

*These minutes were approved at the July 13, 2005 meeting.*

**DURHAM PLANNING BOARD MINUTES  
WEDNESDAY, MAY 11, 2005  
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL**

**MEMBERS PRESENT:** Richard Kelley, Chair; Stephen Roberts, Kevin Webb; Nick Isaak; Richard Ozenich; Bill McGowan; Diana Carroll; Lorne Parnell; Councilor Gerald Needell

**MEMBERS ABSENT:** Susan Fuller

**OTHERS PRESENT:** Jim Campbell, Planner; Victoria Parmele, Minute Taker

**I. Call to Order**

**II. Approval of Agenda**

*Nick Isaak MOVED to approve the Agenda as submitted. The motion was SECONDED by Kevin Webb.*

Chair Kelley said that the discussion on Items V and VI, the Site Plan Review application and the Conditional Use application concerning the proposed Irving Station would be combined.

*The motion PASSED unanimously.*

**III. Report of Planner**

1. Mr. Campbell said he had discussed the University master plan and the Highland House in his monthly meeting with University planner Doug Bencks.
2. He said that on May 25<sup>th</sup>, the Board would hold its quarterly planning meeting, the main topic of which would be the University's master plan. He noted that Mr. Bencks would give a presentation at the meeting. Mr. Campbell said he looked forward to the discussion, which would cover three main areas - transportation, land use and housing, along with miscellaneous other topics.
3. Mr. Campbell said that the Town Council had passed the Floodplain Overlay Ordinance, and had voted to continue discussion on the draft impact fee ordinance to the May 16th Council meeting. He said he hoped Board members would attend this meeting, since the Planning Board would have a large part to play concerning the ordinance.
4. Mr. Campbell provided details on the MPO meeting he had recently attended.
5. He thanked Amanda Merrill for her service on the Planning Board, and also thanked Board members who had agreed to serve on the current Board.

**IV. Presentation by UNH Students - Presentation on focus groups held in the Faculty**

Neighborhood concerning community issues.

UNH students Holly Burbee, Allison Lodge, Brian Deguzis and Matt Cotter spoke before the Board. They explained that the purpose of the Working in Neighborhoods program was to get neighbors and residents together and bridge the gaps that existed between neighbors and also between residents and the student body. She said the goal was to develop stronger relationships, make connections and build a stronger community.

Group members explained that the first neighborhood they had worked with was the Faculty Neighborhood. They described the process that was used for gathering information for the project, - picking every third house in the neighborhood and asking the occupants to attend two Focus Group meetings. They said a total of 4 people attended the meetings, and said although the attendance was lighter than would have been desired, they got valuable information from those who attended.

They said questions asked at the meetings were:

How well do you know your neighbors?

If you could change one aspect of your neighborhood, what would it be?

Is there anything the Town could have done different to maintain or improve your neighborhood?

How can you build a stronger, more connected neighborhood?

Etc.

The group said positive findings about residents' opinions of Durham expressed at the Focus Group meetings included: Proximity to a functioning downtown; proximity to a park; land easements; safe for living; aesthetically pleasing; Town/Gown; and the UNH hockey team.

The students said concerns of residents included: lack of sidewalks-especially for children walking to school; lack of social sharing/no shared resources; no alternative venues/need for more diverse offerings (that were religious neutral); Durham Police and student relationships; lack of bridging between groups; absentee landlords-crowding; trash removal issues; noise; awareness; and speeding.

They said changes/solutions suggested by the attendees of the Focus Groups included: increased social capital, especially after a long winter; directory of neighbors; sharing resources/yard equipment; increased awareness; swap shop focus; enforcement of landlord codes; the New Hampshire Newspaper; and more activities. The group then outlined some steps that could next be taken to achieve these changes and solutions.

Councilor Needell asked if any follow-up meetings were planned, and group members explained that what they had done would be continued by Professor Robinson and her future classes. Professor Robertson indicated that she planned to do this every semester.

Chair Kelley noted that some Board members had suggested that when the Town updated its Master Plan, the Planning Board planned to gather data from residents, and would convene focus groups. He asked if there might be some way to connect this with the work of the students in neighborhoods. He said the intent would not be to guide the students, but to share resources between the two efforts in order to get as much connectivity as possible.

Professor Robertson agreed, and said that everything the students collected could get folded into the Master Plan. .

Mr. Campbell asked if the Board could receive a copy of the students' presentation, and was told they would soon be sending this out.

