh wrote, "will be to cause threats of, and actual bringing of, lawsuits by those who think the case means more than it does..."

"New Hampshire law," he continued, "is not affected by the First Lutheran case for two reasons:

1.) The N.H. courts have never had a rule like the California rule which was overturned. Quite the contrary. In the well-known 1981 case of *Burrows v. City of Keene*, the N.H. Supreme Court held that a "taking" by regulation **DOES** entitle the owner to money compensation.

2.) The First Lutheran Church case talks only about what happens if a court concludes that a "taking" has occurred. It says nothing about what leads to that conclusion. This case therefore does not change existing law about how far planning, zoning, or other land use regulations can go before a "taking" occurs."

"In short," Waugh concluded, "the meaning of this case for N.H. is that the U.S. Supreme Court has finally caught up with N.H."

law in the protection of private property from over-zealous regulations."

Continued from page 27

them, and Rick Dufresne put on a fielding clinic at shortstop.

For the No Names, Billy "The Rope" Lessard was spraying softballs around the field like a lawn spreader as he Dick Hill and Dave Miller did most of the offensive damage in this tough one run loss.

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Women's Club

The Salem Women's Club will hold their monthly meeting at the home of Hilda Telfer, 42 Howard Street, on July 7 at 1:00 p.m.

This will be a work and chat meeting -- maybe more chat than work, but it should be an enjoyable afternoon.

We will work on crafts for the annual fair on November 21 at St. Joseph's Hall.

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Perspectives From a Planner

The author is the Planning Director for Salem, and is the current president of the New Hampshire Planners Association.

+ + +

By ROSS A. MOLDOFF

Mel Thomson implies that all land planners are useless bureaucrats who should simply leave private landowners alone. He warns about land planners "wolfing down large chunks of private property," grabbing "private land by zoning subterfuge," and "unreasonable attempt(s) by regulators, planners, and selectmen to take property without just compensation." (Union Leader 6/22/87).

Governor Thomson fails to note the power to regulate land uses is not unconstitutional just because it infringes on a landowner's enjoyment of his or her property. Land use controls regulate private property for the public good.

For example, our free-market economy, so efficient in producing and distributing goods and service, fails to

adequately address environmental protection, traffic congestion, fire safety, septage disposal and a host of other planning issues.

The intent of land use planning is to account for these issues and, in so doing, protect the public's health, safety, and welfare. Both the N.H. Supreme Court and the U.S. Supreme Court have repeatedly upheld the constitutionality of reasonable land use controls.

To be sure, some communities have misused their zoning and land use regulatory powers, enacting arbitrary and unnecessary restrictions. However, the majority of planning boards and professional planners in New Hampshire use their powers fairly and in conformance with constitutional authority.

Rather than bureaucrats lust-ing after private property, land planners are often the last line of protection for a community.

In terms of the First Lutheran Church case, it seems that New Hampshire law is ahead of the U.S. Supreme Court. Much to the media's chagrin, the ruling will in no way

change existing standards or land use controls in this state.

Most land planners already know that overzealous regulations which effect a "taking" are illegal and require just compensation.

Finally, I wonder if Mel Thomson would appreciate the role of planners if he lived in the fast-growing southern tier. In Salem, we have added close to 1,000 dwellings, 80 commercial projects, and \$140 million in new construction value since 1983.

The problems presented by this growth make planning a necessity, not a luxury.

Opinions expressed in this weekly column aren't necessarily those of The Union Leader. All readers are welcome to submit essays of up to 750 words for the editor's consideration.

Please include a word or two about yourself, along with name, address, phone number and, if possible, a black and white photograph. Mail to: Your Turn, c/o the newspaper. All submissions become property of The Union Leader and can't be returned.

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VOL. 240 NO. 5****

WEDNESDAY, JULY 8, 1987

Planners say they are no puppets

Businessman accused of peddling their votes

By Andrea Holbrook
Eagle-Tribune Writer

Related stories, Page B1

SALEM, N.H. — There is no way a Salem landowner could have controlled Planning Board votes, say past and present officials.

William D. Hicks, 53, Fish Hill Road, Randolph, Vt., who also owns a home at 19 Samoset Drive, was indicted for trying to extort money for Planning Board votes from James Proko, a car dealership president who was seeking approval of site plans for a Honda dealership.



William Hicks

Planning Director Ross Moldoff said he has no idea who Hicks is accused of controlling or whether he controlled anyone on the board.

"In my opinion, it's ludicrous that he or anyone else for that matter could control the Planning

Board. The board consists of seven members. To control it, he would have to control four votes. Those are seven independent people with different positions, different backgrounds," Moldoff said.

"It's going to create a very negative backlash for the Planning Board. It's going to create a shadow, and hurt the public's trust in the board and its decisions," he said.

Moldoff said he has served as planning director for the last 3½ years and has never had a hint of anything that would come close to corruption.

Hicks will be arraigned July 20 in U.S. District Court, Concord. He faces one count of attempted extortion under the Hobbs Act, U.S. Attorney Richard V. Wiebusch said.

If convicted, Hicks faces a 20-year jail term, a \$250,000 fine or

Please see PLANNERS
Page A9

The many faces of Oliver



"I will tell you right now, I'd have offered the Iranians a free trip to Disneyland if we could have gotten Americans home."

"You said wanted . . . the came here to tell the truth: the good, and the up

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He sent 5 memos to president

By Edward C. Achorn
Eagle-Tribune Washington Bureau

WASHINGTON — After keep



Salem's planners say

Planners From A1

both.

He will plead innocent at his arraignment, said his lawyer, Frank V. Hekimian of Salem. He will ask for a jury trial on the charge of attempted extortion.

Hekimian said he has not seen the indictment.

He said he and Hicks have had discussions with Wiebusch and that Hicks has denied having done anything improper or illegal.

"He anticipates having an opportunity to tell that to a jury," Hekimian said. He said he does not expect the trial to begin until the fall.

The complaint against Hicks charges he attempted to extort \$5,000 to \$10,000 from Proko and Bradrich Motor Corp., of which Proko is president, from May 20 to June 11, 1985, Wiebusch said.

During that period, Bradrich had a site plan for an automobile dealership before the Salem Planning Board.

Hicks is accused of attempting to extort the money by making representations he controlled votes on the Planning Board and saying if he was not paid, the Planning Board would delay the plan, Wiebusch said.

Since the FBI investigation came to light in the fall of 1985, all but one of the Planning Board members sitting when the probe was confirmed have resigned. They said they were too busy, had served the town long enough, or wanted to concentrate on their businesses.

The board's current board chairman, Emil J. Corrente Jr., is the only one who was on the board when the probe was confirmed. He said he does not recall seeing Hicks at a Planning Board meeting.

The only possible problem in the Proko plan was a town ordinance stipulating auto dealerships must be 2,000 feet apart, Corrente said.

Corrente said he was interested in the ramifications of Hicks' indictment, whether Hicks' threats had substance and who he may have controlled, if anyone, on the board.

"It will have no effect on the current Planning Board unless someone nails me, because I'm the only one left on the board from that time, but that would be hard because I didn't do anything wrong," Corrente said.

Former Board member George W. Salisbury said he knew Hicks was a car dealer in town but had never met him personally and doubted whether he had influence over the board.

Salisbury said the Proko plan met all Planning Board criteria

and would have passed if Hicks had tried to stop it.

"I thought it was a very good plan. It's a beautiful building and a credit to the town," he said.

The Proko plan was near Rogers Service Station, a used car dealership, but because all cars were stored over the Windham town line, then Town Counsel Lewis Soule said the ordinance had no bearing on the case.

Former Selectman Henry J. Potvin Jr., the selectmen's liaison with board, and board members Robert Dineen, Laurence Belair, William Kelly and Charles McMahon were unavailable for comment.

The Hobbs Act is a federal criminal statute that prohibits any type of extortion that affects interstate commerce, Wiebusch said. He would not say how the attempted extortion tied into the Hobbs Act.

Wiebusch would not say whether the probe, which is now in its second year, would continue or whether more indictments were forthcoming.

"In the U.S. attorney's office, we're taking the view there may be cases out there and we will prosecute if we find them," he said.

Hicks and his wife, Betty, are now legal residents of Florida. Hekimian would not say where they live in Florida.

"They are staying in the area ... he comes up and stays in Salem for a while," said Hekimian.

No one answered the door at Hicks' Salem home, Turtle Back Hill, 19 Samoset Drive, last night. The phone number is unlisted.

The number for Hicks' Randolph, Vt., home, listed as his official residence in the government's indictment, is also unlisted.

Hicks was questioned by FBI agents in December 1985 about a conversation held earlier that year with Proko.

In an interview at that time, Hicks said that Proko asked him about the business climate in Salem and requested advice about his own business.

In September 1985, Proko said he had been asked to appear before a federal grand jury. He said then that the hearing was canceled and he had not been rescheduled to appear.

Yesterday afternoon, Proko said the U.S. attorney general's office called him to tell him about the indictment.

When asked how the deal with Hicks should have worked, whether money actually changed hands or not, and whether Proko approached the FBI or vice versa, Proko said, "It will all come out in the trial."

"I'm not sure what is advisable to pass on yet, so I don't really want to comment," Proko said.

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WEDNESDAY, JULY 8, 1987

Dorset Globe

Salem, N.H., businessman charged with extortion bid

By John Milne
Globe Staff

CONCORD, N.H. — After two years of a municipal corruption investigation, a federal grand jury yesterday indicted Salem businessman William D. Hicks, charging him with trying to extort as much as \$10,000 to speed up a 1985 decision of the Salem Planning Board.

Hicks' lawyer, Frank V. Hekimian, issued a brief statement: "Mr. Hicks continues to state that he is not guilty of the charges and looks forward to the opportunity to establish his innocence before a jury." Arraignment is scheduled for July 20.

The federal investigation, going on since June 1985, has sparked intense interest in Salem, where the planning board is a key agency influencing growth and development. The board has seven members, and since the probe was revealed, six have retired or lost reelection bids.

US Attorney Richard V. Wiebusch would not say whether the investigation is continuing or whether additional indictments are expected. Hekimian said he was surprised other indictments had not been announced in addition to that of Hicks, a former car dealer.

The grand jury indictment, issued after hearing just the prosecution's evidence, alleges that the target of the scheme was James R. Proko, president of Bradrich Motor Car Co., who on June 20, 1985, received Planning Board approval to convert a motorcycle shop on Route 28 into a \$175,000 automobile dealership.

Proko, the indictment said, was led to believe that "Mr. Hicks controlled votes on the Salem Town Planning Board, and that if the \$5,000 to \$10,000 were not paid to Mr. Hicks, members of the board under Mr. Hicks' influence would act to delay approval of the site plan."

The indictment offered no other details. In 1985 interviews, Planning Board members all denied any irregularities. Proko has refused comment except to acknowledge talking to the FBI.

The Planning Board's minutes say Proko first presented a site plan on May 15 of that year. Board members recorded concerns over lighting and underground fuel tanks, concerns that regularly appear in the minutes. A final hearing had been scheduled for May 28, but that night Proko withdrew his application.

At a June 11 meeting, a revised site plan was submitted with new entrances and details of the fuel tanks. It received tentative approval on a unanimous vote, the minutes say, and went into effect June 20 after the town attorney certified that the location did not conflict with another garage nearby.

Wiebusch said this was the first New Hampshire indictment under the Hobbs Act, designed to attack corruption among public officials. The indictment charges Hicks with violating the section that makes it a federal crime to extort property "under color of official right." The maximum sentence upon conviction is 20 years imprisonment or a \$250,000 fine.

THE UNION LEADER, MANCHESTER, N.H. — Thursday, July 9, 1987

Salem Ponders Car Dealer's Extortion Indictment

By ELIZABETH LUCIANO

Union Leader Correspondent

SALEM — Local officials had various reactions yesterday at learning that a former car dealer has been indicted for extortion.

