

These minutes were approved at the August 10, 2005 meeting.

DURHAM PLANNING BOARD MINUTES
WEDNESDAY, JUNE 8, 2005
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL
7:09 PM

MEMBERS PRESENT: Chair Richard Kelley; Steve Roberts; Kevin Webb (arrived at 7:30 PM); Nick Isaak; Bill McGowan; Susan Fuller; Arthur Grant; Annmarie Harris; Councilor Diana Carroll; Councilor Gerry Needell

MEMBERS ABSENT: Lorne Parnell

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

I. Call to Order

It was noted that Kevin Webb was not present at the meeting, so Bill McGowan would serve as a regular member in his place.

II. Approval of Agenda

Councilor Needell MOVED to approve the Agenda as submitted. The motion was SECONDED by Arthur Grant.

There was discussion that Items V and VI would be heard together.

The motion PASSED unanimously.

III. Approval of Minutes

March 30, 2005

It was noted that Nick Isaak and Richard Ozenich were not present at the meeting. Also was clarified that Amanda Merrill was still a Board member for this meeting.

Page 2, bottom paragraph should read "...Durham 2000 Master Plan." Also motion in paragraph 7 should indicate that Councilor Needell abstained because he wasn't sufficiently informed on this issue.

Page 4 , 8th paragraph, should read "...concerning what the matrix of the ground was now,...."

Page 6, 3rd paragraph, should read "He also said that Administrator Selig would like for the Council to have some leverage in order to..."

Page 7, 8th full paragraph, should read "Chair Roberts said that in the last year when he had

been Chair of the Planning Board, he had mentioned the northern connector at several meetings with the University, and there was still no response."

Page 8, should say meeting adjourned at 8:35 pm.

Steve Roberts MOVED to approve the March 30, 2005 Minutes as amended. The motion was SECONDED by Councilor Needell, and PASSED 7-0-3 with Arthur Grant and Annmarie Harris abstaining because they were not on the Board at the time of the meeting, and Nick Isaak abstaining because he was absent from that meeting.

IV. Report of the Planner

1. Mr. Campbell noted he had recently attended the monthly meeting with University planner Doug Bencks, and had provided a memo on this to Board members. He said the University was presently in the process of reviewing a draft RFP concerning the Highland House, and said when this review was complete, he would get a copy and would update Board members on it. He also spoke about some upcoming projects being undertaken by the University - Forest Park Woodside Child Care, and an addition to Hitchcock Hall. He said it was expected that the first two projects would be done together.
2. Mr. Campbell said the University would be purchasing the software for the Synchro traffic model which University planners had spoken about at the quarterly Planning Board meeting. He said this would provide a good opportunity for the Town and University to use it together.
3. Mr. Campbell updated the Board on developments concerning signage for roads approaching the University. He said Mr. Bencks believed signs should probably be added on Route 4 before Route 155 to let people know they should take a right, and on Route 108 before the Route 4 interchange so cars could avoid going through downtown. There was discussion about current signage.
4. Mr. Campbell said the Zoning amendments would be presented to the Town Council at its June 20th meeting for first reading. He said he would be giving a Powerpoint presentation, along with planning consultant Mark Eyerman, and said it was important that as many Planning Board members as possible attend the meeting.

Mr. Campbell also noted that there would be another public hearing on the draft Impact Fee Ordinance at the June 20th Council meeting, and suggested that Board members should stay for that as well.

5. Mr. Campbell said the Economic Development Committee had recently met and had a detailed discussion on the Business Park. He said Town Engineer Bob Levesque had produced a new map which demonstrated the effect the new wetland overlay buffers would have on the site. He said about an acre and half was lost, but said most of the buildable area was retained.

Mr. Roberts asked if there were still plans to look for a model buffer that fit the Business

Park, and Mr. Campbell said he was still looking for this.

6. Mr. Campbell said the time limit for the Courthouse Ventures application would be ending soon, so the applicant would need to request an extension. He also said the applicants had provided additional information, and had asked that they be allowed to update the Board on this before the public hearing was opened. He noted there was updated information in Board members' packets on some aspects of the applications.
7. Mr. Campbell said that Judith Spang would be making a presentation that evening on the Feasibility Study for Re-establishing a Navigation Channel in the Oyster River

There was discussion about the fact that the University's transportation planning consultant, and not the University, owned the Synchro traffic model, so the University would have to purchase the model. Chair Kelley also received clarification that the model would be shared with the Town.