- V. **Public Hearing on an Application for Site Plan Review** submitted by Courthouse Ventures, LLC, Hampton Falls, New Hampshire to demolish the current motor vehicle service facility and replace it with a retail motor fuel outlet which includes a 2,992 square foot convenience store with an attached 1,100 square foot coffee/donut shop. The property involved is shown on Tax Map 5, Lot 4-2, is located at 2 Dover Road and is in the Limited Business Zoning District.
- VI. **Public Hearing on an Application for Conditional Use Permit** submitted by Courthouse Ventures, LLC, Hampton Falls, New Hampshire to demolish the current motor vehicle service facility and replace it with a retail motor fuel outlet which includes a 2,992 square foot convenience store with an attached 1,100 square foot coffee/donut shop. The property involved is shown on Tax Map 5, Lot 4-2, is located at 2 Dover Road and is in the Limited Business Zoning District.

Frank Montiero noted the Board had accepted the two applications at the previous meeting on April 13th. He said a site walk had been conducted with Board members on April 22nd, where valuable input had been received concerning the architecture of the proposal, on site circulation, the driveway design, etc. He said he would provide an overview on the application at the meeting, and noted he had some revised architectural rendering to discuss which incorporated some of the points raised by the Board at the site walk.

As part of his discussion on the site plan, Mr. Montiero spoke about the issue of the back door of the court house. He said the way the site had been designed, there would be no change to that area than existed at present. He said the project would match the existing grade in that area, and said snow storage would not be located in the vicinity of the back door.

He provided details on the proposed location of underground storage tanks, at the back of the site, and explained that fuel would be distributed south to the fuel dispensers.

He noted that there had been discussion at the previous meeting about varying the materials for screening of the trash dispenser, and said he would talk more about this.

Mr. Montiero noted that Code Enforcement Officer Tom Johnson had determined that the facility needed to have a loading area that was accessible for each of the uses. Mr. Montiero said an internal hallway from the convenience store to the donut shop had been added to provide access to the loading area.

He said fill would be brought in for the west portion of the site to bring the store up to the same elevation as the canopy. He also noted that the back wall of the convenience store/coffee/donut shop would be a retaining wall. He provided additional details on placement at a lower level of equipment to run the buildings, so it wouldn't be seen from the road, and said there would be a stairwell to access this area.

Mr. Montiero said the application had started out as providing full access, in and out, for both driveways on Dover Road. But he said that the report done by the applicant's transportation consultant had recommended that the first driveway allow traffic in only, and that the second driveway would remain full access in and out, including allowing left turns onto Dover Road. He said there would be a free right lane incorporated into that second driveway.

He noted that the issue of concern for Newmarket Road had to do with left hand turns, and said the consultant had recommended the driveway stay a right in and right out access. He said that in order to enforce this, the median strip would need to be extended south on Newmarket Road. He said the Police Department had concerns about the right out, but said the applicant did not want the right out to be prohibited, and he provided details on this.

Mr. Montiero next spoke about stormwater drainage issues concerning the site. He said stormwater flow at present was essentially sheet flow, and noted there were some catch basins on the western portion of the site. He said drainage on the property currently was down toward Newmarket Road, and said the plan was to control runoff on site by catching runoff in a detention pond. He said discharge from the pond would be to the existing catch basin on Newmarket Road. He said the drainage study had been reviewed by the Public Works Department, and said minor revisions had been made based on its comments. He said that NHDOT had to approve the drainage connection on Newmarket Road, and said this was currently under review.

Mr. Montiero said water and sewer lines would be located along Dover Road, and gas lines would be located on the Newmarket side. He said street trees were proposed on Dover Road and Newmarket Road, next to the court house and along the common boundary with the Town Hall property.

He said a free-standing sign was proposed for the area between the two driveways on Dover Road, and said a large planter would be placed at the bottom of the sign. He described additional shrubs that were planned for the site, and noted that at the back of the convenience store/donut/coffee shop, an evergreen barrier was proposed to hide equipment located there. He said these trees would also serve to scale down the wall height, noting it would be elevated from that view. He provided additional details on landscaping that was planned for the site.

Steve Pernow, the transportation consultant for the applicant, next provided background on how the traffic impact study was developed. He said he had first obtained existing traffic volumes, had determined how much traffic the site would generate, and then had come up with post development traffic volumes. He said the analysis was then done concerning how the signalized intersection would operate, and how the site driveways would function.

He said that October 2001 NHDOT traffic count data on Main St. showed variation by day of week, ranging from 17,000-18,000 cars a day, with peaks between 8:00-9:00 am and 4:00-5:00 pm, with evening traffic somewhat higher than morning traffic. He noted that another traffic count up by Route 4 in September 2000 had come up with the same basic trends. He said this historical data was important, and noted that the peaks reflected worse case conditions.