William D. Hicks, a former owner of the Dodge dealership on Route 97, allegedly led James R. Proko to believe that he controlled votes on the Salem Planning Board, and that Proko's site plans for a dealership on the other side of town would be approved if Proko paid him \$5,000 to \$10,000.

Town records show that Proko sought to expand what was originally a motorcycle shop at the corner of Routes 28 and 111 into a Honda dealership. The matter was before the planning board from March 14 through June 11, 1985.

Emil J. Corrente Jr. is the only person currently on the board who was a member in 1985.

"It's certainly interesting. It's a matter that's come to a head after a big mystery," Corrente said. "Unfortunately, it still doesn't clear anything up."

Of the remaining six members of that board, Chairman William Kelly, Robert Dineen, and George Salisbury could offer no comment on the situation. Laurence Belair, Charles McMahon and Henry J. Potvin could not be reached for comment.

Hicks was indicted on a violation of the Hobbs Act, which is the federal government's major weapon in combating extortion and corruption, according to U.S. Attorney Richard V. Wiebusch.

This is thought to be the first case in the state to be tried under the Hobbs Act, although the law has been in place for at least 50 years, according to Wiebusch.

James Proko, who continues to own and operate the Honda dealership, could not be reached for comment yesterday afternoon.

Hicks' lawyer, Frank Hekimian, said that the businessman maintains that he is innocent.

"Mr. Hicks continues to state that he is not guilty of the charges and looks forward to the opportunity to establish his innocence before a jury," Hekimian said.

Hicks also said he was innocent during a New Hampshire Sunday News interview in December 1985.

"If someone came to me and said there's a few thousand if I smooth things over in the town — what for? I'm worth \$5 million," Hicks said, referring to land he owns in Salem, Vermont and Florida.

Hekimian said yesterday that although he and his client had spoken with federal officials and were not surprised by the indictment, they were surprised that Hicks has been the only person indicted in the case so far.

Wiebusch would not say whether or when other individ-

uals might be indicted.

Hicks is scheduled to be arraigned in U.S. District Court, Concord, on July 20. If he is convicted in the case, Hicks could face a \$250,000 fine or 20 years imprisonment, Wiebusch said.

Town officials and residents were aware of the FBI investigation, but were uncertain of its scope or focus, according to Ross Moldoff, who has been the town's planning director since late 1983.

"No one was really sure what was going on," Moldoff said. "There were a lot of rumors going around, but nothing was confirmed or denied by the FBI."

Moldoff expressed worries that the planning board's reputation would be tarnished by the case.

"I am concerned about the public image that comes out of this in terms of the planning board," Moldoff said. "I hope it doesn't malign the image of the planning board and I don't think it should. It's entirely between two private parties and no governmental body."

The idea that the planning board's approval could be purchased is "silly," according to Moldoff.

"It's ludicrous for anyone to purport to control the vote of the planning board," Moldoff said, pointing out that there

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1200 S. Mammoth Rd., Man., N.H.

A Salem car wash designed to "change the image in the public's mind of what a car wash could be," the Power House Shopping Arcade in West Lebanon and the Ludlow Corp. headquarters in Exeter, have been chosen by the New Hampshire Chapter of the American Institute of Architects for its annual "Excellence in Architecture" awards.

The statewide chapter of architects recognized the three structures from among 32 entries at an annual awards night banquet program held June 27 at the Currier Gallery of Art in Manchester. More than 100 people attended the event.

According to Awards Chairman "Chip" Krause of CMK Architects in Manchester, the projects entered into the competition by

New Hampshire architects were not judged against each other for their architecture design, but rather on the basis of the solution of the problem presented to the architect and "its worthiness of an award."

The 5,000-square-foot car wash, known as the Vehicle Valet Car Wash at 113 North Broadway in Salem, was designed by the Salem architectural firm of John T. Brennan, AIA. Denis J. Dunderdale of the firm was the designer. The facility was developed by Frank Jordan of Jordan Industries in Salem, who also served as general contractor for the project.

According to Dunderdale, Jordan wanted "to develop a car wash which would change the image in the public's mind of what a car wash could be." Jordan's main concern was to develop an image that reflected seriousness and professionalism as his service.

Through the use of simple materials, classical forms were developed and arranged to produce a clean, crisp impression with the focus being on the tunnel through which cars traveled for their cleaning. Broad white pillars at the end of the tunnel give the building a distinctive design. Glass block was used at the corners to remain in keeping with the image and scale, while also bringing maximum light into public and office areas.

Vehicle Valet Car Wash,

Architect: John T. Brennan

Jordan Industries, owner and general contractor; Kimball Chase Company, site and civil engineer; McCabe Associates, mechanical and electrical engineer; John Jacobson Associates, structural engineer; Nor'Easter Group, equipment consultant.

Architect's statement: Through the use of simple materials, classical forms were developed and arranged to produce a clean, crisp impression with the focus being on the tunnel. Glass block was used at the corners to remain in keeping with the image and scale while also bringing the maximum amount of light into the public and office areas.



AN INDEPENDENT COMMUNITY NEWS

Ross Moldoff
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The Salem Record

Volume III Issue No. 8 893-1667

A GOOD CITIZEN IS A WELL READ CITIZEN

32 pages

July 23, 1987

Planners upset with Town

By MONIQUE DUHAMEL
RECORD STAFF WRITER

Planning Board members were upset by the news that the Town had issued three certificates of occupancy for a building located at 395 Main Street.

The Board had been polled, via telephone, to determine if they were in agreement with the issuance of occupancy permits. Most were not.

"I just have a real problem with what happened."

Dick Gregory

The news of the permits' issuance reached planners at their regular meeting last Tuesday night.

The controversy centered around the fact that builder Gary Bergeron had not built the exact type of walls in the cellar storage area of that building which the Board had requested.

Several board members also felt that the town had overstepped its authority. "I just have a real problem with what happened," said Planning Board member Dick Gregory. "I just can't believe it wasn't brought back to us."

The Planning Board requested Bergeron to erect a "permanent architectural barrier" and they felt that what he had done was not in compliance with what the board requested. They had asked for a four-inch hollow core masonry wall, and Bergeron had agreed at the June 30 Planning Board meeting. What he built instead, according to Planning Board Chairman Emil Corrente is "a stud wall."

Gregory said, "He agreed originally to put up a cement

block wall and he changed it."

Three certificates of occupancy (C.O.s) had been previously issued for the 12-office building, and Bergeron had posted a \$5,000 bond with the town

"I have made an agreement with an applicant before my board and I expect him to comply with it before a certificate of occupancy is issued."

Emil Corrente

for completion of the work. With the issuance of these three additional permits, Bergeron posted an additional \$5,000 cash bond and agreed to go before the Planning Board on July 28.

Board member Bernard Campbell made a motion to

Continued page 19

This Week

*BOS to
set goals
Page 2*

*Hicks
arraigned
Page 3*

*Senior
girls win
Page 30*

SITE HISTORY

Originally, the Planning Board had approved the building with only a crawl space in the basement. When Bergeron built a full

"We haven't imposed anything on him (Bergeron) hasn't agreed to."
Bernard Campbell

basement, claiming he had hit water and thus was forced to dig deeper and construct a full cellar, the Planning Board approved this revision. The cellar area was to be used to dead storage for the offices upstairs, since parking at the site is not adequate for more office space.

In addition to building a full cellar, Corrente said "there were other violations Mr. Bergeron committed, like including doors and windows (in the cellar)."

The board is now trying to work with the existing conditions, ensure that the cellar area does not become office space, and still be fair to Mr. Bergeron.

Corrente said Mr. Bergeron had told him that the masonry wall is impossible to construct in that basement, but despite repeated requests, he has not heard from that Bergeron's engineer.

Corrente also said he was offended that Bergeron did not direct the resolution of

this problem to the Planning Board.

"I want nothing from Mr. Bergeron except for compliance with the requirements he made with this board," said Corrente. "If we live in a society that shoots men up to the moon, I expect somebody to be able to build that wall, unless a registered professional engineer tells me it's impossible to build."

SPECIAL MEETING

The focus of Thursday morning's meeting was why the Town issued the certificates of occupancy when Planning Board requirements had not been met.

"I have made an agreement with an applicant before my board and I expect him to comply with it before a certificate of occupancy is issued," Corrente said. "I'm assuming there's been a breakdown of procedure here."

Planning Board member Richard Gregory also felt the issuance of C.O.'s was inappropriate and said, "This is a hotly contested issue and I don't believe the administration made the right decision."

Building Inspector Sam Zannini defended the Town's position. "As soon as it became evident that it wasn't what the Planning Board wanted, we immediately went to the site and told him to stop," he said, adding that the walls were nearly completed when town employees arrived.

But this wasn't enough for planners, who still wanted to know why the C.O.s had been issued. That question was never fully answered during the two-hour meeting.

"That building is not built as we approved it," said Corrente, slamming his fist on the table. "I'm just looking for a way to say to this guy - 'Hey, No!'"

Planning Board member Bernard Campbell argued that Bergeron had agreed to build the masonry walls. "We haven't imposed anything on him, he hasn't agreed to. He agreed. He said he would (build masonry walls). Those were his words," said Campbell, who also pointed out that some of the basement areas have more than one exit, which was not approved.

Campbell was also against the C.O.'s, saying, "I just don't think they were appropriately issued."

Zannini said that if Bergeron did not comply

with the Board's requirements, he would never get another C.O. for that building.

The end result was that the occupancy permits were stayed and the Board will meet with Bergeron on July 28. At that time, the type of walls needed will be discussed, as well as the actual disposition of space in the storage area and what can be stored.

"Mr. Gary Bergeron is a very good builder. That is a beautiful building. It is in good taste. It is the kind we like to have in this town," said Corrente, adding that is why he is willing to bend over backwards to deal with Bergeron.

"I expect Mr. Bergeron and his representatives to come back to the Planning Board and iron out his difficulties with this board, specifically on the walls he's constructing and I WILL NOT BUDGE," concluded Corrente.

Town Manager Thomas Melena said that there had been a breakdown in procedure somewhere along the way which should be addressed. "We saw some holes in the formats and procedures. Let's plug in these holes," he said.

addressed in some way. Communications have improved. The telephone system has improved, with both the fire and police departments having new phone systems and the town hall by the end of 1987. Melena says housing, code enforcement and planning have all seen improvements, as has the financial department. A Fire Master Plan is being worked on by town staff, and employee programs have seen substantial improvements. The Spicket River still needs to be cleaned, and is the only sub-goal the town really didn't meet.

So what will selectmen and staff members discuss at their upcoming goal setting session? Anything that seems of primary importance, says Melena. Perhaps they will talk about the Salem Depot, repaving major arteries, bond issues, communications, the Spicket River.

"You have a very, very good chance to just sit down and talk about things that are going on," said Melena.

After these goals are listed, department heads may address some of them in their budgets, and then the town may seek approval at the 1988 town meeting.

Stay tuned.

BERGERON CONTINUED

file an appeal of the building inspector's decision with the Board of Adjustment. It was seconded by William Pry and unanimously approved.

The Board also agreed to meet with the town manager and town attorney to see if they could work something out, as well as meet with Bergeron at the beginning of their next meeting (July 28).

Bergeron received notification that the permits were stayed by this request the following morning.

Mall developer files suit for needed special-use permits

8/6/87

By Andrea Holbrook
Eagle-Tribune Writer

SALEM, N.H. — V.I.P. Corporation of Stratham has filed a suit in Rockingham County Superior Court against the Planning Board, Conservation Commission and the town.

The suit centers around the boards' decision to deny the company a "special use permit" on June 23. Issuance of the permit would have allowed V.I.P. to continue with plans to build a mall at the Rancho Motel site on Route 28.