Chair Kelley asked what the plans were, moving forward, concerning the UNH signage issue.

Mr. Campbell said it was up to the State, and said he would work with Mike Lynch about dealing with the State on this.

Mr. Roberts said he was pessimistic about the application of traffic models, noting that either there weren't enough data points, or if there were, the models were so complicated that the people who knew how to use them were not knowledgeable enough about planning.

There was discussion about the model.

Councilor Needell asked what the timeframe was for the southern underpass.

Mr. Campbell said the University planned to start the project as soon as possible, and currently was working on getting internal funding for it.

Councilor Carroll asked if September was a realistic time when some or all of the University's new signage would be in place.

Mr. Campbell said he personally felt this was realistic.

Chair Kelley said the Board would stay in touch with Mr. Campbell on this issue.

- V. Continued 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. Continued 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.

Councilor Needell MOVED to continue the public hearing on the Application for Site Plan Review and the 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. Bill McGowan SECONDED the motion.

Chair Kelley asked that after the presentation by the applicants, that Board members limit their questions to one, and then let the public speak. He said Board members could then ask more questions after this.

The motion PASSED unanimously.

Mr. Grant noted that the Site Plan should say Map 5, not Map 6.

Frank Montiero, the engineer representing the applicant, said that since the previous hearing, progress had been made in making some changes to the plan. He noted that comments had been received from the Town's traffic consultant, Norway Plains, and also said a memo had been received from Town Engineer Bob Levesque as follow-up to the original Technical Review Committee meeting on the applications. He said no formal comments had yet been received from NHDOT, and said the plans were presently being circulated at the agency.

Mr. Montiero next went over a list of site plan and architectural plan changes that had been made since the previous hearing.

Site Plan changes:

1. Mr. Montiero said the driveways had been revised to reflect recommendations made by the Pernaw Traffic Study: for the first driveway from the traffic light on Dover Road, only right turns in would be allowed, and for the second driveway, left and right turns in and out would be allowed, with lanes in the driveway to be designated for this. In addition, the out lane would increase width to allow an out westbound and out eastbound lane, with lanes to be designated for this. He also said the median on Newmarket Road had been extended, and said he had resubmitted the plans to NHDOT.
2. Mr. Montiero said instead of being chain link, the trash enclosure would be made of hardiplank board on board, and would be painted white.
3. He said the freestanding sign had been revised to reflect ZBA approval.
4. Mr. Montiero said the light pole details revised: decreased from 20' high to 14' high; down from 1,000 watts to 250 watts. He also noted there was a reduction in lighting of the canopy. Mr. Montiero said the Lighting Plan had been revised and resubmitted to Joe Murdoch, and said additional revisions were pending.
5. He said the underground detention basin had been shifted approximately 30 feet downhill

from the courthouse building, to alleviate concerns about undermining the courthouse foundation. He provided details on this, and also said a preconstruction survey of the foundation would be required prior to construction.

6. Mr. Montiero said the applicant would address the suggestion to have an environmental consultant on site during excavation to ensure proper handling of any contaminated soils.
7. He said the survey confirmed that drainage did discharge to the Oyster River and not to private property off of Newmarket Road as previously shown.
8. He said an irrigation system would be equipped with a rain sensor as requested by Town Engineer.
9. He said miscellaneous drainage notes had been added to the site plan per the Town Engineer's request.

Architectural Plans

1. Mr. Montiero showed revised architectural renderings, noting that the canopy fascia had been revised from a flat to a hip roof, and that the shingle color had been changed. He said the blue fascia of the canopy was now white, and said the red stripe and canopy signage had also been removed.
2. He described the additional building changes that had been made: screening of HVAC equipment on the roof, with solid white picket fence, as well as similar screening for the condenser units on the ground; the false window on the left side of the building facing Dover Road was made larger; and false windows were added to the rear of the building.

Mr. Webb arrived at the meeting at this time.

Mr. Pernaw, the applicant's traffic consultant, next spoke before the Board. He said at the last meeting, he had been asked to contact NHDOT. He said he had done this, and learned they had completed their review of the traffic study. He also said he had received a review of his traffic analysis from Norway Plains, the Town's traffic consultant, and as a result, had developed a handout to address questions raised in this review.