He said traffic volumes were also obtained in November 2004 for the signalized intersection area in the time period of 7:00-9:00 am, noting 7:15-8:15 am was when traffic volumes were highest. He said the predominant directions in the morning were heading west toward Main Street, and northbound on Newmarket Road and toward the University. He said in the evening, the larger traffic volumes flowed in the opposite direction, with people coming out of Main St. heading toward the interchange, and down toward Newmarket.

Mr. Pernow said the Smittys site as it presently existed generated 17 trips in and out in the morning, and 3 in the evening. He said it was projected that the gas station/donut/ coffee shop would generate a net increase of about 115 trips in the morning, and in the evening would generate about 121 trips. He said these numbers reflected a busy site, and said most of those people coming to the site would be drawn primarily from the existing traffic stream that was already passing by.

He said the analysis indicated that the signalized intersection would handle approximately 1% or less of an increase in traffic, depending on the peak hour period, although noting that random traffic variation throughout the week would reflect a greater increase. He said the good news was that he didn't anticipate big changes in terms of traffic operations. He said the level of service, D, would remain the same, and also said the intersection was presently below capacity, and would remain so after the site was developed .

Mr. Perow said it was possible to make recommendations, based on this technical analysis, concerning the driveways. He said his recommendation was that the first driveway on Dover Road should be restricted to right turn in only, because of its proximity to the signalized intersection, and he said this would work well for pass by traffic. He said the second driveway could provide full access, in and out, but he suggested widening it so there could be two exit lanes, one for turning left and one for turning right.

Concerning the driveway access on Newmarket Road, Mr. Pernow recommended converting it to right turn in, right turn out. He noted that the applicant had wanted full access, but he said the reason for his recommendation was the proximity to the signalized intersection, and also the stacking of cars that occurred at the light. He said to make this a right turn in, right turn out took more than just putting up a sign, which was why it was recommended that the island be extended, in order to reinforce this. Mr. Pernow said his traffic study had been submitted to the NHDOT, and said the final disposition was up to them.

Ms. Harris said she didn't see the need for a right turn in and out onto Newmarket Road, and said this seemed superfluous.

Mr. Pernow said if this was not provided, it would add impacts to the signalized intersection, and said he would rather see a car take a right into the site on Newmarket Road to reduce this impact. He said the reason the right turn out was important was that there was a lot of traffic coming to and from Main Street. He provided details on this, and said this design would not force everybody to use one driveway. He said it was important to spread the demand between the two driveways, including giving people the option to use the light, for safety reasons.

There was detailed discussion about this.

Mr. Webb said he would like to see a copy of the traffic report. He also asked what happened if the Board didn't like NHDOT's opinion.

Mr. Campbell said the Board could fight it.

Mr. Webb said the traffic study had observed correctly that in the evening, there was a large portion of traffic moving toward downtown on Main Street and down to Newmarket. He asked how one could safely get out of the site and head to Newmarket during the evening rush hour, and also asked how this could be done with the cue built up at the light.

Mr. Pernow said one would have to wait for the cue to dissipate, or for the signal to change.

Mr. Webb noted that in the morning he couldn't get in or out of the Gibbs station very easily when he was heading east toward Route 4, and said he thought there would be the same problem at the Irving site in the evening, coming in from Route 4. He asked why not allow a left turn onto Newmarket Road in the evening, to get customers more safely out of the site and down to Newmarket.

Mr. Pernow said it might be slightly easier, but he said his concern was the stacking that could occur, which could result in collisions. He provided additional details on his perspective concerning this. He said most likely the service stations on one side of the street would cater to one direction of traffic, and those on the other side would cater to traffic going in the other direction. He agreed with Mr. Webb that people would adjust their preferences, based on the traffic situation.

Ms. Harris asked about the distances from the site driveways to the lights, and there was discussion about this

Mr. Roberts said a concern he had was internal traffic flow. He noted that there was various internal traffic flow problems at the Gibbs station, and said this was a real hazard. He asked if the applicant's representatives saw the proposed site as presenting any of these problems, and if so, how these problems related to external traffic flows.

Mr. Montiero said the canopy provide bypass lanes, allowing customers options in terms of internal traffic flow. He provided details concern this.

Mr. Roberts said the cue of cars trying to turn left on Dover Road would block half the pumps.

Mr. Montiero said people would adjust to this, and also noted that with stations on both sides of the street, people would have options, so if it were not convenient to go to one station, they would go to another. He said the applicant preferred to provide separation between the fuel dispensers, and also noted there would be more than adequate parking on site, and a dedicated loading zone. He said the layout anticipated some of the problems that were typically seen at service stations.

Chair Kelley said if Board members had no additional pressing questions, he would like to open the public hearing.

***Arthur Grant MOVED to open the public hearing. The motion was SECONDED By Kevin Webb, and PASSED unanimously.***

Chair Kelley noted that a gentleman was present at the request of the Planning Board, and said the Board would like to hear from him first.