The wetlands ordinance passed at 1987 Town Meeting was a prime factor used by both boards in denying the permit.

The suit primarily asks the permit be awarded and challenges the validity the town's wetland ordinance and its ability to enforce it.

“ They present an interesting legal argument that I think is clearly incorrect. ”

“It's kind of an interesting suit. They present an interesting legal argument that I think is clearly incorrect,” Planning Director Ross Moldoff said.

Moldoff said the town has had some kind of wetland ordinance since 1976.

Town law allowed development in commercial areas with wetlands if the developer had state and federal approval. A new stricter ordinance was passed at this year's town meeting.

The new ordinance banned most construction in wetlands shown on the town's 1978 wetlands map. Wetlands could be used for utility roads and things like forestry, farming and wildlife preserves with the “special use permit.”

V.I.P.'s shopping mall proposal called for land at the rear of the property, classified as wetlands, be used for drainage and fire lanes.

At a joint meeting between the Planning Board and the Conservation Committee on June 23, both boards voted not to grant the permit.

V.I.P. alleges in the suit that if it was the town's intent to ban all development in wetlands, the ordinance “is illegal and excessive and does not bear any reasonable relationship to any legitimate or legal public purpose...and (is) unenforceable as against (V.I.P.).”

The If V.I.P. wins, Moldoff said, “It would be kind of novel, it would set a quite a precedent.”



Inside • Deaths

New Hampshire

SECTION

B

Editor: Kathy Sciaccia, 685-1000 LAWRENCE EAGLE-TRIBUNE AUGUST 19, 1987 ***** B1

Planners, developers haggle over regulations

SALEM, N.H. — Local developers and the Planning Board haggled over proposed subdivision and site plan regulations for three hours last night.

Some changes in the regulations could drive home prices up by \$2,000, developers told the board.

Planners tabled an ordinance that would have required sidewalks to be put in all new developments. Local developer Laurence Belair said requiring him to build sidewalks in his developments would drive the price of a house lot up by over

\$2,100. The board passed a regulation limiting the length of dead-end streets to 1,200 feet. Assistant Planner Kate Welch said the 1,200-foot length is used by other fast-growth communities, such as Salem.

Welch said lengths over 1,200 feet can be dangerous because of traffic problems, and can be harder to plow and service with emergency equipment.

Belair said by limiting the length the board could frequently end up in court because areas could not be developed to their

fullest potential. This would create excuses for creating through streets through wetlands, he said.

If a developer needed a 2,000-foot dead-end street and could get a waiver, the cost would be divided among the remaining lots, Belair said.

The board passed several amendments aimed at preventing or controlling flooding in Salem. Assistant Planner Kate Welch said the ordinance was based on language used by the Federal Emergency Management Agency.

"The reason we proposed it, and I think we are 10 years too late with it, is in response to the flooding in April," and to annual flooding in Haigh Avenue area, Planning Director Ross Molitor said.

The board tabled an ordinance which requires the amount of run-off from a site after development to equal the amount of run-off before development and when feasible and possible that all water be retained on the site.

Development proposals must now include 100-year flood elevation data, they

must be designed to assure all utilities are located and constructed to minimize or eliminate flood damage, and they must provide adequate drainage to reduce exposure to flood hazards.

The regulations also address which governmental bodies should be notified and would give authorization for altering or relocating a water course and information the Planning Board would need before allowing water or sewer systems, especially on-site systems, in a flood plain area.

Contaminated water is declared an emergency

Water victims trying to cope



By David Eisenstadt
Eagle-Tribune Writer

DERRY, N.H. — The Seabie Pond water contamination has been declared an emergency and \$780,000 will be spent to eliminate the problem.

Town Council approved the emergency measure last night during an often heated discussion before an audience of about 60 people, including a representative of U.S. Senator Gordon Humphrey, R-N.H.

"An emergency situation exists that affects public health," said Councilor Scott Gerrish, who proposed the action. "Any delay in getting started will

PWJ
In the news
briefly

Chemical odor closes road

SALEM, N.H. — The Salem Fire Department closed part of Pelham Road for one hour last night because of a suspected chemical spill in the Keewaydin Drive area.

Fire Capt. Daniel Breton said the department received a call about a strong odor in the area of 36 Pelham Road at 9:30 p.m. The caller did not know what was causing the odor, Breton said.

Breton said the Fire Department investigated and found there was a definite odor like solvent or paint thinner.

"We blocked off the road to give us a chance to investigate, and made sure people in the area were all right," he said. The odor seemed to be coming from the Adrox Co. at 49 Pelham Road, he said.

"We called the company's response

DERRY, N.H. — Cindy L.

Wednesday, August 19, 1987

Developer Files Suit On Salem Wetlands

By ELIZABETH LUCIANO

Union Leader Correspondent

SALEM — A developer's plans to tear down a Route 28 motel and construct a large shopping center have given rise to a court dispute over whether municipalities have the right to regulate wetlands.

State officials were unsure, without studying the case closely, whether it would be precedent-setting.

The conflict came about when town officials refused to grant the developer special permission to set aside Salem's wetlands rules at the current El Rancho Motel site.

But the developer, VIP Corp. of Stratham, contends that only the state can regulate wetlands and that the local laws are invalid.

The Rockingham County Superior Court hearing, which has not yet been scheduled, will address the challenge to Salem's new wetlands ordinance, approved by voters at town meeting just last March.

Town attorney Robert Ciandella plans to file a reply to the complaint later this week.

The case could have far-reaching effects. Last year, the most recent year for which such figures were available, nearly 40 percent of Granite State communities had adopted wetlands ordinances, according to the New Hampshire Association of Conservation Commissions. State officials caution, however, that the local laws vary tremendously in their scope.

Plans for the El Rancho site needed only minor revisions before being approved, according to Planning Director Ross Moldoff.

Approval would have required that the proposed location of a fire lane be shifted, and that a wetland area at the rear of the property be left untouched.

"I'm disappointed that a developer would prefer to go to court rather than to revise the plan in a minor way. There is no question in my mind that the town has the right to regulate wetlands, and there is no question in my mind that the planning board made a reasonable and legal decision," Moldoff said.

The Salem Record

Volume III Issue No. 15 893-1667

A GOOD CITIZEN IS A WELL READ CITIZEN

36 Pages September 10, 1987

Planners settle site plan Tangled web of misunderstanding unwoven

By PAUL MCCARTHY
RECORD STAFF WRITER

It took two and one-half hours at their last meeting, but the Salem Planning Board has apparently settled the ongoing site plan problems at 395 Main Street.

The Ayers Village site plan has been a literal "hot potato" with the board since they first reviewed the preliminary hearing on May 14, 1985.

The site plan had been bounced between the planners, the board of adjustment, code enforcement officials and selectmen so many times it prompted a rumor throughout town that the entire planning board, as well as planning director Ross Moldoff, had been going to chiropractors for lower back problems due to "bending over backwards" to accommodate numerous site plan revisions to 395 Main Street location.

Be that as it may, it now seems ALL problems the

planners had with the site are soon to be resolved - as soon as amended office condominium documents are filed at the Registry of Deeds in Exeter.

HOW WAS IT RESOLVED?

Attorney Stephen Patterson was on hand at the meeting to represent the Ayers Village site plan revision at the last meeting. Once again, he presented the history of the site and noted the structure meets all town codes. He also noted that his clients (trustees Gary Bergeron and Joseph Scott) faced economic hardship for every day the office condominium units are not occupied because of the lack of certificates of occupancy (CO's).

He said his clients were ready for litigation should their proposals for revisions to the site plan be denied, and he asked the board to deny the plan outright so the litigation process could start.

The big problem the planners have had with the

Continued on page 18



HOME FROM SCHOOL - Six year-old Christopher Murray (foreground), son of Richard and Kathy Murray, 76 School St., was greeted by his cousin, brother and sister after his first day at school. No more playing Rambo for Christopher, it's school time. Pictured left to right behind him are Billy Murray, age 4, Susan Murray, age 3 and Matthew Murray, age 4.

Photo by Paul McCarthy

Murders suspect's hearing rescheduled

By PAUL MCCARTHY
RECORD STAFF WRITER

State Assistant Attorney General Tina Schneider was at Salem District Court Monday morning for an adult certification hearing for the 16 year-old Salem youth arrested in connection with the August murder of Denise Balfour.

No one, however, is saying anything.

Atty. Schneider, in very

guarded terms, said, "The certification has been rescheduled" and would not comment further except to refer any questions on the subject to RSA's 169-B:35, B:36, B-37 & B:38 - the state laws regarding publication of juveniles names and addresses.

It should be noted that publication of the juvenile's name or address could result in a one year jail term,

a \$1,000 fine or both. One area newspaper has already published the youth's name and address.

Comments by an individual familiar with Massachusetts juvenile capital crime cases, who requested anonymity, said, most likely, the Salem District Court has requested the youth be placed in a psychiatric care facility where he can be evaluated.

Upon evaluation, a report will be submitted back to the court so a determination may be made to certify the youth as a juvenile or an adult.

Asst. A.G. Schneider said she could not comment on any idle speculation but would notify the RECORD when, and if, the youth is certified as an adult. She could not positively say if she would notify the

RECORD if he were to remain a juvenile.

All juvenile hearings are closed to the public and off limits to the media. A juvenile in N.H. is anyone younger than 18 years of age.

The RECORD is withholding publication of the suspect's name, address, and picture until it receives the express permission of the court.

INSIDE: Emissions testing controversy

SITE PLAN CONTINUED

structure was the fact that the basement was supposed to be a six foot "crawl space" for the buildings "mechanicals."

The area was found to have eight foot ceilings, a countertop desk and a telephone system which led the planners to believe it was to be occupied and thus was in violation of the site plan Ayers Village had submitted.

The planners wanted interior walls in the basement to be constructed of four inch concrete block and be used solely for storage. Expert testimony requested by the board prohibited the use of masonry walls and the use of concrete block was offered. The board was not satisfied with the offer, but did not satisfy the planners, and they filed an appeal of the administrative decision to issue CO's - which tied up the occupancy of the condo units.

Trustee Joseph Scott even proposed putting in three foot high knee walls (at a cost of \$37,500).

Chairman Emil Corrente reminded the Ayers Village representatives that it was **THEY THEMSELVES** who offered to install the concrete masonry walls and lower the height of the ceiling in the basement. The board didn't mandate concrete walls, the applicant offered this solution for the board's approval.

After discussion on how much basement storage space each condo unit would have, Corrente reminded Ayers Village that according to the plans submitted in the past, there was to be NO storage in the basement because, in fact, there was not supposed TO BE a basement in the structure.

There is no doubt the planners have done everything to accommodate the representatives from Ayers Village Realty, and these accommodations drove Michael Clare of Prestige Realty (who has office buildings in the same neighborhood) to "put the board on notice" that he too would expect the same leniencies the board has been granting to Ayers Village when building.

After time for the first motion to be proposed, the motion came from planning member Robert Campbell.

Campbell motioned the removal of the requirement of masonry interior walls in the basement of 395 Main Street (as voted by the board on January 27, 1987) with the following conditions:

1.) Approval of the proposed change to the site plan applies **ONLY** to the request to eliminate the requirement for eight-foot high masonry walls and to permit framed walls in their stead.

2.) The condominium documents for the units shall be amended to document the lowest floor may be used **ONLY** for utility equipment, and for storage which is accessory to permitted business office uses as defined in the Business Office District (storage of supplies, records, and products used in the permitted use of the premises or used in the maintenance or operation of the premises).

The board took a brief recess and then reconvened with yet a third amendment to Campbell's motion. This one stating: The lowest floor may be used only for utility

equipment and for storage which is accessory to permitted business office uses as defined by the planning board.