Mr. Pernaw first responded to Norway Plains' questions concerning his proposal that left turns be allowed at the main site driveway. He said he had found from his own analysis that the second driveway was the best place for left hand turns, and said it was expected that only 38 vehicles would enter the site that way over the peak PM hours. He said the analysis showed that anticipated left turn demand during the PM peak hour was well below the available capacity for this movement (364 vehicles).

He said the traffic demand would be relatively low because there were other more convenient opportunities to turn right. He said if customers actually had to wait 20 seconds to get into the site, his experience suggested that they would decide to stop elsewhere, at the Cumberland Farms and Gibbs sites on Dover Road. He said the left turn arrival rate translated into one vehicle every 1.5 minutes on average, which meant that in most instances, there would be no vehicle turning left into the site.

Mr. Pernaw said in many instances, the delays to the 38 vehicles turning left would be minimal. He explained that the analysis indicated the wait would be about 10-20 seconds, but said this was based on a methodology that didn't take into account the beneficial platooning of westbound vehicles from the nearby traffic signal. He said there would not be enough delay to cause problems at the signalized intersection, and said they were not dealing with an over capacity situation. He said 38 vehicles in an hour period was a pretty light volume.

Mr. Pernaw responded to Norway Plains' questions concerning his recommended prohibition of left turns from the site onto Newmarket Road. He described the advantages of prohibiting left turns there. He said this would eliminate left turn departures at a driveway that would be blocked by near side queues during peak periods; it would eliminate the potential for collisions by left turn departures; and it would reduce the number of conflict points at that intersection.

Mr. Pernaw noted that left hand departures were not the predominant movement for that portion of the site, and said there would mostly be right turns in and out because they were the most convenient, just as was the case on Dover Road. He said the prohibition would shift the left turn departure movement to the best site driveway location for these movements, the second driveway (Driveway C) on Dover Road.

Mr. Pernaw also noted the disadvantages associated with the left turn prohibition: there would be an increase in left turn departure volume at Driveway C; it would increase the west bound left turn volume at the signal; and it would increase the travel distance for site customers wanting to head south on Newmarket Road. Mr. Pernaw said when he used his engineer judgment, he would rather have a 14-car increase at the traffic signal than a left turn on Newmarket Road.

Councilor Needell noted the concerns he believed Norway Plains had about the likelihood that if the queue of cars on Dover Road backed up to beyond the site entrance, it could impact the entire light cycle.

Mr. Pernaw said he did not believe this would be a problem on a regular basis. He said the volumes were light enough to handle this, and provided details on this.

Councilor Needell said his concern was that the queue could cause problems for cars behind it who wanted to make a left turn into the site. There was discussion about this.

Chair Kelley asked Mr. Pernaw whether, when he said what Councilor Needell had described would be an infrequent event, this was based on the 2005 build condition or on the 2015 condition.

Mr. Pernaw said he looked at the 2006 pm peak hour traffic, when the traffic on Route 108 was the greatest, which was more or less a worse case situation.

Chair Kelley received clarification that in the peak hour, there were roughly 485 vehicles wanting to turn left.

Ms. Harris said the Strafford Regional Planning Commission studies Mr. Pernaw referred to went back to 2000 and 2001, and therefore didn't take into account changes to the area since

that time. She provided details on this.

Mr. Pernaw noted he had used data from traffic counts done in November of 2004.

Ms. Harris said that count might have occurred close to Thanksgiving when fewer students were around.

In answer to a question from Mr. Grant concerning the traffic data, Mr. Pernaw explained that the while the 38 count referred to only the left turns into the site at Driveway C, and was a subset of the total number of trips in and out of the site,

Mr. Grant noted that page 24 said that left turn departures would continue to experience LOS F, and said he assumed that meant it was a failing grade.

Mr. Pernaw said LOS F meant people would have to wait more than 50 seconds. But noted that the traffic model that determined this couldn't take into account the nearby traffic signal and the benefits that would come from this. But he agreed that in a worse case situation, at peak hours, it would take more than 50 seconds on average, - but not for everybody. He said this was because of the congestion of the corridor, and was not unique to that site.

Mr. Grant noted a C Level of Service for right turn departures from the site in the am was anticipated and an LOS of F was anticipated in the pm. He said the reason he pointed this out to Board members was that at a prior meeting where they spoke about the Loop Road, there was discussion that something had to be done about the LOS F at that intersection.

There was discussion about this with Board members.

Mr. Pernaw said if one was going to suffer these unreasonable delays, the site would no longer qualify as a convenience store, but said he could see from watching the traffic at that location that right turns would operate a lot better than what the model said. He noted again the platoon effect of the signal. But he said if access were not convenient, people wouldn't go there.