**Joe Murdock, Durham**, said that Mr. Campbell had asked him to go over the lighting plan proposed for the service station. He described his experience and expertise as a lighting engineer, and noted he had been called in for the Gibbs application. He said the purpose of outdoor lighting was to provide visibility and safety but without glare, without light trespass onto adjacent buildings, and without overdoing the merchandising element that lighting provided.

He said the Illuminating Engineering Society had developed recommendations concerning the illumination levels for horizontal services at service stations, and he provided details on this. He said a 2 foot-candle illumination level was recommended for driveways; a 10 foot-candle level was recommended for pump islands; a 3 foot-candle level was recommended for vertical lighting for building facades; and a 3 foot candle lighting level was recommended for service areas.

He said the lighting plan for the application indicated an average level of 53 foot-candles for the pump islands, with a maximum level of 73 and a minimum of 39, and said one could play night baseball at the lighting level. He said it was a ridiculous amount of lighting, and provided details on discussion he had concerning excessive lighting with the applicant for the Gibbs station. He noted the lighting intensity for that facility had been adjusted down. He said a case couldn't be made that high lighting levels were needed for safety reasons, and said these organizations wanted these high levels to attract people into their establishments. He said in so doing, the lighting would create glare for drivers going by, and would be reflected off of the court house windows. He also said he wondered how the lighting level would affect the hotel.

Mr. Murdock said he was also concerned about another issue, "transient adaptation", which had come up concerning the Gibbs application. He explained that if a person was exposed to a high level of light at a fuel pump, and then went out into traffic at night, the person's eyes would need some time to adjust to the difference in the light level. He provided details on his additional concerns about the lighting plan for the application, and said he would share with Mr. Campbell the data he would need in order to finalize recommendations concerning the plan.

He said his major concern was that the Board should not allow this facility to become a glare bomb in Durham. He said if this was not prevented, other establishments would want to do the same thing. He said the Town was able to stop Gibbs, and said he hoped this also could be accomplished with the Irving application.

There was discussion about other service stations in the area where the lighting was excessively bright. Board members thanked Mr. Murdock for his input.

**Jim Jelmborg, Park Court** said he hoped Irving would be open to developing a parking

arrangement with the Town, through leasing, etc. He said the Town clearly had a need for parking at the court house, and for a proposed library that could be located behind the Town Hall. He said that allowing a library behind the Town Hall would actualize the Master Plan's vision of a Town center, and said parking would be needed for this. Mr. Jelmberg also said he hoped the public hearing would be continued to the next meeting, because some people may not have known it was being held that evening.

Mr. Webb asked Mr. Jelmberg to provide more detail on what he meant by an arrangement for parking,

Mr. Jelmberg said he was suggesting that people be open to the Town being able to lease parking spaces from that site, and said that even with a change of ownership, the lease could be written that this arrangement would stay with the site. He said one of the problems with the library being proposed for the Town Hall site was that there was limited parking, and said he was simply looking for solutions for this.

**Judith Spang, 55 Wiswall Road** said she was very disturbed by this development, from both a micro and a macro perspective. She said she was very disappointed that the Town Council had not been able to do something more meaningful with the site, and noted that she and others had worked very hard to keep the court house at its present location, not just because of the convenience for students, but also because of the historic nature of the structure.

She said the Planning Board, Town Council, and developers had put an agonizing amount of time and effort into making sure the hotel fit in with what was the gateway to Durham, and said she had been optimistic that the Town could develop a more attractive gateway, piece by piece. She said when she had seen the service station development in Newmarket, it seemed the town had sold its soul to get extra tax dollars, and said she wondered how much they got in compensation for the loss of scenic quality.

Ms. Spang said Durham was starting from the other end of the spectrum, in trying to regain the scenic quality of this area, and said she was very disappointed that they were talking about another service station, much like what was on the other side of the street. She said she thought it was a waste of this site, and a waste of an opportunity.

Ms. Spang also said she had major problems with the traffic flow issue. She noted the existing traffic problems across street, and said a person who worked at Cumberland Farms had told her there were accidents there all the time. She said the traffic at the proposed site would be much greater than what Smitty's had generated. She said the site would be a lot more than was seen with Smittys, and would be a magnet, which would totally exacerbate what was already a difficult area. She provided details on the difficulty of making left turns out of the site.

She said she realized there were only so many reasons the Board could turn down a development, but said the traffic situation was a good reason to rethink the kind of uses the Town wanted at this site. She said doing so might give the Town the opportunity to take advantage of the significant amount of traffic going by, in a different way, with a different, lovely use of the site, and one that would not make the traffic problems worse.