The board unanimously passed the amended motion. Planner Bernard Campbell then motioned at the board with his appeal on the BOA upon receipt by the planning director of evidence the amendments to the condominium documents had been recorded in Exeter.

Campbell also specified the language in the condo documents must be the same language adopted by the planners - and that the condo documents cannot be further amended without planning board approval.

This motion also passed unanimously.

Then it came down to the nitty gritty. The planners wanted to make sure the board of adjustment DID NOT issue any CO's until all the necessary changes were made.

Attorney Patterson said he would request the planners ask the BOA for another 30 day continuance until all the paperwork in Exeter was recorded. This suggestion was adopted by the planners on a unanimous vote.

(The board had previously asked the BOA for a 30 day extension so a suitable arrangement could be worked out to both party's satisfaction, whereupon Atty. Patterson, despite implying in a letter that he wouldn't seek CO's until the issue was resolved, petitioned the selectmen to grant temporary CO's. His "end around" request brought impassioned pleas from the planners NOT to grant his request - which the selectmen heeded.) To

cover all bases at their last meeting, the planners also unanimously voted to investigate and determine the accessibility uses in business office districts and ensure compliance through the board's finding of fact as voted upon.

That last motion was made after Planning Director Ross Moldoff noted there were two uses at 395 Main Street which do not conform to the uses as defined by the board.

Chairman Corrente said that was an issue for the town's code enforcement officials, not the planners, to make sure there is compliance.

IS IT REALLY OVER? This Ayers Village site plan has had its emotional moments. One of the Ayers Village Trustees, Gary Bergeron, at one meeting vowed never to do business in Salem again - and to never appear in front of the planners again. A vow he has thus far kept.

At breakfast last week, however, the affable Bergeron seemed happy the issue had finally been resolved. In fact, he was beaming.

Two meetings ago, chairman Corrente had to gavel into silence one member of the planning board several times when he kept bringing up the fact that Bergeron had sued the town in the past.

Corrente, a beacon of intelligence, had the good sense to remind his fellow board member the planners were gathered to hear the Ayers Village site plan before them, NOT any site plan the board had heard in prior years.

The issue, at times, took on the appearance of a personality conflict rather than one concerning site

plan revisions.

In June of 1986, when Planning Director Ross Moldoff went to the Main St. site and noted the ceiling of the basement was not as approved, all hell broke loose.

In a memo of his meeting (at 395 Main Street) with Bergeron to the town manager, Moldoff wrote "Gary then mentioned I had called him a liar in public and had given false information to the newspapers about him. He said I 'better not' come out to the site again and told me he'd 'start a war' if I pressed the issue."

Moldoff concluded by writing, "I can see several 'battles' in the near future." A prediction which, as it turned out, was a severe understatement.

Despite all the turmoil, the Ayers Village structure at 395 Main Street is a good looking structure, a structure which could be called an asset to the town.

The way site revisions were handled, however, should be a lesson to any contractor on how NOT to do business with the Salem planning board.

There is a lesson to be learned from all this, and it is hoped contractors throughout town have learned it very well.



WBZ TV 4 Sportscaster Bob Lobel will be the keynote speaker at the Salem Boys & Girls Club Annual Dinner on Wednesday, September 23. Tickets may be obtained from the Boys & Girls Club. For more information, call the Club at 898-7709.

PLACE A CLASSIFIED AD

CONS. COMM. CONTINUED

Cross country skiing trails in winter and walking trails during the summer. The only needed improvement would be a public parking area.

The Conservation Commission was invited to the next RAC meeting on October 6, to discuss whether funds for improving the town forest should be placed in the 1988 budget.

After this discussion, the commission voted to delay naming the town forest until after they meet with the RAC.

A new revisions of State

RSA's allows for alternate members on Conservation Commissions. The board was pretty much divided on this issue. Some members wanted three or four alternates, others one or two alternates, and some did not want any alternates at all.

Larry Kealey and Glen Gidley were opposed to alternates because they would either have to go on all the commission's site walks in their event they might be called upon, or sit on the board without benefit of site walk information.

Earl Merrow thought alternates would be a good

way to get more people involved.

This issue was tabled until the next meeting, so that George Jones could be present for the vote.

After a lengthy discussion, the Conservation Commission recommended disapproval of a 7,700 s.f. dredge & fill permit to Realty Associates (Market Basket).

Sam Ruggianno of Allan Swanson Inc. represented Realty Associates and told the commission that a 57,000 s.f. addition is planned for the existing K-

Mart/Market Basket plaza.

The big question in this case was drainage. Commission members were concerned that proposed expansion will result in further drainage problems along the Spicket River and on Cluff Road.

Ruggianno pointed out that the culverts in that area are completely blocked and would be cleaned out. He said that unplugged, the three 18" culverts could handle severe storm waters.

A motion for approval with conditions died on a 3-3 vote, and then the board moved to deny the request.

7/18/87

Report: Intersection Action Needed Now in Windham

By WARREN HASTINGS
State House Bureau

CONCORD — A New Hampshire House Public Works subcommittee recommended yesterday that the Legislature place a high priority on funding for highway study and bypass construction affecting two seriously clogged southern New Hampshire intersections, one at Routes 111 and 111A in Windham and the other at Routes 111 and 28.

The full committee is expected to discuss the long stalled Salem-Windham bypass project when it meets Oct. 8 and will come up with a recommendation to the full legislature.

"Route 111A in the vicinity of Shadow Lake is without question one of the most hazardous and life-threatening sections of state highway in the state," read a written subcommittee report to the full committee which met in the State House yesterday.

Relief could come in the form of a new bill or an amendment to House Bill 85 which provides a \$12 million appropriation for a Salem to Windham bypass.

Rep. Marilyn R. Campbell, R-Salem, a co-sponsor of HB 85, told the committee that the construction is needed right now, not 10 years from now.

The subcommittee is recommending that the New Hampshire Department of Transportation review needs as they are now and follow generally the same bypass layout proposed in 1972.

HB 85 should be reviewed, updated and actual project costs determined, along with inclusion of funds for an environmental impact study, according to the subcommittee report.

However, the subcommittee suggested also that over the short term communities must

take measures to improve safety and traffic control in the dangerous areas while the project planning continues.

"There is a need for additional participation by towns affected in finalizing and coordinating regional planning," the subcommittee report states.

Rep. Campbell stressed to the committee that a proposal to build a two-phase bypass would not be adequate because additional land might not be available when it is time to finish the project.

Also appearing before the committee was Rep. Patricia Skinner, R-Windham, who said that Windham did not oppose the project as earlier reported, but wished only to make sure that it doesn't cut the town in quarters creating further obstacles in getting from one part of town to the other.

The committee also heard testimony from Rep. Ellen-Ann Robinson, R-Litchfield, on the importance of repair work for portions of Rte. 3A near the Manchester-Litchfield line covered by HB 313.

The major focus of HB 313 is the curves and bridges that were scheduled to be reconstructed, Robinson said.

She told the committee that of major importance now is the intersection in Litchfield of Pinecrest Road and Rte. 3A.

She said a new elementary school is being constructed on Pinecrest Road and the town will be putting a new entrance off Pinecrest onto Rte. 3A and will be realigning Pinecrest Road and its intersection.

Robinson said it is hoped that the state will take care of problems on its portion of Rte. 3A near the intersection when the town does its Pinecrest project.

Decision on Route 111 is a hazard

Shadow Lake area is targeted

By Sally Gillman
Eagle-Tribune Writer

CONCORD, N.H. — The state has termed the section of Route 111 that goes past Shadow Lake in Salem to be "one of the most hazardous and life-threatening sections of state highway" in New Hampshire.

However, the committee studying a Route 111 bypass did not indicate yesterday how it intends to eliminate the traffic hazard along the densely settled section of road that skirts Shadow Lake.

The committee was also unclear on whether its recommended improvement will extend far enough west to eliminate a traffic bottleneck at the five-way intersection where Route 111 crosses Route 28.

The House of Representatives Committee on Public Works is considering a bill by Salem Rep. Marilyn Campbell for a Route 111 bypass in Salem and Windham.

Although it has been in the planning stages for 15 years, no action has been taken on the bypass because it is not in the state's 10-year highway improvement plan.

Mrs. Campbell urged the committee at its public hearing yesterday to consider the entire length of Route 111 from Kingston to Route 93 in Windham.

"I feel that if we do not do it all the way that land is not going to be available," Mrs. Campbell told the committee.

It will decide Oct. 8 how much Route 111 work should be done.

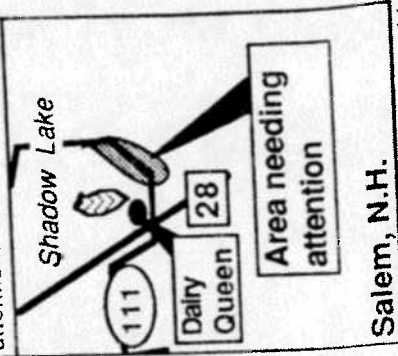
While the committee held out some hope for improvement to Salem's end of Route 111, it told Windham officials there are no immediate plans to eliminate rush-hour traffic jams at Route 111 and Interstate 93 with a new bypass.

The committee said the town should get its own engineering plans and work with regional planners to find a solution.

Windham officials were also reminded by the committee yesterday, and by Gov. Sununu in a Feb. 5 letter to selectmen that

Route 111 targeted

This section of Route 111 is in need of immediate attention.



Salem, N.H.

Eagle Tribune Graphic

the town did not support a Route 111 bypass proposal made by the state in 1972.

"I would be remiss if I did not mention the other land use issues that have evolved from this proposal (of a bypass) and other land use issues."

who note their regret that your predecessors could not support the proposal for the realignment of N.H. Route 111," Sununu, a Salem resident, wrote Windham selectmen in February. His letter was in response to selectmen's request for improvements to Route 111.

Rep. Eugene Rizzo, R-Rye, a member of the subcommittee that drove Route 111 and held public hearings in Salem and Windham last winter, said the 1972 Route 111 bypass layout should be used as a basis for any new long-term proposal.

The committee agreed the need to improve Route 111 becomes more acute each year due to explosive growth and increased traffic in the area.

"Local residents and town officials from both towns have voiced legitimate complaints and concerns regarding the dangerous traffic conditions. Subcommittee members agree after visual observations and the hearing of testimony," the subcommittee wrote in its report.

The subcommittee said that immediate action must be taken by the legislature to eradicate the dangerous condition on the south side of Shadow Lake from the improved section of Route 111 to Route 28.

Rep. Patricia Skinner, R-Windham, and Windham Selectman Betty Dunn urged the committee not to revert to the original 1972 bypass plan as a way to solve Windham's traffic problems.

"We objected then that Route 93 divides the town north and south ... if we go back to the 1972 plan we are going to have the same problem going from east to west," said Mrs. Dunn.

Salem's Director of Engineering Edward Blaine also told the committee that he opposes a "band-aid" approach.

"We urge you to look at the entire project and see that a band-aid approach will not serve any purpose," said Blaine.

Lawrence Eagle-Tribune

9/18/87

Salem officials may testify in Hicks trial

By Sally Gilman
Eagle-Tribune Writer

CONCORD, N.H. — Two Salem officials and three former Planning Board members are among the 13 potential witnesses in the attempted extortion trial of William D. Hicks in U.S. District Court. Hicks, 53, 19 Samoset Drive, Salem, is charged with attempting to extort \$5,000 to \$10,000 from a Salem car dealer in exchange for Planning Board votes in 1985 on a dealership plan.



William D. Hicks

Hicks has pleaded innocent. He faces a 20-year jail term, a \$250,000 fine, or both if convicted, according to U.S. Attorney Richard Wiebusch.