He said with a level of F, there was enough volume coming out of the site that having turning lanes in the second driveway was important. He said a second way to deal with this was to put in a traffic signal, but said that couldn't happen there. He again said this Level of Service F happened all along the corridor, especially during peak periods, and said they were trying to retrofit the site to make it the best situation possible.

Mr. Grant asked if a third option was to not allow left turns out of the site into the traffic.

Mr. Pernaw asked where cars would be allowed to make left turns out of the site if this were not allowed.

Chair Kelley noted Mr. Pernaw had earlier mentioned that there was a clear advantage to not allowing left turns out onto Newmarket Road. He asked if that advantage would also hold true on Dover Road, and also asked if this could basically be a convenience store for traffic heading in one direction.

Mr. Pernaw said implementing this would require a median on Dover Road, and also said he

didn't know if the site would be viable from marketing standpoint if left turns were prohibited.

Mr. Kelley said the 38 vehicles in one sense was drop in bucket concerning the traffic analysis, but in another sense were economically important to the feasibility of the business.

Mr. Pernaw said he didn't think there would be a lot of left turns out of the site at 4:30 pm.

Chair Kelley asked if any changes were being proposed to the intersection traffic signal.

Mr. Pernaw said he was recommending a change to the cycle length. He noted the hotel created a fourth leg to the intersection, so for that reason alone, this needed to be done.

Chair Kelley asked if it would only be during peak hours that the timing would need to be modified.

Mr. Pernaw said the site itself would not require major changes to timing, but he said because of it and the new hotel, the timing would need to be re-optimized.

Mr. Webb said he had compared pre-build traffic data to post-build data, in order to be able to understand assumptions behind the model. He said he had noticed that the traffic volumes in and out of Gibbs were identical pre and post build. He said it had been noted that realistically, people would favor the establishment that was on the right hand side, so one would expect that people formerly turning left into Gibbs (and Cumberland Farms) would instead be turning right into Irving.

But he said in thinking about this, it seemed this would hold true if the facilities on each side were the same. But he said they wouldn't be the same if there were a Starbucks at the Irving site, because he believed people would make special trips to go there. He said it seemed that the model needed to consider this, and the recommendations needed to reflect it.

Mr. Pernaw said he agreed the site could be a place people made special trips to come to, but he said this was considered, and the increase in trips had been included in the model. He also noted that these trips hadn't therefore been deducted from the other two sites, because NHDOT wouldn't buy this. He said the agency's standard assumption was that all other places in an area would keep running just as they were, and said the numbers from the model were therefore conservative.

Mr. Isaak noted the right turn in planned for the first driveway, and asked why not eliminate it as well.

Mr. Pernaw said this right turn in was important for good traffic flow, but he noted that he had recommended that the driveway be narrower than the second driveway on Dover Road, and that there be signage that left turn ins were not allowed.

Chair Kelley asked if any members of the public wished to speak in favor of the project. Hearing no one, he asked if anyone wished to speak against it.

Suzanne Loder, 365 Mast Road, said she had previously been on the Planning Board, and understood the project and the process. She said she was pleased with the homework the

applicant had done, but said she didn't think the proposed use of the site was the right thing for that location. She said the current business at the site generated minimal traffic but said this project would involve three businesses on the same site.

She noted that when she was on the Planning Board, it turned down Dunkin Donuts for safety reasons when the company wanted to locate very close to the intersection. She said that was what the problem was with the proposal. She said there were too many opportunities for accidents to happen because of the proximity of the site to the light, noting also that the traffic in this area was increasing over time. She said she couldn't argue with the traffic numbers, but said from a common sense, she didn't attempt left turns into gas stations in Portsmouth, even when there was a turning lane she could use.

She said she thought the intersection would be very impaired by having increased traffic come moving in and out of the Irving site. She said many people who came up from Route 108 didn't look left, or right, so were not seeing what was going on.

Ms. Loder asked whether this proposed use was really in the interest of the Town and would benefit it, noting this question addressed the conditional use aspect of the application. She said it was not an advantage to the Town to have additional businesses of this type, noting there were other uses such as professional buildings where the ins and outs would be fewer, and people would not be as likely to be in hurry.