**Julian Smith, 246 Packers Falls Road** said he would speak for himself first, and then would read a letter from a citizen. He said the Zoning Ordinance was intended to regulate land for the purpose of protecting public health, safety, convenience and general welfare of the people of Durham. He said he suspected that the convenience and safety of Durham citizens had been sacrificed for the convenience of people coming through Town.

Mr. Smith said he didn't oppose the building of the Irving station, and said he expected the application would go through. But he suggested that the Board consider the potential loss of certain kinds of convenience to citizens as a result of this development, and therefore not be shy about placing conditions on the application that might provide some kind of tradeoff. He provided details on some convenience and safety issues, such as the loss of an auto repair shop, and problems with traffic on Schoolhouse Lane. He noted a letter in Board members' packets from Beverly Burrows, concerning this latter problem, which she had documented over many years. He provided details on this issue, and how traffic from the Irving station could increase the problem.

He said the right off of Route 108 into the Irving station would create a number of problems, and noted Mr. Campbell's memo to Board members about the concerns of the Police and Fire departments concerning this. Mr. Smith provided details about this issue, and asked the Board if it would consider a stipulation that if it became evident that people trying to head south on Route 108 were going against traffic, and it was witnessed that there was an abuse, that there would be some closure of the in and out.

Mr. Smith next read a letter from **Beth Olshansky, Packers Falls Road**. In her letter, Ms. Olshansky asked if the Town really needed three gas stations within a few hundred feet of each other. She said as a conditional use, he wondered how a third such business would provide a benefit to the Town.

She said assuming the Board was inclined to approve the application, and because it was clearly a gateway property and would be situated next to the courthouse and across the street from what promised to be an historic looking hotel, it should place strict design conditions on the structure. She suggested requesting that that the building should be constructed of brick in the style of a cape or barn like structure, such as the service station at the intersection of Route 9 and 125, and she provided details on this.

Ms. Olshansky said a previous Planning Board had gone to great effort to make a design request concerning the roof over the pumps at the Gibbs station and concerning the lighting, but neglected to make recommendations regarding building materials. She said the structure that resulted was plastic looking. She said because this would be a highly visible gateway property, it would be appropriate to request that the building be harmonious with the Town's vision of the court house district. She said it should be designed in keeping with old New England structures and materials, and said it would also be important to limit lighting, and request historic looking signage.

She said she was also concerned with the possibility of travelers using the right of way as a cut off to avoid the traffic light, and said conditions should be placed on use of exits and entrances to ensure that traffic flow pertained to the business only, was safe, and was not used as a cut through.

Ms. Olshansky said the Board had been afforded a rare opportunity to redesign Gasoline Alley, to create an entrance into the Historic District and the community that enhanced the Town, and was in keeping with the vision of Durham as a quaint New England town.

**Attorney Mathew LaPointe, representing Cumberland Farms,** said the company opposed the project, and noted that Elizabeth Roberts, a traffic consultant for the company, was present to speak about the traffic study that had been done as part of the application.

He said one of his client's concerns was the internal traffic flow at the Irving site. He said the Cumberland Farms property was located directly across the street, and had a driveway that was directly in line with the second exit from the Irving site. He said he was concerned about traffic from both sites entering Dover Road at the same time during peak hours, and said there would be significant left turn traffic from the Irving site at the same time as there were right turns from the Cumberland Farms site.

Attorney LaPointe said he was also concerned that there would be parking close to the exits from the Irving site, and that cars backing out would block the exits. He noted that Mr. Montiero had spoken about the reason why the pump islands would be spread out, and said this design pushed the last pump island up against the road. He said he wondered if there would be sufficient circulation as a result of that. He said as presently laid out, he thought the establishment would not be pedestrian friendly, and said that was unfortunate because there was potential for that area of Town to be more pedestrian friendly. He provided details on this.

He said he was not sure that the donut/coffee shop was necessarily a combined trip type of establishment, and said it seemed it would be more of a destination type of establishment. He also discussed the aesthetics of the proposed design for the building on the site. In summary, Attorney LaPointe said the applicant was trying to put too much on the site,- three uses, at a difficult intersection with difficult traffic problems. He said this had been considered a conditional use for a reason; it was something that fit or didn't fit into an area, depending on the particular circumstances.

**Elizabeth Roberts, the traffic consultant for Cumberland Farms,** spoke next. She said after reviewing the traffic study that had been done for the application, she had identified some major concerns. She said the first concern was that the estimated trip generation for the donut/coffee shop seemed low. She provided details on this, and said Cumberland Farms would like to see more data to back up the numbers.

She said a second question concerned pass by rates. She said the average pass by rate for a gas station was about 65%, and was about 50% for a donut shop, and said the average pass by rate for the proposed gas station, according to the traffic study, seemed too high. She said what this meant was that she thought the applicant was greatly underestimating the new trips that would be generated by the site.