Judge Shane Devine said yesterday that among the witnesses that may testify are Salem Police Chief John Ganley; former Salem town manager Donald Jutson; Salem Planning Director Ross Moldoff; Laurence Belair, Charles McMahon and George Salisbury, all Salem Planning Board members in 1985; Richard Lederer, a Concord columnist; James Proko, the Salem car dealer that Hicks is accused of having tried to shake down; Proko's brother, Peter Proko, a Nashua car dealer; and Hicks' wife, Elizabeth.

Several FBI witnesses are also expected to testify.

Among the government's evidence are tape recordings of telephone conversations between Proko and Hicks and a recording of a meeting between the two

men at a Salem restaurant.

Devine delayed the start of the trial yesterday because he could not find enough people for a 12-member jury and two alternates. Several of the potential jurors said they had purchased cars from the Proko brothers or had read press reports on the case. Others were disqualified by Devine for other reasons, including mothers with small children at home.

If Devine succeeded in getting a jury this morning, the jury was to have viewed several places involved in the case.

Devine said the trial will begin tomorrow and continue through next week.

Hicks' indictment in July followed a two-year probe of the Salem Planning Board by the FBI.

Devine said yesterday that Hicks is accused of attempting to extort money from James Proko, president of Bradrich Motor Car Company, who was

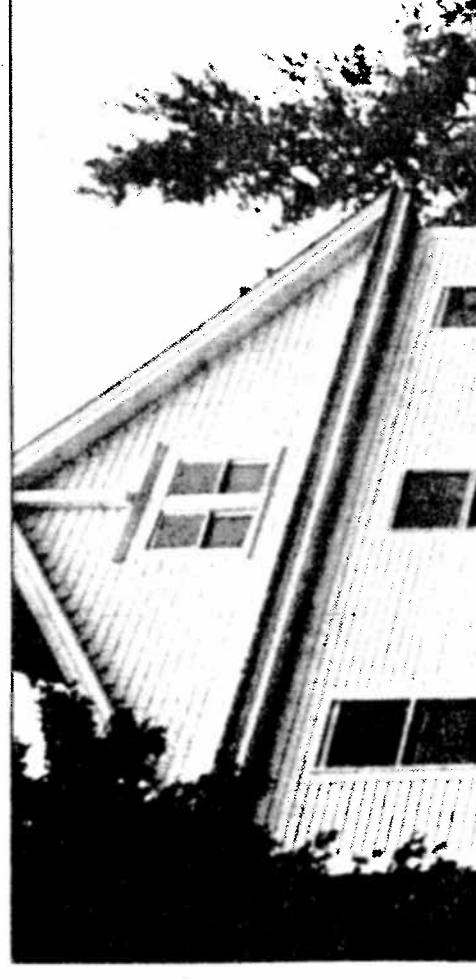
seeking approval from the Planning Board for construction and renovation on a building site in Salem.

Devine, reading from the government's indictment, said the renovation and construction as set out in the site plan before the Salem Planning Board would have used goods and services obtained through inter-state commerce.

Reading from the indictment, Devine said, Hicks, on or about May 28, 1985, and June 11, 1985, "knowingly, willfully and unlawfully attempted to commit extortion which, if successful, would have affected commerce" as defined by U.S. law.

Devine said Hicks took actions to convince Proko that he controlled votes on the Planning Board and if the money was not paid, the Planning Board members under his influence would delay approval of Proko's site application.

High Court will not hear tire plant case



TUESDAY, SEPTEMBER 29, 1987

Ganley tells court he called FBI on Hi



William Hicks

By Sally Gilman
Eagle-Tribune Writer

CONCORD, N.H. — Salem Police Chief John P. Ganley testified yesterday in federal court on the evening of May 28, 1985, he waited behind the wheel of an unmarked cruiser in the parking lot of Canobie Market on Route 111.

He did not have a long stay. Within 15 to 20 minutes, Nashua car dealer James Proko drove up and told Ganley that he had succeeded in stalling William Hicks, identified by Proko as the man who had tried to shake him down earlier that afternoon.

Ganley also testified that he had

called the FBI in Portsmouth the evening of May 28 after Proko had come to his home on North Policy Street with his story of attempted extortion and Planning Board manipulation.

Hicks, 53, 19 Samoset Drive, Salem, is charged with attempting to extort \$10,000 to \$15,000 from Proko in exchange for Planning Board votes in 1985 on a Honda dealership plan.

Hicks says he is innocent.

Hicks' lawyers argued yesterday that because their client had been a car dealer in Salem, he agreed to help Proko plan his dealership. They said Hicks never asked for or received money from

Proko in exchange for his help.

They said Hicks' major contribution was advice on a sign and where to display cars to best attract customers.

Hicks' indictment in July followed a two-year probe of the Salem Planning Board by the FBI.

Among the government's evidence presented yesterday was a log of telephone calls from Hicks to then Planning Board member Charles McMahon, who works for MIT-Lincoln Labs in Lexington.

Hicks' lawyers said that Hicks and McMahon had worked together and are old friends. Manchester lawyer Richard B. McNamara said Hicks had called McMahon to

check the progress on his re for a dredge and fill permit.

McMahon, along with all members of the 1985 Planning Board have denied any wrongdoing. Hicks' was the only indicted in connection with the FBI investigation.

Judge Shane Devine said closing arguments may be included late this afternoon.

Yesterday morning, Ganley the jury that Proko was brought his home by Donald Jutton, a former Salem town manager, who operations manager for the engineering firm that designed Prok

Please see TRIAL
Page 10



Suburban Scene

Home auction played for now

NEWBURY — The sheriff's auction of the Newbury home of an elderly couple has been temporarily delayed.

Samuel and Lauretta Ordway, 113 South went to court without a lawyer Monday asked the judge to put off the sale to them time to hire legal help.

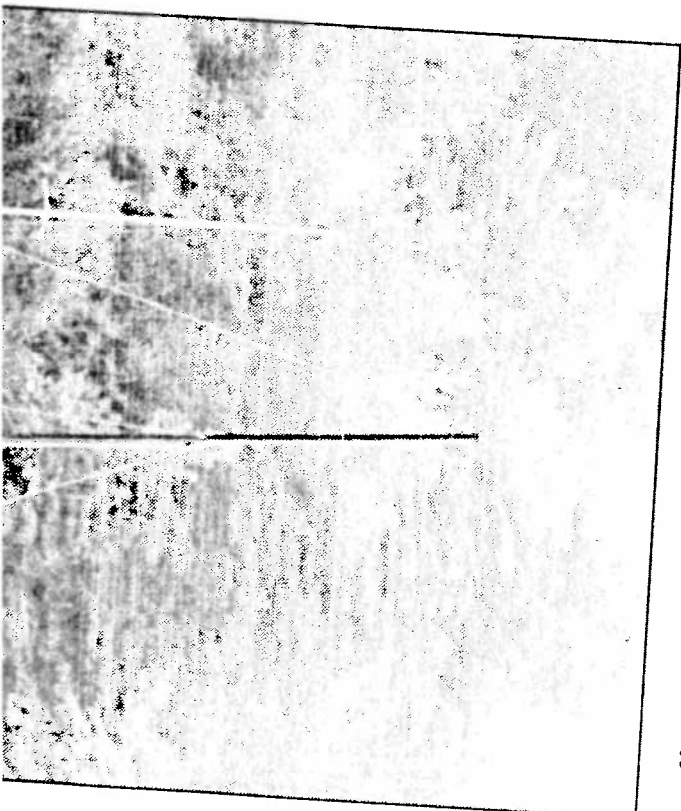
Paul Osborne, a lawyer for the Vernon A. in real estate agency, said yesterday let the elderly couple in court and ed to delay the sale to give them an rtunity to seek legal representation.

Builders test site for toxins

Mall, waste area adjoin

By Dave Eisenstadt
Eagle-Tribune Writer

LONDONDERRY, N.H. — Developers of a \$130 million mall that would adjoin a toxic waste site are testing the



Chief n as town

SALEM, N.H. — Selectmen have asked Police Chief John Ganley to act as town manager from Nov. 15 until a new manager is hired.

Selectmen Chairman Howard Glynn made the announcement last night after selectmen met with Ganley in secret for more than half an hour.

Glynn said selectmen asked Ganley to make a decision before their

Salem Car Dealer Hicks' Extortion Trial Ends Today

By WARREN HASTINGS
State House Bureau

CONCORD — Final arguments and instructions to the jury are expected today in the nearly week-long trial of former Salem car dealer William Hicks for attempted extortion.

A federal grand jury indicted Hicks on a charge that he attempted to get another Salem car dealer to pay him to influence votes on the Salem Planning Board in 1985, when planners were considering a site plan for an automobile dealership off Route 28.

The prosecution, led by Department of Justice Attorney Ralph Martin, charges that Hicks tried to shake down car dealer James Proko for \$5,000 to \$10,000 in return for Hicks' influencing votes on the town planning board to allow Proko's Honda dealership.

Evidence ended yesterday with Mrs. William Hicks as the final witness.

Summations before federal Judge Shane Devine and the jury are expected to begin today at 9:30 a.m. in U.S. District Court in Concord.

According to the federal grand jury indictment, Hicks said if he wasn't paid, he would influence the board to delay action on a proposed site for Proko's business.

As part of its evidence, the government displayed phone company records of a series of calls being placed between Hick's Samoset Road residence to a Lexington, Mass., number where former Planning Board member Charles T. McMahon worked.

Earlier, FBI agent Thomas Ryan Jr. of Atkinson, who had been assigned to investigate alleged corruption on the board, testified that McMahon was one of several visitors at Hicks' home June 16, 1985.

Telephone records, agreed by both the prosecution and the defense to be accurate, showed

Elizabeth Hicks testified yesterday that many of the calls were her own and were to

McMahon on a number of matters, including a dredge and fill permit for a site she was considering for an oyster bar.

a long series of phone calls between Hicks' residence and the MIT Lincoln Laboratory number in Lexington where McMahon could be reached during May and June 1985.

Elizabeth Hicks testified yesterday that many of the calls were her own and were to McMahon on a number of matters, including a dredge and fill permit for a site she was considering for an oyster bar.

When asked about specific calls during that period, she told Martin "I don't keep a log on my phone calls."

She also testified that McMahon, a former employee and family friend, visited the Hicks' house in Salem at her request to see a baby granddaughter.

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TENT

Hicks' wife says she told him to get paid

By Sally Gillman
Eagle-Tribune Writer

CONCORD, N.H. — Elizabeth Hicks testified in federal court yesterday that when she saw her husband, William, working on a site plan for another man's car dealership, she insisted he get paid for his labor.

James Proko and my husband had a dealer's handshake — you agree and go along and live up to your agreement ... when I knew Bill was going to meet with James Proko on that Monday morning and

look over the plan I told Bill Hicks, 'No more favors. If you are going to work on the plans ... I expect you to get paid. If you are going to work on the plans I expect you to charge a consulting fee.' Mrs. Hicks said she told her husband one morning in May 1985 in the kitchen of their Salem home.

However, she testified she could not remember whether Hicks ever told her he had actually asked Proko for the fee or if Proko had offered him money.

She said she expected her hus-

band to charge 1 percent of the cost of Proko's planned Honda car dealership project, estimated at \$1 million.

William Hicks, 53, is on trial in U.S. District Court for attempting to extort \$5,000 to \$10,000 from Proko, a Nashua car dealer, on or about May 28, 1985 to June 11, 1985 in exchange for Planning Board votes on Proko's Salem Honda dealership.

Hicks has pleaded innocent. No one else was indicted in the case that followed a two year FBI inves-

tigation of the Salem Planning Board.

Hicks has maintained the money mentioned in the July indictment was for a consultation fee he never received from Proko.

However, two FBI agents testified that when they questioned Hicks in October, 1985, he said he had not asked Proko for any fee for his advice and Proko had not offered any.

Mrs. Hicks sobbed when she

Please see TRIAL
Back page, this section



Lawrence E

Trial From page 13

took the stand yesterday to testify in her husband's defense. She was the last witness in the trial that started last Tuesday.

