

D-R-A-F-T

DURHAM PLANNING BOARD MINUTES WEDNESDAY, May 14, 2003 DURHAM TOWN HALL – COUNCIL CHAMBERS 7:00 PM

MEMBERS PRESENT: Rachel Rouillard, Steven Roberts; Annmarie Harris, Arthur Grant, Neil Wylie, David Watt, Chair; Amanda Merrill, Nicholas Isaak, Richard Ozenich (alternate), Kevin Webb (alternate)

MEMBERS ABSENT: None

OTHERS PRESENT: Jim Campbell, Planning Director; John Harwood, Temporary Planner; Barbara Stoddard, Minute Taker; Interested Members of the Public

Chair David Watt called the Meeting to order at 7:00 P.M.

I. Approval of Agenda

Neil Wylie MOVED to approve the agenda. The motion was SECONDED by Nicholas Isaak and was unanimously APPROVED.

II. Report of the Planner

Jim Campbell, Planning Director stated that several items were placed before the members of the Board tonight. The items included: a letter from the Graf's and a packet of information from Doug Bencks, UNH Architect and Director of Campus Planning, in relation to the Brown Center; a description of the process for coordination of communication between UNH and Durham regarding RSA 674.54, (the statute that requires public hearings); and memos to the Board from John Harwood and Paul Berton.

The Board received minutes from the April meeting of the UNH Transportation Committee. These minutes will now be included in the Board's packets on a regular basis.

On April 30, 2003, a ribbon cutting ceremony was held for the Amtrak Train Quick Trak machine. The machine is located at the Whittemore Center. People can go on-line to make trip reservations, then go to the Quick Trak machine to pick up and pay for tickets.

Mr. Campbell attended the Joint Standing Committee on Train Stations on May 1, 2003. For the Durham station it was reported that we now have the Quick Trak machine, Durham now receives seven-day full service, and that grant money is available for renovations to the platform and Dairy Bar in 2005.

Jim stated that he would be attending meetings of the Advisory Task Force (ATF) for the Newington-Dover project on the Spaulding Turnpike. The task force will meet quarterly over a three-year period.

John Harwood stated that several applicants with hearings scheduled for this evening have requested postponements.

Mr. Campbell stated that the Board also received a draft of the Town of Hanover Ordinance, establishing rental housing standards and providing for registration and inspection of rental properties. The Planning office will be following the progress of this ordinance as it was passed on Tuesday, May 6, 2003.

Arthur Grant requested an update of HB 474 (concerning the role of alternates on planning boards) be included in the packet for the Board Retreat.

Amanda Merrill requested updates at the retreat on other legislation that deals with other planning Board issues.

In response to a question from Neil Wylie, Jim Campbell stated that reservations could not be made at the Quick Trak machine. Mr. Campbell replied to a second question from Mr. Wylie, that HB 713, which makes a second violation of the same provision of the zoning laws on the same property a class A misdemeanor, refers to the person making the violation and would not apply to successive owners of the same property.

Jim Campbell stated that the Planning Office has received several calls and a letter from abutters to the conservation easement of the Brown Center. He stated that it would be wise to ask UNH to come before the Board for a public hearing.

Neil Wylie MOVED that the Board schedule a presentation by the University concerning developments at the Brown Center in a public hearing on May 28, 2003. The motion was SECONDED by Arthur Grant and PASSED unanimously.

Jim Campbell highlighted other items that were mentioned in his written report to the Board.

Comments were made regarding the UNH Campus Master Plan public session held on Wednesday, May 7, 2003. Annmarie Harris stated that she felt it was well attended. David Watt mentioned that some of the high points of the meeting included moving the Greek Housing west of the railroad tracks and the incorporation of a large amount of parking garages.

Amanda Merrill stated that the Board should consider discussing the process of communication with UNH about projects at the retreat.

Rachel Rouillard stated that she is a member of the Land Use Committee and that the consultants for the Master Plan are viewing the vast land holdings at UNH as an asset.

- III. **Public Hearing on an Application for a Conservation Subdivision** submitted by Ann N. Faucy, Durham, New Hampshire to create 7 lots from 1 lot. The property involved is shown on Tax Map 10, Lot 7-0, is located off of Bagdad Road and Canney Road and is in the Residence B Zoning District. **(The applicant has requested that this public hearing be postponed until May 28, 2003.)**

At the request of the applicant, *Arthur Grant MOVED to postpone the Public Hearing on the Faucy Application until May 28, 2003. The motion was SECONDED by Neil Wiley and PASSED unanimously.*

Mr. Grant requested that the postponed public hearings be re-advertised with the dates they will be held.