Ms. Roberts said another question concerned trip distribution. She said the report mentioned that 80% of new trips would come from the west, but she said that after examining the traffic data, she found that 39% of traffic volume came from the east, 49% came from the west, and 32% came from Newmarket. She said she would expect that traffic distribution would

follow this pattern.

She provided additional details on her analysis of the traffic study. Among other things, she spoke about the traffic signal length at the intersection, and also said it was virtually impossible to make a left hand turn out of the site, which would be directly across from her client's site. She also provided details on a capacity analysis she had done using the traffic data. She said that generally, anything over 1 (calculated by dividing volume by capacity) was failing, and said anything up to 2 might work for an un-signalized driveway. She said the applicant was proposing a level of 8 for the left turn, which would create an unsafe situation, and would exacerbate the existing situation.

**Bill Hall** provided details on the fact that the Town hadn't offered Mr. Smith, the owner of Smittys, enough money for his property, and said that was why the Town didn't presently own the site. He said the developer had tried to swap some land, and also said the Council had recently voted 6-2 to discontinue any effort to have anything to do with the site, and said it was therefore inappropriate to talk about that.

Mr. Hall said the proposed Irving site was 4-5 times the size of Cumberland Farms, and would have a lot more space to make turns, and to allow for pedestrians. He said it was good that cars leaving the site could turn right on Newmarket Road and then go through the light, rather than having to turn left and go through the light on Dover Road, and said that pretty well solved those problems. He said that making left hand turns out of the Irving site wouldn't be any more difficult than making left hand turns out of the Cumberland Farms site. Mr. Hall also said he was going to take his light meter and go to a couple of Irving stations in the area.

Mr. Kelley asked if the applicant wished to respond to any of the comments that had been made at the hearing.

Mr. Montiero said Irving would be a good neighbor and wanted to work with the Town. He then responded to some of the comments that had been made. He said a parking lease/easement arrangement would have to be worked out with owner of the property, Courthouse Ventures, also noting that Irving would have to control a certain number of parking spaces in order to meet the requirements of the Zoning Ordinance. Concerning the comments made by Cumberland Farms representatives about traffic flow, he said the Town's traffic consultant, Norway Plains, was presently reviewing the traffic study, and said perhaps the questions could be directed to them

Mr. Montiero said there would be further discussion on other issues raised at the hearing. He noted he had brought revised architectural renderings of the site design, and described them in some detail for the Board. He said comments heard at the site walk were that the canopy for the fuel pumps should blend with the building, and said this had therefore been redesigned to be a hip roof which would match the convenience store as well as the court house. He provided details on the pitch of the roof.

Mr. Montiero also said the sign was eliminated from the canopy, noting it wasn't permitted, and also said the color of the shingles for the building had been changed to a darker, charcoal type color, in order to blend better with the court house and the fascia of the canopy. He said there had been discussion about using brick for the building, and said the design proposed

used some brick. He said the applicant was flexible on how high to go with the brick, and said if the Board had other ideas, to let them know. He noted the false window on the end of the building, and said they could work with the Board on this. He said feedback on the entire design would be appreciated.

Mr. Webb asked if perhaps a fairly realistic window could be put on the back side of the building to help break up the view for abutters facing that side. Mr. Montiero said that could be worked on.

Mr. Webb also asked about the blue edge of the canopy that was proposed, and said he didn't like it.

Mr. Montiero explained that this was important in identifying the "Blue Canoe" franchise. He said perhaps the red stripe could be removed.

Mr. Webb suggested that perhaps the edge could be made narrower, or a muted color.

Mr. Isaak asked if it the canopy could be more generic. He noted there was nothing on the Gibbs canopy, and said he thought the blue band was rather heavy handed.

Mr. Montiero said this was part of Irving trying to create a new image for "Blue Canoe". But he said he would discuss with Irving the idea of making this band narrower.

Mr. Roberts said he felt the blue should be entirely removed, and stated he didn't think there should be a franchise stripe. He said it behooved Irving to understand that the service station was proposed for the center of the Town, and that it would be a good idea to project an image that was commensurate with the court house. He said it would be a benefit to the business as well as the Town to mirror the court house image, as the hotel project had done.

Councilor Carroll noted the idea had been discussed of swapping the location of the donut shop with the convenience store on the site, so people could sit in the donut shop and look out the window.

Mr. Montiero explained that the layout that had been developed was mostly driven by onsite design issues. He said the donut shop had a larger need for parking, because there was no drive-thru, and said this amount of parking was not available in the front of the site.