Once she regained her composure she described her husband of 27 years as an excellent car salesman who designed, engineered and got all the necessary town approvals for their various business ventures in Salem.

However, when questioned by the government prosecutor regarding telephone calls from the Hicks' home to Charles McMahon, a Salem Planning Board member in 1985, Mrs. Hicks said she often called McMahon to chat or to get his advice on her own plans for the William Hicks' Oyster House she said she has always wanted to build.

She said that she had known Charles McMahon for 30 years and that she and her husband saw McMahon socially. She said McMahon had been her husband's shop manager at his car dealership on Route 97 in Salem.

"I needed a dredge and fill permit and called Charles McMahon. I called him anytime I felt like it. I called him at home and at work and he called me," said Mrs. Hicks.

She gave a series of "I do not remember" answers when pressed by the prosecution to confirm whether she had made the calls in a telephone log obtained by the FBI from the Hicks' house and McMahon's business phone in Lexington.

McMahon and all other members of the 1985 Planning Board have denied any wrongdoing.

Government prosecutors also tried yesterday to show that McMahon had tried to stall final approval on Proko's plan when it came to the

Salem Planning Board on June 11, 1985.

Salem Planning Director Ross Moldoff and Salem building contractor Laurence Belair, Planning Board Vice chairman in 1985, both testified that McMahon had attempted verbally, and in a note, to get George Salisbury, another board member, to help him stall action on Proko's plan the night of June 11.

"I heard McMahon say that he did not want action taken on this plan tonight and wanted George to help him stop the approval of the plan that evening. He did not want the plan approved that evening."

Moldoff told the jury.

Under questioning by Hick lawyer, Frank Hekemian of Salem, Moldoff said that it was McMahon who raised a concern about a possible violation of the town ordinance which indicates that no dealership can be within 2,000 feet of another. There was a service station that sold used cars north of Proko's site on Route 28 but the property was mostly in Windham, according to town records.

McMahon that night requested legal opinion from town council and then moved that Proko's plan be approved with the provision that Proko know that the board was

seeking a legal opinion on the proximity of the service station and the Proko dealership.

Moldoff told Hekemian that he did not recall McMahon's exact words to Salisbury and that McMahon's concern about the 2,000 foot restriction was a legitimate concern.

Belair testified that he chaired the June 11 meeting and that he saw the note between McMahon and Salisbury.

According to Belair, McMahon came around behind him to hand the note to Salisbury. He said he saw what was written on the note.

"The note said 'I need your help in stopping the Proko plan. I

believe it is within 2,000 feet of another used car lot.' Mr. Salisbury put the note away and Mr. McMahon went back to his seat and the meeting began," said Belair.

A tape of the June 11 Planning Board action on Proko's site plan was played over earphones. It took 25 minutes.

At the end of the tape, Hekemian asked Belair whether McMahon had said the board would approve everything but that the board wanted Proko to know that it would ask town counsel to check on the 2,000 foot requirement.

"That is correct," said Belair. Proko's plan was approved late

that month. His Honda dealership opened in December just a short distance from Hicks' Samoset Drive home.

Both sides were scheduled to make their closing arguments to the jury today.

If convicted, Hicks faces a 20-year jail term, \$20,000 fine, or both, according to the U.S. Attorney's office.



Windham
Building 401
Examined, p.

Salem Observer

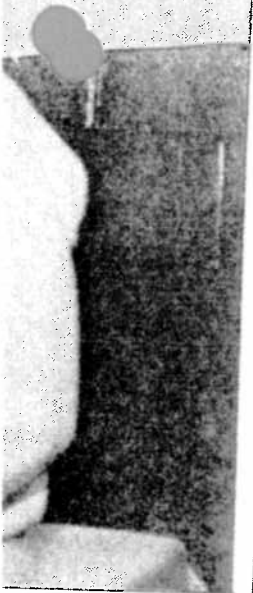
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Verdict expected in extortion trial

by Karen Maierhofer &
Monique Duhamel

A verdict in the trial of William D. Hicks, 53, of 19 Samoset Drive, is expected to be announced today or soon thereafter in the U.S. District Court in Concord. Hicks, a Salem businessman, is accused of attempting to extort between \$5,000 and \$10,000 from another businessman in exchange for favorable votes from the Planning Board.

According to testimony from James R. Proko, president of Bradrich Motorcars Co., Hicks claimed he could get the Planning Board to approve Proko's plans in 1985 for the local Honda Car dealership in exchange for the money.

Proko's Testimony

Proko, the key witness in the case, took the stand during the first two

days of testimony. Proko said he was contacted by Hicks in March, the day before the Planning Board was scheduled to hold its final hearing on the dealership plans. During that telephone conversation, Hicks reportedly told Proko he was the "godfather of Salem", and could control three out of the five votes on the Planning Board.

Proko testified that Hicks told him "They're (the Planning Board members) going to ambush you on the proposal." He then offered to help Proko out with the plans.

"Some people invest in real estate, some people invest in stocks and bonds or dealerships like myself. I invest in votes," Proko said Hicks told him.

Proko, who claims he never met or knew Hicks before the telephone call, met with Hicks later at Hicks' home. At that time, Proko stated Hicks

again said he controlled the majority of votes on the Planning Board and suggested he make a \$10,000 investment to get his plans through.

After leaving Hicks' home, Proko said he contacted his consultant at Kimball Chase Engineering, Donald Jutton, and told him about the offer. The consultant then called Salem Police Chief John Ganley, who notified the FBI. Proko was told to go along with Hicks' offer at that time, and conversations between the two men were taped from June 3 to June 11, 1985.

Proko's plans were postponed at the next evening's Planning Board session until the June meeting.

The Defense

However, Richard McNamara, Hicks' attorney, said his client never claimed he was the "godfather of

See Verdict, page 14.

Emissions testing starts

By Monique Duhamel

Starting today, October 1, you must have an emissions test before you register your car.

This is a result of the approval of HB 802 in the state legislature.

According to a list released by Commissioner of Safety Richard M. Flynn, Salem, you can get your vehicle inspected at the following

Vehicles in Concord or any Motor Vehicle Sub Station, according to material issued by the N.H. Department of Safety. The substation in Salem is at the Municipal Office Building.

The Department of Safety estimates the test to take about 15 minutes, if your vehicle is fully warmed up. Since it

whatever they wish for this testing. Salem Town Clerk Barbara Lessard says the average price will be about \$15.

During the test, a probe is placed in the tailpipe of your vehicle and connected to an exhaust analyzer. While your car is idling, this analyzer measures the amount of pollution

rdict

nued m page 1

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Proko hired Hicks on May 27,
before the hearing, as a
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ed telephone conversations
the meeting, which were
court, Hicks does not ask
long money outright. Instead,
long conversations between
men where Proko asks Hicks
a meeting with the Planning

members but Hicks said he can't do
that but will keep in touch with them
by phone. There are also various
conversations about the payment.

"The proposition was already made
to Mr. Proko. Mr. Hicks never had to
repeat it. Instead, he made seriously
worded attempts to collect his
money," Ralph Martin, prosecutor,
said.

Proko Denies Offer

The evening before the plans were
to come before the Planning Board
again, Proko told Hicks he wanted to
pull out from the deal. Hicks said
okay.

The plans were then approved by
the Planning Board but with the
condition on town counsel's advice
whether a nearby dealership that is
located in Windham would qualify as
being too close, which it did not. A
former employee of Hicks, Charles
McMahon, made the motion with the
condition.

On Oct. 1, after the plans were
approved, FBI Special Agent Thomas
G. Ryan Jr. asked Proko to call Hicks

and inform him he was served a
subpoena for interfering with
commerce. He then asked Hicks for a
meeting with "his" Planning members
so he knows what to say during the
subpoena in case someone on the
Planning Board said something to
incriminate him. Hicks asked where
Proko was and said he would call him
right back.

Later, Hicks called Proko and said
not to worry about the subpoena, that
it had nothing to do with him because
they did nothing wrong.

The Federal Probe

Ryan, who was assigned to the case
on May 29, 1985, first met with Proko
on May 30. An 11-year FBI agent,
Ryan had obtained records from the
New England telephone company
listing Hicks' toll calls during May and
June. These records were used as
one of the prosecution's exhibits.
Several of the recorded calls were
placed to MIT Lincoln Labs in
Lexington, Mass., where then-
Planning Board member McMahon
worked.

MIT Lincoln Labs also kept records
of all their employees personal phone
calls, which listed several calls from
McMahon's extension to Hicks'
home.

During the month of May 1985,
there were no phone calls between
Hicks' home and McMahon's place of
work prior to May 28, according to
Ryan. The first listing he had of a call
between the two was a May 28
conversation that lasted for five
minutes, said Ryan.

Ryan said he monitored a
conversion between Hicks and
Proko, while they were at Dennys.
According to Ryan, a wire was placed
on Proko, and Ryan remained outside
the building, where he listened to the
meeting. He also, with Proko's
agreement, taped phone calls
between Hicks and Proko.

After June 12, Ryan began an
intermittent surveillance of Hicks'
Samoset Drive home. He said he saw
McMahon leave the house around 2
p.m. on Sunday, June 16.

Ryan served Proko with a real and
valid subpoena on Oct. 1, issued by
U.S. Assistant Attorney Richard
Johnston, at which point Proko
telephoned Hicks to notify him of the
subpoena, said Ryan.

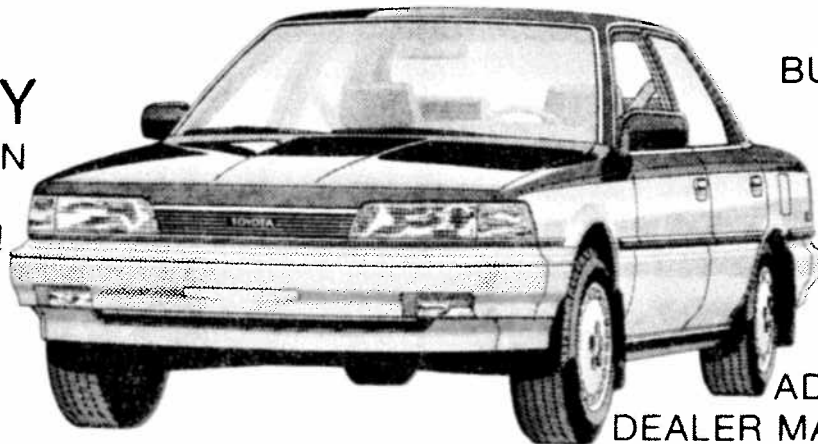
Ryan himself telephoned Hicks to
arrange a meeting date for
questioning, and met with Hicks, his
attorney Frank Hekimian, and agent
Robert Walter. At this meeting, Ryan
said Hicks said that Proko asked him
for assistance on his plans, and they
discussed the dealership, the site, and
the sign. According to Ryan, Hicks
also said he had briefly discussed the
site with McMahon, and that
McMahon had worked at his car
dealership in Salem in the late 1970's.

When asked about meetings or
conversations with Proko, Ryan said
Hicks said they had met at his home,
had a phone conversation, and met at
Dennys once. Ryan said he asked
Hicks twice, point blank, if Hicks
received fees or compensation for his
advice to Proko, to which Hicks
responded negatively.

Defense Questions Feds

McNamara asked Ryan if issuing
subpoenas and setting up a meeting is
a common technique of the FBI. He
also questioned Ryan about
"psychological pressures" as an

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McNamara pointed out several discrepancies between the time chart prepared by Ryan and Proko's testimony. On the chart and in Ryan's first report, the meeting at Hicks home took 15-20 minutes. When Proko testified, however, he said it took 10-15 minutes. He further questioned a time discrepancy about a phone call that Proko said took place about 6:40 p.m., at one point, and later said the call happened at approximately 7 p.m.