- IV. **Public Hearing on an Application for a Pork-chop Subdivision** submitted by Douglas L. Baker, Durham, New Hampshire, to create 2 lots from 1 lot. The property involved is shown on Tax Map 18, Lot 12-6, is located on 263 Newmarket Road and is in the Rural Zoning District. **(The applicant has requested that this public hearing be postponed until June 11, 2003.)**

AND

- V. **Public Hearing on an Application for Subdivision** submitted by Douglas L. Baker, Durham, New Hampshire, to create 2 lots from 1 lot. The property involved is shown on Tax Map 18, Lot 17-2, is located on Stagecoach Road and is in the Rural Zoning District. **(The applicant has requested that this public hearing be postponed until June 11, 2003.)**

At the request of the applicant, *Neil Wylie MOVED to postpone the public hearings on applications submitted by Douglas L. Baker until June 11, 2003. The motion was SECONDED by Amanda Merrill and PASSED unanimously.*

Rachel Rouillard stated that she felt site walks need to be scheduled for both the Baker and Faucy applications.

John Harwood stated that the applicants for the Faucy subdivision should have some solutions to a drainage issue solved before the Board takes a site walk. Mr. Harwood further stated that the Board accepted the revised Faucy Plan for the conservation subdivision. The applicant prepared a drainage report, which led to questions being raised by the abutting neighbor. The applicant is working with neighbors to solve the drainage problem in consultation with the same engineer the neighbors used. The neighbors are aware of the postponement of the hearing.

After discussion about the correct procedure to follow about the continued delays in the public hearings for the Faucy and Baker applications, Jim Campbell stated that abutter notices would be sent as part of re-advertising the new hearing dates.

The site walk for the Faucy subdivision was scheduled for Tuesday, May 27, 2003 at 8:30 am.

Arthur Grant stated he hoped that John Harwood would make it clear to the applicants for the Baker property that the Board will either act on or deny the application on June 11, 2003.

As the applicant for Items VI and VII was not present, the Board began review of Item VIII.

VIII. Continued Deliberations on an Application for Site Plan Review submitted by Smithfield Construction, Portsmouth, New Hampshire for 14 units of elderly housing on the seven lots on Perley Lane. The property is shown on Tax Map 1, Lots 16-22 through 16-28, is located on Perley Lane, and is in the RA Zoning District.

Richard Ozenich recused himself at 7:35 p.m. from the deliberations.

Jim Campbell stated that the Conservation Commission completed a site walk of the property and made several suggestions. The applicant submitted a letter stating the suggestions he will incorporate into the plan. Mr. Campbell stated that the recommendations have been added to the Findings of Fact and Conditions of Approval. The Board has been granted an extension from the application through May 15, 2003. Another extension will need to be requested from the applicant if the Board needs to continue deliberations beyond tonight.

In response to a question from Annmarie Harris, it was stated that the Conservation Commission had not yet filed a formal report.

Arthur Grant stated that he felt it would be negligent of the Board to act on findings that may or may not reflect entirely what the Conservation Commission recommends.

Kevin Webb stated that he had summarized the Commission's suggestions in an email, but that he had not discussed these with other members on the Conservation Commission.

Jim Campbell read an email from a member of the Conservation Commission regarding proposed changes from the applicant.

Arthur Grant stated that "chatter on the Citizens' Exchange" suggests that there has been insufficient enforcement of the conditions of approval for the original project and that it involves findings made recently made by the DES inspector. Mr. Grant asked if the Code Enforcement Officer has any responsibility in this matter and if he is satisfied that the conditions of the original plans have been met and satisfied. Mr. Grant further stated that this is a troubling matter.

In response to a question from Amanda Merrill, Jim Campbell stated that he has been unable to reach the DES officer doing the inspections on the property, but that he has been told that steps are being taken to remedy the situation. Jim Campbell further stated that he has not been able to get copies of the reports from the DES.

After discussion regarding how to proceed, Arthur Grant suggested that deliberations be continued to the meeting of May 28, 2003. He further requested that Chair Watt consult with the Chair of the Conservation Commission with regard to comments that the

commission may want to make in regard to this matter and that the Planner secure if possible the most recent inspection reports from the Department of Environmental Services.

Steven Roberts made comments about his concerns regarding dry wells and elevation of land.

Several Board members stated that they would like a written report from the Conservation Commission stating they have looked at the site and that they consider the questions from the Board as mentioned in the minutes of April 9, 2003.

Chair Watt stated that the Board needs to hear from Bob Levesque, the Conservation Commission, and the DES. The Board also needs to request a two-week extension from the applicant.