Councilor Carroll said the one window on the side of the building seemed lost, and noted that the window for the Gibbs building was more balanced. She also said that the black screening that the hotel and the Town were using would look better behind the proposed facility than the proposed cyclone fence.

Mr. Montiero provided details on the proposed fence, but said the applicant was flexible on this.

Councilor Carroll said that Durham prided itself on its recycling program and the number of businesses that participated in it. She said this would be a way for the applicant to show it was a good citizen, and she suggested that as part of the trash area, the applicant could plan

for pickup of recyclables. She noted this would save the businesses on the site some money.

Mr. Montiero said the trash enclosure was quite wide, and was designed to accommodate recycling. There was additional discussion on the containers that would be needed for this.

Councilor Needell said he appreciated it that the logo had been taken off of the canopy for the fuel pumps. But he noted another requirement in the Town's regulations, - the prohibition of franchise architecture, and asked if the proposed design was or was not franchise architecture. There was discussion about this.

Mr. Grant said it appeared that the current entrance to the service station from Newmarket Road was being moved down toward the Town Hall building, as part of the proposal.

Mr. Montiero said they were sliding the driveway back, and said it would be a distance of 25 feet from the Town Hall property line to the driveway entrance. He said the intent of this was to move the driveway as far as possible back from the intersection.

Chair Kelley said the excavation that would be needed for the detention system would be about 10 ft from the court house building, and would involve a 10.5 ft. cut. He asked whether, if the building was injured, the applicant would supply some measure of security, and suggested that the contractor should be bonded; a survey of the building should occur prior to excavation; and stamped and signed excavation support drawings should be submitted to the Town for review.

Mr. Montiero said this was a common issue that came up with installation of UST's. He provided details on how this was dealt with, and said they anticipated doing something similar with excavation near the court house. He said it was in the applicant's best interest to do this properly.

Mr. Isaak asked why the excavation had to be so close to the court house, and if it could be moved back a bit.

Mr. Montiero said they would look at sliding it back as far as possible.

Mr. Kelley said he had seen an improvement in the stormwater runoff plans for the application. He asked what storm event the system had been designed for.

Mr. Montiero said it was designed to accommodate the initial inch of rainfall, allowing removal of sediments and oil. He said larger storms would bypass the system.

Chair Kelley asked where the outlet for the runoff was after it reached the catch basin.

Mr. Montiero said the survey hadn't extended that far, and said he would look into this further.

Mr. Kelley said if the outlet of the pipe was not going down to the Oyster River, and was going across Route 108, he would like to see some sort of tail water analysis on the drainage calculations. He said if the runoff was going down to the Oyster River, there was enough

vertical relief, so even under a 50 year storm event, he wouldn't expect flooding. But he said if it was going across the street out behind the bank into a wetland, there could be the potential for the tail water to affect the water elevations in the site's catch basins and in the detention structure.

Mr. Montiero said he would look into this.

Mr. Campbell noted that the applicant had received a variance for the 16 ft. free standing sign for the site, and there was discussion about this.

Mr. Montiero provided details on the design and the square footage of the sign, and Mr. Campbell said the Board would like to see the design for the sign at the next meeting.

Mr. Webb noted the proposed rear elevation of the building, and said he thought Mr. Montiero had said the heating and cooling unit would be hidden. He said he thought it would be a better if it could be hidden down below on ground level with the other site equipment.

Mr. Montiero said he would find out about this.

Councilor Carroll said the service station was proposed to be self serve, and said she was concerned that there were increasing numbers of elderly citizens in the community as a result of more elderly housing developments, yet there could be a service station that would offer less service.

Mr. Campbell said a representative of Irving at the last meeting had said it was State law that if a customer asked an attendant to pump the gas, he had to do this. There was discussion about this.

Councilor Carroll asked if there would be adequate employees to do this, and an Irving representative said there should be sufficient employees to do this.

There was discussion about the traffic numbers that had been provided that evening. Chair Kelley said he thought the Board could rest assured that Ms. Robert's information would be included in the analyses, and that the State would be looking at these numbers as well.

Councilor Carroll also noted it had been said that people would use the station on the side of the road they were driving on, but she said if the price of gas was cheaper on one side, she would guarantee they would be making left hand turns into that cheaper station.

Chair Kelley asked if the Board had specific concerns they would like Mr. Montiero to respond to at a future meeting.

Mr. Roberts recommended that Mr. Campbell should develop a master list of issues of concern that had been raised so far, which the applicant could digest.

There was discussion about this with Mr. Montiero, including the status of the traffic study.

Ms. Harris asked if an independent analysis of the traffic study was being done for the Town,

and asked if so, if they would receive the information developed by Ms. Roberts.

It was agreed this information would be passed on to Norway Plains, the Town's consulting firm for the project.