McNamara also asked Ryan about the other people who were at Hicks' home on the day Ryan saw McMahon there. McNamara pointed out that it was a Sunday and that family and friends were present. He asked Ryan if he traced the license plate of the other car in the driveway which belonged to Hicks' son. Ryan admitted that he had found the car to be registered to someone with the last name of Hicks. Ryan said he saw no other people enter or leave the Hicks home that day.

Chief of Police John Ganley, and Donald Jutton of Kimball also testified on Monday and Salem's

Director of Development Ross Moldoff testified on Tuesday, as did former Planning Board member Laurence Belair.

Moldoff was questioned on planning board procedures in general and the Proko site plan specifically. "It was a really good plan," said Moldoff. "There was probably very little chance of it ever being denied."

The final witness, called on Tuesday, was Elizabeth Hicks, wife of William Hicks. She testified that McMahon was a friend and former employee of both her and her husband and that a number of the calls made to McMahon's place of business were hers. She said the calls were for a number of reasons, including checking the progress of a dredge and fill permit for which she had applied. She also said McMahon's visit to her home on July 16 was at her request to see her baby granddaughter.

Attorneys for both the prosecution and the defense gave their final arguments yesterday before the jury and Judge Shane Devane and a verdict is expected to be issued soon.

Emissions-----

■Continued from page 1

HB 802 was introduced into the state legislature in 1985 to bring the Nashua-area in compliance with federal air quality standards. The original bill sought to establish emissions control programs in all of Rockingham and Hillsborough counties. As the bill progressed through the legislature, the area affected by the bill changed and decreased drastically, until the final approved version contained only 12 communities.

The bill provides for this program to be dropped by 1990 if a better way is found to meet the established air quality standards. Salem state representative Donna Sytek thinks there is a better way.

According to Sytek, Manchester is

having air quality problems similar to Nashua's. Manchester presently does not fall into the 12-community area which must have emissions inspections. Sytek said that placing Manchester on the list, since it does have a legitimate pollution problem, and removing Salem may be one way to meet the federal air quality requirements for both Nashua and Manchester.

Other Salem legislators are also investigating this situation, including State Senator Joseph Delahanty.

In addition to Salem, the other 11 communities where emissions inspections are required are: Nashua, Amherst, Derry, Hollis, Hudson, Litchfield, Londonderry, Merrimack, Milford, Pelham and Windham.

New Hampshire 10/27/97

Salem worries it is running out of space

By Andrea Holbrook
Eagle-Tribune Writer

SAL.EM, N.H. — Over 150 homes were built in Salem last year and even more are planned for next year.

In 1962, 75 percent of Salem was open land. Now only 40 percent remains, much of it in western and North Salem.

Traveling through the Depot on Veteran's Memorial Parkway or near the intersection of Route 111 and Lake Street during rush hour is slow going.

Those were some of the things Planning Director Ross Moldoff spoke about at the Taxpayers' Association meeting last week. He said traffic, disappearing open space, and a lack of long-term planning are Salem's biggest problems.



To solve the problems, Moldoff advocates:

Moldoff
... big job

USING THE TOWNWIDE TRAFFIC STUDY in whole, or in part, to solve traffic woes. The plan calls \$6 million in road improvements including constructing new I-93 south ramps on Pelham Road and extending Stiles Road to Route 38.

"The roads in Salem were never designed to handle the traffic they do," Moldoff said.

CLUSTER ZONING as a means of preserving open space.

"There are probably 6,000 acres of undeveloped land in Salem. About 3,000 are buildable and 1,500 acres are for commercial use," he said.

Moldoff used the a plan that received a variance in June for cluster zoning.

The project, proposed by John and Helen Sullivan, calls for 20 townhouse condominiums in four buildings on eight acres of land off Sullivan Avenue. Two acres, including an old apple orchard, will be preserved.

An alternate plan called for eight single-family homes and did not preserve the two acres.

LONG-RANGE PLANNING by using recommendations suggested in the 1986 Town Master Plan, Capitol Improvement Plan and the town water study.

"My biggest frustration is there is not enough time to do long-range planning," but there situation has improved since the town hired Assistant Planner Kate Welch.

The plans and study call for water treatment plants on Canobie Lake and Arlington Pond at a cost of \$13 million, revitalization of the Depot area, preserving Spicket Hill, and building a recreation park on Shannon Road.

Benson Bull to be banished?

By PAUL MCCARTHY
RECORD STAFF WRITER

Will Benson the Bull be banished from Salem?

Did someone at Benson's auction last week give Route 28 Toy Store owner Dave Chandler a "Bum steer?"

With all the action at recent selectmen meetings, does the town need MORE Bull?

"That's a LOT of bull," Salem's Director of Development, Ross Moldoff said Tuesday afternoon after viewing the 12-foot bovine on Route 28.

Moldoff, however, may become Salem's first "bullfighter" as he is checking the sign ordinance to see if handler is in violation of site plan which allows for "cars and canoes." No bull.

Dave Chandler, the owner of The Toy Store on South roadway, bought the beast from the Benson's Animal farm auction last week. He paid \$6,500 for it and said he'd use it for publicity, "to move our prices are no ill."

But Moldoff "cut the bull" when discussing the sudden appearance of the ox and may issue a "cattle call" in the form of a violation to handler by the end of the week.

"It's a unique situation."

the conversation with this reporter.

When Moldoff was informed Chandler was only attempting to "beef up" business at his Route 28 establishment by having people "hoof it down" to see his cars whose prices have been "butchered," Moldoff remained bullish about the ordinance even though Chandler has a lot "at steak."

Moldoff refused to "kowtow" to that notion and looked forward to "meating" with Chandler to "shoot the bull" about the situation.

He wouldn't say if the code enforcement office would be after Chandler's hide, and wouldn't elaborate whether it would be the last round-up for Benson the bull either.

"It's the first giant bull I've encountered on the job," Moldoff said, "but we'll have to review the ordinance and see how it pertains. We know he'd be in violation if he painted the store name on the side of it."

Moldoff, always willing to take the bull by the horns when it comes to site plan violations, said the town wouldn't take a bullheaded approach to Chandler's bull.

The Record will keep readers informed of any further "bull"etins on the potential site plan violation



CHANDLER IS BULLISH ON ROUTE 28 - Dave Chandler, pictured here with his wife Karen and their sons Michael and Dave Jr., are pictured in front of "Benson the Bull" at the TOY STORE on Route 28. The town, however, may make him remove it.

I wasn't ready to give my seat up and I'm
I don't have to.

Katsakiores
ford St., 434-9587

Katsakiores is Derry's first woman councilor and will now
second term on the council. She is also serving her second
state legislature, where both she and her husband, George,
ntatives. Previously, Mrs. Katsakiores was on the Budget
for a decade, including two years as chairman. She has
en, Charles Hemeon, Debra Fontenot and Laurie Hemeon,
child who was born yesterday.
ays \$1,500 a year and is a three-year term.

the council, but it's not as if I ever left.

3360

man who has held almost every local office, including 16
in the Republican Party for many years, she was the first
Rockingham County Republican parties. She is the current
giving and past chairman of the Rockingham County Nutri-
and graduated from Pinkerton Academy. She is a widow
ildren, Brandon, Ryan and Patrick.
three-year term.

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...sue of improving basic education in
the schools. He saw too many stu-
dents who had left the schools un-
prepared, he said.
During interviews by the Eagle-
Tribune, Langone and Cousins dif-
fered on only two issues. Langone
opposed barring children with the
AIDS virus from classrooms, while
Cousins was for it. And Langone
said the state should limit the num-
ber of hours students could work on
outside jobs, while Cousins said the
state should not.
Langone showed a long face
when the results were announced
and said the race was not over yet.
He declined to specify what he
meant.
"I have to do a lot of deep think-
ing," Langone said. "This demands
a lot of thought."

May Casten wins race
Former Selectman May Casten
wore a mile-wide smile when the

Derry's second woman councilor.
Mrs. Casten defeated Barbara
Maitner in their District 1 race, 240
to 168.
"The peoples' priorities are my
priorities," Mrs. Casten said.
'Openness in government is the
first priority.'
Mrs. Casten said during the
campaign that the council had not
spent or taxed wisely. Mrs. Maitn-
er said she did not want to criticize
the council and that she was uncer-
tain of how she felt about its spend-
ing habits.
Although Mrs. Casten has been
known to battle Mayor Paul Col-
lette and wants to shift power away
from Collette to the council, the
mayor said that not much had
changed.
"It will be business as usual," he
said.

Please see LANGONE, Page 32
11/4/87

Planner hears foe; still backs hospital

By Andrea Holbrook
Eagle-Tribune Writer

SALEM, N.H. — Planning Di-
rector Ross Moldoff still thinks the
idea of a \$15-million hospital for Sa-
lem is a good one after talking to
William L. Lane.

Lane, who heads Bon Secours
Hospital, has said his hospital,
Lawrence General and Parkland
Medical Center in Derry adequately
serve the health care needs of
Salem.

Moldoff met with Lane yester-
day to discuss the hospital.

Reaction from people in town
has been positive, Moldoff said.

"From talking with people, I've
found most think it's a great idea,"
Moldoff said. "Some say the Bon
meets all their needs. They're not
really convinced it's a good thing."

But after speaking to Lane,
Moldoff said both the negative and
positive aspects of the proposal
need to be more fully assessed.

"We had a very interesting dis-
cussion on what kind of impact a
new hospital would have on the pro-
vision and cost of health care in Sa-
lem and surrounding commu-
nities," Moldoff said.

Lane and other local hospital ad-

ministrators have said the hospital
would aggravate the area's nursing
shortage, is economically unfeasi-
ble, and would intensify the exist-
ing hospitals' problem of having
empty beds.

Moldoff said the only hospital
administrator he has heard from is
Lane.

Health NorthEast applied Mon-
day for state permission to open a
90-bed, 24-hour, full service hospi-
tal in Salem.

The hospital would serve Salem,
Pelham, Windham, Atkinson and
Hampstead.

He said he was unsure about
how much input the town would
have in the state review of the cer-
tificate of need.

Public comments, including
those from Bon Secours and other
hospitals, will not be allowed until a
public hearing is held, probably in
April, according to Susan Palmer-
Terry, director of the Office of
Health Services Planning and Re-
view.

Health NorthEast officials have
said the review process usually
takes 180 days.

Written comments can be sent to
the Office of Health Services and
Planning and Review, 6 Hazen
Drive, Concord, N.H. 03301.

Department: more than \$150,000. The public does not have the information it needs to understand that one. There has been no dramatic situation such as last winter's snow storms to flush it out.

But those are signs to which good management pays heed.

The point we are arguing here — and you may agree with us or not, as you choose — is that the Board of Selectmen, which bears the ultimate responsibility for the management of the Town, has too much to do to allow its members to waste time and energy squabbling over petty things in public.

They have taken an important step in bringing John P. Ganley in to tend the store until they can choose a permanent successor to Tom Melena.

The proof of that pudding is in his prompt discovery of the potential overdraft.

State law provides a sound way out of the fiscal bind into which Salem is in danger of falling through past mistakes.

What is needed from our elected administrators now is to see that it does not happen again, and the way to accomplish that is, first to understand the way the Town Manager system works, and second to see that it does so.

Don't early I glanced
now and there in the
dian geese flying in

With a snowstorm coming?

I don't believe any of us would show much confidence in a leader who had no sense of direction.

Well, I have looked up the subject of migratory birds, and I know a great deal more about them now than I previously did.

Bird migration, for instance, is not always north to south, or the other way around, depending upon the time of the year. It is sometimes east to west, or at other times of the year from west to east, and particularly so in the British Isles where everything has always had to be different. Birds there fly from the harsher climates to the more temperate islands for the winter, and then return to the harsher places when it warms up enough so they think they can stand it.