Beth Olshansky, Packers Falls Road, said soon after the previous hearing, she was almost involved in an accident in the vicinity of Smitty's because of someone making a left turn out of that site heading west on Dover Road. She said she thought this proposed use of the site was more than an accident waiting to happen, and noted an important factor to consider was the Town's large population of young people who were frequently impatient when they drove and often talked on cell phones while driving.

She said this was the most heavily trafficked intersection in Town, and noted that three businesses were planned for the Smittys site. She said she had concluded that it would be very dangerous to allow any left turns out of the site, and said perhaps the site wouldn't be as viable if these turns weren't allowed. She said it was the Board's responsibility that the business that went in at this location would not be a safety nightmare for the community. She said she couldn't think of a use that would be more intensive.

Ms. Olshansky said the Cumberland Farms representatives at a previous meeting seemed to have a traffic study that had different findings, and asked if a review of this study had been done.

Mr. Campbell said they had never provided a report on the study. There was discussion on the Cumberland Farms review that had been done.

Ms. Olshansky asked if the independent review done by Norway Plains agreed with Mr. Pernaw's figures.

Mr. Campbell said Norway Plains was more inclined to allow a left turn onto Newmarket Road than a left turn onto Dover Road.

Ms. Olshansky noted there had been discussion that evening about the benefits of the traffic light and the platoon effect on traffic flow in that area. But she said that even when she took a right turn out of Smittys, she was not sure there were those huge gaps in traffic during peak times.

She said she thought some of the assumptions were overly optimistic, and suggested that Board members go down to this area during peak hours. She said as a conditional use, it was not a permitted use, and said it was the Planning Board's job to see if it met the requirements of conditional use. She said she didn't feel the proposed use met the safety requirements.

Ms. Olshansky said another issue was aesthetics, noting the site was partially within the Town's historic district. She said the architectural design needed to be harmonious with adjacent buildings such as the courthouse. She noted the Board had spent months on this concerning the hotel application, and said she didn't think the current design for the building met the historic standard. She said whatever went on the site should be in keeping with these standards. She also questioned whether the signage was permitted, given that it would be located in the historic district.

It was clarified that the proposed free standing sign would not be located within the historic district.

Mr. Webb asked where along the Dover Road the potential accident Ms. Olshansky witnessed had occurred.

Ms. Olshansky said it took place in front of the pumps in the vicinity of the second driveway of Smittys.

Ms. Harris commented that a queue of seven vehicles would block that driveway.

Ms. Olshansky summarized that the same justification for not allowing lefts on Newmarket Road could apply to Dover Road. She said the Board needed to consider whether the proposed use would be of benefit to the community, and would meet the higher bar of conditional use.

Edward McNitt, Durham Point Road, said he went back a long way with the Strafford Regional Planning Commission and the Planning Board concerning traffic issues. He said the traffic issues had been well covered that evening by both sides. He said there was good reason to worry about the traffic, noting when he had met left turns out of Smittys in recent months, even since school had been out, it was difficult to do so at any time of day. He said there was a 30 second wait in the morning, and in the late afternoon the wait was much longer.

Mr. McNitt also said that friends had requested that he ask if Irving planned to provide full service at its station, as Smittys currently did.

Mr. Montiero said self service was proposed, but he said there was an intercom at the dispenser which allowed a customer to request service if necessary.

Ms. Carroll said she had received a letter from a handicapped resident who was unable to

pump her own gasoline, and had been finding that when she requested that an employee pump the gas for her that there was no one available to do this.

Mr. McNitt said if Smittys disappeared, full service in Durham would be gone. He said there were a lot of citizens who would like this service to be available.

Chair Kelley noted that several letters and emails had been received from citizens, and said he would read them into the public record in a few minutes, after Board members asked additional questions.

Mr. Grant noted that page 12 spoke about Build Traffic volumes. He said this section said projections depicted worse case summer month conditions, but he said the Town's peak was not summer months, it was winter months. He asked how the numbers should be adjusted, based on this.

Mr. Pernaw explained the approach he had taken and said these numbers were on the high side.

Councilor Needell referred to Table 7 on page 20, and asked what the capacity numbers meant. Mr. Pernaw provided details on this.

Mr. Roberts asked if data had been presented on the business case for this proposal. He said it was now the Planning Board that was supposed to look at this kind of information for conditional use proposals, noting the Town Council had previously had this role. He said that for the hotel project, someone from the Whittemore School had examined the business aspects of the project. He said he was stymied as to why the applicant didn't start out where it was now with the architectural design, and said he hoped the applicant had done his homework on the viability of the business. He said he would like to see some data to show this.