The Board reviewed the Conditions of Approval and made the following comments.

Referring to #19 of Conditions of Approval, Amanda Merrill stated that she did not believe it is accurate to refer to NH Law as including the restriction that at least one person be 55 or older. Reference to NH Law should be in a separate paragraph. In addition the last sentence of that paragraph should be separated out so as not to refer to NH Law.

Neil Wylie suggested adding “and maintained” to paragraph #23 so that it reads “...drywells constructed and maintained according to plans...”

Referring to #20, Chair Watt stated that the deed language should be changed to reflect changes in #19.

In response to a question from Neil Wylie, Jim Campbell stated that items 6 and 8 were struck from the document.

Mr. Campbell further stated he added “the applicant paid for engineering services to Item #26.

At the request of Kevin Webb a reference that an inspecting engineer will come through periodically, will be added as item 28 d.

In response to questions, Attorney John Ryan, attorney for the applicant, stated that the bridge will be a part of the master association and that the homeowner’s association will maintain the bridge.

Joe Caldarola stated that he would attend the Conservation Commission Meeting.

Neil Wylie stated that it was important that the Board receive a written report from the Conservation Commission regarding this application.

Mr. Ozenich returned to the table at 8:35 p.m.

Arthur Grant MOVED to take up Items VI and VII on the agenda. The motion was SECONDED by Mr. Wylie and APPROVED unanimously.

- VI. **Continued Public Hearing on an Application for Conditional Use Permit** submitted by Michael J. Sievert, PE, Newmarket, New Hampshire on behalf of Fall Line Properties, Portsmouth, New Hampshire for the construction of a hotel in the Limited Business District. The property involved is shown on Tax Map 4, Lots 50-0, 51-0, 52-0 & 53-0, is located off of Dover Road/Main Street and is in the Limited Business Zoning District.
- VII. **Continued Public Hearing on an Application for Site Plan Review** submitted by Michael J. Sievert, PE, Newmarket, New Hampshire on behalf of Fall Line Properties, Portsmouth, New Hampshire for the construction of a hotel. The property involved is shown on Tax Map 4, Lots 50-0, 51-0, 52-0 & 53-0, is located off of Dover Road/Main Street and is in the Limited Business Zoning District.

Paul Berton, President, Fall Line Properties, Inc. updated the Board on the applications submitted for Conditional Use Permit and Site Plan Review.

Mr. Berton stated that Fall Line Properties, Inc. received a variance from the ZBA to move the three duplexes to a conforming lot by merging lots 50 and 53. He further stated that setbacks, height of building, parking, green space, and all the requirements from the Department of Transportation have been met.

In response to a question from Mr. Roberts, Mr. Berton stated that a positive traffic analysis was completed and that there will be a “right-turn only” exit onto Main Street.

Further statements from Mr. Berton were that there will be designated parking for residential tenants, and that the abutters will not see any windows or light from their site. The hotel will serve a continental breakfast, it is estimated that each guest will spend approximately \$100 in the community, and that Mr. Peterson from Three Chimneys Inn has spoken in favor of the hotel as he feels it will augment his business.

Low bushes will shield view of cars from the road and there will be low impact lighting for security. There will be some signage on the building and at the curbside. Current plans for the duplexes are that they will remain as student housing but may evolve into a residence Inn or house staff.

There was some discussion about the rooflines. Mr. Harwood stated that he would speak with the designer about the design of the rooflines.

John Harwood explained that the Board needs to acknowledge a letter received that requests the merger of lots 50 and 53. There will be a description of the two parcels that Chair Watt and the property owner would sign. No public hearing is required.

Nick Isaak MOVED to acknowledge and accept the request for merge of lots 50-0 and 53-0r. The motion was SECONDED by Amanda Merrill and PASSED unanimously.

Arthur Grant MOVED to open the public hearing. The motion was SECONDED by Neil Wylie and PASSED unanimously.

Jim Jalbert, representing the neighbors, stated that few people were here at the meeting and that they were in favor of continuing the public hearing until June 11, 2003.

There were no other persons who wished to speak at this time.

Arthur Grant MOVED to continue the public hearing to June 11, 2003. The motion was SECONDED by Neil Wylie and PASSED unanimously.

Chair Watt called for 5-minute break at 9:00 p.m.

Chair Watt called the meeting back to order at 9:05 p.m.

IX. Other Business

A. New Business:

Jim Campbell stated that he has a site plan for the UNH Browne Center available for review. The public will be notified of the site plans and the public hearing.