But I do not believe there is any

I would like the people of Salem to know that the Salem Rams football teams are not coached by peaches. "winning is everything" coaches.

Dear Coach

I want to thank you for not starting my son in last Sunday's game. I knew you could have used him. But if you

used him, I personally think some coaches may have, especially in a losing game. What you have done is far more than teaching the game of football. You are also teaching "the game of life."

He did not show up for the Saturday practice. Your rule of not showing up for practice Saturdays means you don't start or play a lot of

All a bunch of bull

Dear Mr. Noyes,
If the American experiment in a republic means anything it purports to place all ideas on the table, letting each proposition stand or fall on its merits and those of its advocates. There is properly no doctrine but this. In that spirit I would like to bring up a subject which is too often considered in terms of emotional short-sighted self-interest rather than as a rational hearing of the real effects in the long term.

Zoning and other governmental restrictions have gone beyond the point of protecting the health and safety of individuals as well as of protecting their property. There are intersections in Salem which are at best dodgems. Many features restrict the driver's view. Much of Salem was built on swamps. The list is endless. Our town is now concerned with a bull. If the bull were live I could see their point. What difference does it make? Let him keep it. Cheer up, Peoria has a larger statue than that of a scantily clad shapely female homo sapien. Let the boss stay.

This flap is however just a symptom of a more pervasive concern of mine.

Antics will not be tolerated

To the Editor:

Bravo! Bravo! To Dennis LaBrecque's letter to the Editor which appeared in the Nov. 4 issue of the Observer.

I completely agree that we, the voting public, must let Joe Gagnon know that his tactless antics and

Antics will not be tolerated

selectmen together. But, Joe, please, forget all the petty, personal innuendos (this is not a Dukakis campaign job you're holding) and put some of your talents to work to get things done — instead of using them to throw a monkey wrench into the

That you kept "your word" while losing the game, shows me you are a great "power of example." I am grateful you are part of my son's life. I think you personify the saying, "It is not only in the winning, but also in the losing that we grow in this Game of Life."

Forever grateful,
A Player's Dad

Observer 11/12/87

unwarranted restrictions on others in order to ensure their own artificial gain, perhaps we ought to look at it with a jaundiced eye.

There is another aspect of artificially inflated housing which behooves those whose major investment in life is their home to attend. Speculation is like a game of musical chairs except that the people sitting on the housing when the music stops are out. Our homes are too important to gamble on. Just as stocks can be propped up by futures and low margins, housing prices can be equally distorted, do you really want to risk your life sav-

ings so that a few can make a lot of quick money without earning it and at your expense? The law of supply and demand works. Few except idealogues would be so foolish as to try to repeal it. But if we have learned anything it is that there is no such thing as a free lunch. Someone has to pay for it. I for one think that it should be the person who earns it not the person who grabs it first. What do you think?

Thomas J. Linehan
151 Lowell Road
Salem

I suggest the other members of the Board have a serious, private talk with Joe Gagnon — his antics and hystionics reflect on the whole Board — making the Salem Board of Selectmen's Meetings the nearest thing to a re-make of "The Three

named after Salem veterans, and minutes away from a picture Wednesday.

Photo by Paul McCarthy

Hicks sentence: 4 years, \$10,000 fine But he's free while appealing

11/2/57

**By PAUL MCCARTHY
RECORD STAFF WRITER**

The flamboyant former car dealer, who referred to himself as "The Slim Flom Mon" and "The General" in ads for his dealership in the 1970's, could have faced up to 20 years and a \$250,000 fine.

Both Hicks and his wife, Betty, broke down in courtroom 1 of the James C. Cleveland building in Concord when the sentence was imposed.

Hicks and his lawyers exited from the courtroom

through the side door avoiding the press perched by the metal detector at the entrance outside the courtroom.

Both his lawyers, Frank V. Hekimian and Richard B. McNamara, said he will appeal the sentence. He will remain free on bail until the appeal is heard.

According to the U.S. District Court Clerk, Hicks and his lawyers have 10 days from the judgement to appeal the sentence. He will remain free on bail until the appeal is heard.

The sentencing Monday morning, which took approximately one hour, was precedent setting in that it was the first conviction and sentencing for a violation of the Hobbs Act which makes it a federal crime to extort money or property "under the guise of official right."

U.S. Attorney Richard Wiebusch, whose office prosecuted the case, said he was "delighted" with the sentence.

"I think the sentencing sends out a clear message

that it's not good business to go out and attempt to extort money in New Hampshire," Wiebusch said. "This is the first official corruption prosecution my office has been involved in and, although Hicks wasn't a town official at the time he attempted to extort the money, he gave the indication he could sway town officials for personal gain."

Wiebusch said his office will continue to prosecute cases of official corruption in New Hampshire. "We re

Continued on page 19

INSIDE: His temple burns Pg. 2

HICKS CONTINUED

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concerned with the possibility of corruption with ANY volunteer form of government. We'll be putting the pressure on and there are a couple other cases pending similar to the Hicks case," Wiebusch said.

Hicks, 53, 18 Samoset Drive, who once owned and operated the Fitzgerald Hicks Dodge dealership on Route 97 in Salem, remains free on his original \$5,000 bail, and the federal court still has his passport in their possession.

Should Hicks appeal fail, Atty. Wiebusch said he expected Hicks would serve "a good piece of that sentence." Wiebusch said eligibility for parole varies on whether he gets time off for good behavior, etc. It is not known what federal facility Hicks would serve his sentence in if his appeal fails.

Attorney Frank Hekimian appealed to Judge Devine to be lenient on his client. Hekimian said he had appeared in Mr. Hicks behalf in the past before various town boards. The lawyer claimed Hicks had never taken advantage of anyone in the time he was the attorney for the dealership (1977-82).

Prosecution U.S. Asst. Atty. Ralph Drury Martin was unimpressed by Hekimian's plea for leniency adding that when Hicks was in business his dealership had more consumer complaints than any other dealership in the state.

To add salt to the wounds, Atty. Martin resurfaced two prior convictions against Hicks for knowingly allowing tampering of public records.

Hicks stepson, Norman Fitzgerald Jr., also appealed to Judge Devine to be lenient. He was concerned with his mother's well being should Hicks be sent away.

Although he didn't take the stand in his own defense, Hicks did speak on his own behalf in front of the judge before the sentencing.

He said his dealership served more than 100,000 customers in five years and the complaints averaged 1 out of every 400 cars sold. He said all complaints had been resolved when he sold the dealership in 1982.

This wasn't the first time Atty. Wiebusch has clashed with Hicks as the two locked horns 12 years ago when Wiebusch was the

Director of Consumer Protection while the State's Assistant Attorney General. He had charged Hicks then with violating consumer protection laws as well as refusing the honor written and oral agreements.

Oddly enough, it wasn't Wiebusch who prosecuted the case. He called in Atty. Ralph Drury Martin and Sara M. Lord from the Public Integrity Section of the Department of Justice in Washington for the case.

James Proko, who initiated the FBI investigation, said he had "no comment" on the Hicks sentencing Tuesday morning. He later amended the statement, saying, "I'm just glad it's all behind me."

AN ISSUE OF CREDIBILITY

The trial before 12 jurors pitted Bill Hicks against James Proko. It all boiled down to an issue of credibility.

The defense contended all the prosecution had was "a talking dog who wouldn't talk" when anyone was around" while the prosecution's contention was Hicks represented himself to be "The Godfather" of Salem.

James Proko was president of Bradrich Motorcar Co. of Nashua when he presented plans for a Honda dealership in Salem in May of 1985.

Hicks, who lived near the proposed dealership, called Proko's brother about the new dealership and was told to talk to his brother James, whom had never met Hicks.

At a meeting at Hicks house in Salem May 28, 1985, (which WAS NOT bugged by the FBI) Hicks told Proko he would "ambush" his plans if he

THE RECORD HEARS CONTINUED

The Record heard a wry comment last week as the Fundamental Baptist Temple was burning. One wag commented under their breath, "Is this what they call Holy Smoke?"

were not paid \$10,000. He claimed he controlled three of five planning board votes.

Proko informed Don Jutson of Kimball Chase Co., the engineering firm for the dealership, of the shake-down attempt and Jutson, a former Salem town manager, in turn, took Proko to his good friend, Salem Police Chief John Ganley.

It was Ganley who called in the FBI on the case.

The FBI subsequently "wired" Proko for additional phone calls and a meeting with Hicks at Deny's Restaurant in Salem.

Perhaps the most damning evidence against Hicks came when he proposed Proko pay the "fee" by purchasing his mother's 1978 station wagon for \$12,000 (it's retail value is about \$1,500) so it would look good on his books.

Hicks, who originally called the extortion charge absurd in view of the fact he was worth \$5 million, said the \$10,000 was for a "consulting fee," one percent of the \$1 million Honda dealership.

Hicks owns a home, Turtleback, on Samoset Drive in Salem as well as property in Vermont and Florida. Hicks has maintained his innocence throughout the trial and maintained the "misunderstanding" with Proko could have been cleared up if Chief Ganley had called him to let him explain rather than call in the FBI. The FBI probe yielded more than 100 pages of recorded conversation between Proko and Hicks.

Although U.S. Atty. Wiebusch would not say whether a grand jury has been reconvened to hear additional evidence which may implicate Salem planning board members, he would not confirm or deny that the case has been closed.

The Record bears Dave Broughton recently had a surprise 40th birthday party at the Salem Raquetball Club. Getting up there Dave, huh?

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12/17/87 observer

Bergeron, Dickey violate town code

SALEM — Two local developers have been issued violation notices by the town Building Department.

William Dickey, Box 205, North Salem, and Ayers Village Trust, Gary Bergeron, principal, 395 Main St., both received violation notices in the past two weeks.

Ayers Village Trust was found in violation of Section 309-41 of the Town Code - permitted uses in Business Office District II, for the storage of electrical equipment and supplies in the basement. This is not a permitted use and is a violation of the approved site plan, which contains a note about the basement use at 395 Main St.

Dickey received a violation notice issued by the town Engineering Department for illegally connecting to the Town Water System. Additionally, he was found in violation for unauthorized use of water from the Town Water system, and faulty construction of drainage system, via Bridge Street.

According to Director of Engineering Edward Blaine Jr., Dickey tapped into the town water main on Bridge Street without the permission of the water department, and laid water pipes without having them inspected. He also used town water.

Blaine has required Dickey to have a pressure test and a bacterial test performed by a certain date, as soon as possible.

"I don't have any personal concerns that the water was bad," said Blaine, pointing out that Dickey had tied into the municipal water system and there was still chlorine in the pipe. "If there had been a crisis, we would have gone out and shut the water gates ourselves," he added.

"I don't have any personal concerns that the water was bad. If there had been a crisis, we would have gone out and shut the water gates ourselves."

Edward Blaine Jr., director of engineering

The Bergeron violation was issued by the Planning Department following planning board denial of a request to store inventory in the basement. Bergeron had requested an 18 month waiver to store inactive inventory in the basement at 395 Main St. The planning board consensus was that they did not have the authority to waive the Zoning Ordinance to allow this.

In a letter to Bergeron dated December 3, Ross Moldoff, Director of Development, said the planning board felt that "little, if any, progress has been made since their approval of your revised site plan on September 1, 1987."

Moldoff had an appointment to inspect the site on December 16. In his letter he wrote, "if the supplies are still present, the Town will pursue court action to have them removed."

Following his Wednesday morning inspection, Moldoff said that one small section of the basement had been cleared of electrical supplies, but the rest of the materials remained.

"It appears the Planning Board conditions have not been met and we are going to have to pursue this thing," said Moldoff. He does not know exactly what course of action the town will follow.

"I think the desire of most of the staff is to place this site behind us and go on to other things, but unfortunately, we can't do that," he concluded.