Mr. Montiero asked if this was required of the applicant as part of the conditional use process.

Mr. Roberts said the conditional use provisions spoke about viability and economic effect. He said the responsibility for looking at this was formerly placed on the Town Council, but with the recent Ordinance changes, it became a responsibility of the Planning Board. He said the application had to be reviewed under the conditional use provisions under the pre-existing Ordinance, but under the new Ordinance, the Planning Board had to approve conditional use applications by a super majority.

Mr. Montiero asked if the new Zoning Ordinance was in place.

Councilor Needell said what Mr. Roberts had referred to was in place

Mr. Roberts said the applicant for the hotel didn't find providing this kind of information to be a big problem.

Mr. Montiero said this kind of information was proprietary for gas stations because of competition. He said they did their own internal sales projections and analyses concerning whether a project made sense economically.

Mr. Roberts said his concern with the architecture was that it started out looking like they took a highway gas station and plunked it down in downtown Durham, which was not appropriate. He noted the applicant had been making changes, but said he hoped the applicant had done better research on what would be happening inside the store than had been done on the architecture.

Mr. Montiero said he would take this under advisement.

Mr. Campbell said he didn't think the business information could be required of the applicant, and noted that for the hotel project, the applicant had gone ahead and had this analysis done. He said the applicant had shared this information with UNH, but was not required to do this. He said the Board had to look at fiscal impacts, but not whether an enterprise would survive.

Mr. Roberts said he disagreed. He said whether or not an enterprise would survive was something that impacted the Town. He said the hotel applicant had agreed to answer the questions of the Council and Planning Board and said the economic viability of the proposed project was explored.

Councilor Needell said the Zoning Ordinance said the Planning Board had to review the fiscal impact of a proposal on the Town, but said the question was whether looking at financial viability was part of fiscal impact.

Mr. Grant said he remembered that the Town had hired University faculty to do a study on the economic viability of the hotel, and it wasn't the applicant who provided the data. He said they had agreed to share some data with the University.

Mr. Campbell noted the Town had asked them to do that.

Chair Kelley asked if Irving was a franchise.

Walter Eutize of Irving said all the Irving stores were corporately run by corporate people, and were managed by corporate management.

Mr. Webb said Mr. Roberts raised a good point. He noted that with the hotel, the Planning Board had been concerned about the financial viability of the hotel because of concerns that it could otherwise become student housing. He said in this case, it was a given that this enterprise would survive, but he said he did think the economics did relate to the believability of the traffic analysis. He said perhaps the business would be even more successful than was proposed in the model, and there would be more traffic. He said another financial consideration was the impact of the business on competitors across the street. He noted that at the site walk, the applicant had said that Cumberland Farms wouldn't last once Irving opened. He said there probably was some realism behind that statement, and said the question was what would happen with the Cumberland Farm site.

Mr. Grant said he shared Mr. Roberts' concerns about the architectural design, and said he agreed that the design of the Irving station in Stratham was much more attractive than what he saw in the drawings of the proposed building in Durham. He said he thought the gas station in Durham at this location in Town had to be even better than the one in Stratham. He

said he didn't have concerns about the business being a money maker, and said he thought Irving could afford to invest in a design that was really suited to the location, and was not just another gas station/convenience store.

Mr. Grant also spoke about the free standing sign. He said his interpretation of the ZBA approval was that this permission was granted strictly for the purpose of gas station, so he didn't think the sign could advertise other uses.

There was discussion about this, and Mr. Montiero said the ZBA's concern was that the variance didn't go with property, but went with the use, as a gas station.

Ms. Harris said she had some of the same concerns about safety that others had expressed, and noted some of her concerns in part were because of cars that would be parked in front of convenience store. She also said she had a similar experience in terms of seeing a person cutting across three lanes of traffic to make a left turn onto Dover Road. She noted that students would be coming to the convenience store, which would sell alcohol, and said some of these people might already have been drinking. She said she saw this as a great worry, and said she felt there might be lives lost there.

Ms. Harris also said she knew that when Route 108 was reconstructed, there were major problems with Smittys' drainage, and said the current drainage went to a location that was not indicated on the site plan. It was clarified that this location was in fact on the current site plan.