Arthur Grant stated that he felt when the University proposes any building off campus that a public hearing should be held. Jim Campbell agreed and stated that anything outside of campus will now go to a public hearing.

Annmarie Harris stated that one item mentioned at the Master Plan meeting on campus, was that traffic will be routed so that it will not come down Mill Road, and that there is a tentative proposal for two-story parking garage on B lot.

Chair Watt stated that the University is proposing to build married student housing in the Sawyer Mill area and tear down married student housing in Forest Park.

Jim Campbell stated that the court order of notice has been received for the Stonemark suit and that a voluntary dismissal of the litigation in the Moriarty Suit was received. Mr. Campbell also proposed that the Board discuss the role of the Conservation Commission with the Board in relation to the powers that they have in State Statute at the retreat.

Rachel Rouillard requested that during the retreat, the Board discuss how it handles additional studies. She has information of how other towns in the state approach independent studies and basic investigations around every subdivision proposal in front of the community.

Jim Campbell stated that other agenda items for the retreat be given to him by noon on Thursday, May 15, 2003.

In response to a question from Nick Isaak, Chair Watt stated approval of the overlay issue for the Historic Commission is forthcoming.

Kevin Webb requested a status report on the zoning rewrite. Jim Campbell stated he has an updated report, which he will see that Mr. Webb receives.

For clarification to the public, Arthur Grant stated that Part A and Part B in terms of residential zones have been completed. They will be posted for new public hearings.

B. Old Business:
None

C. Next meeting of the Board: **May 28, 2003**

X. Approval of Minutes - April 9, 2003

Add to OTHERS PRESENT: Interested Members of the Public

I. Strike the sentence “Jim Campbell stated that the Board...”

Pg. 2 Item 4, 3rd paragraph, 3rd line, should read ...the applicant has granted an extension...”

Pg. 3, top change to read, “Steven Roberts asked if the buildable area had been exceeded by the new proposal.

Pg. 3 #1. Change the word doable to allow

Pg. 4, 1st paragraph, 2nd line, ...The Town of Lee does not want...”

Pg. 4, 2nd paragraph add word recommends.... Mr. Campbell stated that he recommends putting money...”

Neil Wylie MOVED to approve the minutes of April 9, 2003, as amended. The motion was SECONDED by Rachel Rouillard and PASSED unanimously.

Approval of Minutes - April 23, 2003

Correct Annmarie as one word and spell check Rachel

Pg. 4, 4th paragraph from top, “Annmarie Harris commented that the Board...”

Pg. 4 – paragraph 6 – change to Chair Watt not Watt.

Top of page 4, “...wants to put 4 duplex elderly housing buildings on one lot and 3 duplex elderly housing buildings on the other.”

Pg. 5, 6th paragraph, “Mr. Wylie commented on page 7, item 17, that because all of the units will be elderly, then compliance should read “all of the units, “ not 80% as it is now written.

Pg. 6 last paragraph ...there is also a 50-ft. wide easement....”

Pg. 6 2nd paragraph, change to read... 28 elderly units approved with the original application. Strike the last sentence.

Pg. 6 top of page change to (Nisbet et al vs. Town of Durham)

Pg. 7 top of page.... from the Board as they would rather not...

Pg. 7 paragraph 2 – double negative ...the applicant did not feel an office park was in the best....”

Pg. 7, 4th paragraph, change to Stephen Roberts

Pg. 7, 6th paragraph change Suggests the applicant to ...She suggested the applicant...”

Pg. 7, 5th paragraph, ...The wetlands have had aerial photographs taken and delineated....”

Pg. 7, 3rd paragraph from the bottom ...cul-de-sac the applicant could create one crossing...” and last sentence change to “He is not sure...”

Pg. 8 – change to read “...30,000 sq. ft. which would allow 54 dwelling units.”

Pg. 8 - 4th paragraph from bottom change “.... stated that several recent...”

Pg. 8 – 3rd paragraph from bottom, ...Neil Wylie, Mr. Morrill stated the Planning...”

Pg. 9 – New Business #4, change Mr. Campbell to Mr. Watt.

Pg. 9 – Old Business, ...make adjustments to “...adjustments to subdivision regulations...”

Pg. 10 – 3rd line – “...permitted use for a parcel as long as the original...”

Arthur Grant MOVED to approve as amended the minutes of April 23, 2003. The motion was SECONDED by Rachel Rouillard and PASSED unanimously.

XI. Adjournment

Arthur Grant MOVED to adjourn the meeting at 9:50 p.m. The motion was SECONDED by Neil Isaak and PASSED unanimously.

Amanda Merrill, Secretary