Ms. Harris said she unfortunately had not been at the previous Planning Board meeting. She said although the Town planner had said this was a through lot, she believed the spirit and intent of the Master Plan, calling this area a gateway into the community, would have been to consider both the Dover Road / Route 108, and Route 108 toward Newmarket as frontage, not sideage. She said she didn't know what could be done to take that into consideration. But she said the development as proposed would result in a gap of space on the property that would be all pavement parking. She provided details on the land swap effort, which could have prevented this.

She said she was terribly disappointed this had happened, and said the edge of the property facing Newmarket Road was really frontage, not sideage. She also said that a reason why the land swap didn't occur was that the Council was distracted at the time by the Library proposal. She said the court house needed the parking, and there was discussion about this.

Mr. Grant said the land swap never gave the Town a solid strip between the court house and the Town building, and he and Ms. Harris discussed this.

***Arthur Grant MOVED to continue the public hearing to the June 8th meeting. Steve Roberts SECONDED the motion, and it PASSED unanimously.***

He noted that the Board had provided a two week extension at the applicant's request for the hearing, and this would be added to the end of the approval deadline time.

5 minute recess

**VII. Public Hearing on eliminating Section 175-55(E) (minimum contiguous useable area) from the proposed Zoning Ordinance**

Board members discussed the fact that the recommendation from the Planning Board was to remove Section E in its entirety from the Zoning Ordinance.

***Arthur Grant MOVED to open the Public Hearing on eliminating Section 175-55(E)(minimum contiguous useable area) from the proposed Zoning Ordinance. The motion was SECONDED by Richard Ozenich, and PASSED unanimously.***

Chair Kelley asked if there were any members of the public who wished to speak for or against the application. There was no response. Chair Kelley closed the public hearing.

***Arthur Grant MOVED to close the Public Hearing on eliminating Section 175-55(E) (minimum contiguous useable area) from the proposed Zoning Ordinance. The motion was SECONDED by Richard Ozenich, and PASSED unanimously.***

Chair Kelley asked if Board members had any additional questions concerning the proposed

amendment to the Zoning Ordinance, and there were no further questions.

***Councilor Needell MOVED to send to the Town Council the proposed amendments to Chapter 175 Zoning, to address questions with prior amendments. The motion was SECONDED by Kevin Webb.***

Mr. Webb asked Mr. Campbell if he could write a summary for the Council that described why the Planning Board had decided to strike out this provision.

Mr. Campbell said he could make that part of what was sent up to the Council.

Mr. Roberts said the area regulations were elegant, and gave the Planning Board significant power concerning determining lot character and useable area, so that Section E was superfluous.

***The motion PASSED unanimously.***

Councilor Needell asked if once the Board passed this on, if it was required that this be at the Council's next meeting. There was discussion about this.

## **VIII. Other Business**

A. Old Business  
None

B. New Business

Chair Kelley said there would be a lot of Planning Board business before the Town Council in coming months, and said he wanted to be sure that the burden for this wasn't just on Mr. Campbell, Mr. Webb, Mr. Roberts and himself. He suggested that Board members could figure out a way to best cover those meetings when Board presence was appropriate, and could let him know about this.

## **IX. Approval of Minutes**

Mr. Grant, Ms. Harris and Councilor Carroll left the meeting prior to approval of Minutes.

March 9th, 2005

Page 2 March spelled wrong

Last page of minutes should say 11:15 pm adjournment time

***Kevin Webb MOVED to approve the March 9th Minutes as amended. The motion was SECONDED by Steve Roberts, and PASSED, with Nick Isaak and Councilor Needell abstaining because of their absence from the meeting.***

March 23rd, 2005



It was noted that Mr. Campbell and Mr. McGowan were absent from this meeting.  
Page 6, 3rd paragraph from bottom, should read "...Durham had no control over a large portion of the Town."

***Kevin Webb MOVED to approve the March 23rd minutes as approved. Steve Roberts SECONDED the motion, and it PASSED unanimously.***

April 6th minutes

spelling of Councilor Carroll's first name should be Diana.

Page 3, 3rd full line should read April 18th

Page 5, 2nd paragraph from bottom, should read "...he had 4 acres of land with 2 acres of sand, ..."

Page 7, 7th paragraph, should read " Mr. Isaak suggested reviewing the existing standards for that district to verify that they might be sufficient."

Remove bullets on pages 10-12.

***Nick Isaak MOVED to approve the April 6th, 2005 minutes as amended. Richard Kelley SECONDED the motion, and it PASSED unanimously.***

X. **Adjournment**

***Richard Ozenich MOVED to adjourn the meeting. The motion was SECONDED by Nick Isaak and PASSED unanimously.***

Adjournment at 10:30 pm

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W. Arthur Grant, Secretary