Ms. Harris also said she was concerned about the portion of the site that would be paved and used for underground drainage, and said it seemed to be a waste of an area, also noting the poor view this would create as one drove down Church Hill toward the intersection. Ms. Harris provided the original site plan offered as a possible arrangement, which she said was similar to the layout of the Stratham gas station, with the convenience store and pumps in the front. She said the entry way was not on the main street at all, but instead was on the side. She provided additional details on this, and also provided details of an alternative for the Smittys site.

In reference to Ms. Harris' proposed layout, Chair Kelley asked if the applicant had any interest in engaging with the Town to get access across the Town's property to School House Lane.

The applicant, Mr. Mitchell, said he had spent four months with the Council trying to do a land swap, where the Town would have received 15,000 sq. ft, including the entire frontage on Newmarket Road and frontage on Dover Road, and he would have received 6,000 sq. ft. of backland. But he said they got nowhere, and said the Town now had a new Ordinance that said there could not be any parking in front of the building, so a variance would be required in order to do this. He said he had decided that enough time had been spent on this matter, and said at this point there was no going back, and he had not interest in discussing it.

Chair Kelley said he would like the Board to keep focused on the plans at hand.

Councilor Needell asked Mr. Montiero to comment on the idea of a prohibition of left hand turns.

Mr. Montiero said this had been discussed, but he said if a median was put on Dover Road, some people would want to turn around to go downtown after they got gas, which would create more conflicts and illegal turns. He said they could talk some more about allowing a left on Newmarket Road.

Councilor Needell said another concern raised was the increase in the intensity of use of the site. He said in order to allow the use to exist, there were traffic problems, and said the question was how to best deal with that.

Mr. Montiero noted that said some of the comments about Dunkin Donut didn't apply because the applicant was not proposing a drive-thru. But he said to make the economics of the plan work, they needed to put a donut shop there, and said two tenants were needed to make the project work. He said they were not sure Starbucks would be one of them but he noted that Mr. Pernaw had anticipated that scenario.

He said a key thing was that if it were not convenient to come there, people would have the option to go across the street. He said he felt this site layout was superior to that of others in the area, but said he would go back and do more thinking on the access. Mr. Montiero said it would be helpful of Norway Plains could be at the next meeting.

Chair Kelley said it would be nice to hear from NHDOT on this. There was discussion on the status of NHDOT's findings, and Mr. Campbell said they had said that the methodology was acceptable and could be used for design purposes.

Chair Kelley said the ability to improve the traffic situation was somewhat limited, but he said the ability to make this a special place was something that could be done. He asked that the applicant dazzle the Board, and make this a very unique Irving station. He said he could see that the company was expanding, and said while he understood the need for a somewhat similar look, there must be some value as well in having a unique station.

Ms. Fuller asked for details on the proposed light poles. She also said she felt a brick façade on the building would be better, and would be in keeping with the courthouse. She provided details on this, and said it would make a world of difference. She also described a canopy design as well as mansard roof design that would be better than what had been designed.

Mr. Montiero said perhaps the Board could give him a consensus on what it wanted. He said he thought that based on meetings so far, that this was what the Board had agreed to.

Chair Kelley agreed that the applicant had given the Board what it had asked

Ms. Harris said the Board was saying the architecture wasn't good enough.

Mr. Isaak said a main impact of the building was its mass. He said it didn't come across as a New England building, and had a dated 60's ranch look to it.

Mr. Montiero said the courthouse had a hip roof, so they were trying to mimic the historic district.

Mr. Isaak said having a hip roof on a three-story building was quite different than having one on a one-story building. He described some design ideas that would work better, such as a

street-facing gable.

Mr. Montiero noted they had talked about this at the site walk. He said they were looking for a consensus on these design issues, such as the roofline.

Chair Kelley thanked Mr. Montiero for responding to the Board's previous concerns, and said the present plan was a vast improvement in terms of the drainage design the moving of the detention basin, and some of the architectural design. He said if the Board had reached some sort of consensus on the architectural design, he would like to convey this to the applicant that evening.

Councilor Needell commended the applicant for accommodating the Board's requests, but said that perhaps "come back and dazzle us" was the best consensus the applicant would get.

Mr. Montiero asked what elements of the Stratham store Mr. Roberts liked.

Mr. Roberts said at the site walk they had talked about a gable roof, full brick fascia, vertical window structures mirroring the courthouse as much as possible, trying to match the hotel's federal style fence and the hedge used as both a barrier and as landscaping, matching the Town's light poles etc. He said it would be good to tie the design elements in with these elements in nearby buildings.

Mr. Montiero said they tried to match the hotel with the mixture of clapboard and brick that was requested.

Mr. Roberts said the importance of matching the courthouse, which was right next to the site, was discussed at the site walk. He noted the Town's Master Plan had spoken for some time of the importance of this structure.

Mr. Isaak said that procedurally, the site plan review was critical in terms of the site layout and traffic, and the architectural design was secondary to this. He asked what the approval process was concerning these various elements, and there was discussion about this.

Mr. Webb said he didn't believe it was possible to come up with a consensus from the Board, given the hour and the variety of opinions. He suggested that the applicant provide some options on the architecture for the Board to consider for the next meeting, if this wasn't too difficult. He noted that the Stratham and Northwood stations had canopies that people on the Board generally liked, and said getting some options on this and other design elements would be good, so they could all be laid out and perhaps there could be some agreement.

Chair Kelley said if the applicant was willing to indulge the Board on this, that would be appreciated, and Mr. Montiero said absolutely. Chair Kelley asked that the applicant request a 60-day extension, and Mr. Montiero said they would send something in writing on this.

Chair Kelley noted the letters and emails that had been received concerning the applications, and asked if these could be incorporated into the public record as part of the minutes.

Mr. Grant proposed that the hearing be continued, and said the letters and emails could be read into the record at that time. He also said he would hope that the Town's traffic consultant would be present at that meeting to answer questions about his report.

Arthur Grant MOVED to continue the public hearing to the next meeting of the Planning Board on June 22nd, 2005. The motion was SECONDED by Kevin Webb.

Mr. Pernaw noted that he would not be able to attend the June 22nd meeting.

Councilor Grant asked that Mr. Pernaw and the Town's traffic consultant both be present at the Board meeting after that.

Mr. Montiero said that would work, because there would be plenty of other things to discuss at the June 22nd meeting.

The motion PASSED unanimously.

VII. Presentation of Feasibility Study for Re-establishing a Navigation Channel in the Oyster River and Related Improvement of Wastewater Dilution.

Judith Spang spoke before the Board, and noted the various people on the Oyster River Channel Restoration Task Group who had been involved with developing the Feasibility Study. She said this project was seen as a restoration opportunity, explaining that the Oyster River was currently considered to be degraded because of siltation, which was impacting its ecological values and use as a recreational facility. She said the sediment had caused a drastic decrease in the amount of water going up and down the river, and had also decreased the dilution capability at the wastewater treatment plant.

Ms. Spang said a \$20,000 grant was obtained for the project, which was matched by approximately \$20,000 or more of free labor. She noted that because of the extensive amount of volunteer labor, there had been money left over, so the study was extended to do a more in-depth analysis of how dredging might help with the wastewater plant and its problems, and to study the river further up and down stream.

She said that as part of the project, Dr. Lee Alexander of the Center for Coastal and Ocean Mapping took a vessel up and down the river to measure depths. She said they also got depths from past historical data for comparison purposes, although noting it was hard to compare the data because different mapping techniques were used in the past. She said the analysis had determined that there were pockets of areas that were deep enough, but they were not connected. She provided details on how the navigability of the river had decreased in recent decades, and also noted that the analysis had indicated that the shoreline had been altered during this time.

Ms. Spang spoke about the Great Bay Rowing Club, which now had 70 members and offered important opportunities for Durham youth and adults. She said this was the kind of activity residents had talked about for some time, one that would allow people to appreciate the Town's water resources, but it was happening at the same time the Oyster River as a resource was degrading.

Ms. Spang noted the concern on the part of the Coast Guard that if there were an accident on the river, it wouldn't be able to perform a rescue. She also said that ecologically speaking, the river in many respects had become a wasteland. She noted there used to be a 9-acre oyster bed, but it was now down to about 1-2 acres, in part because the oysters no longer had the

rocky substrate they needed.

She said the Conservation Commission had endorsed proceeding further with this effort, and noted that the Commission was interested in determining why this siltation was occurring, and where it was coming from. She spoke about non-point source pollution issues that reflected that some land use activities were causing the sedimentation problem, and noted that on a rainy day, one could sometimes see the flow of sediments into the river.

Ms. Spang said that when NHDOT had done the road work on Gasoline Alley, a noticeable change was seen, and also said that one of the biggest changes that was observed resulted from the 1986 floods. She also said that Mill Pond appeared to be silting up, so no longer served as a silt trap. She explained that once a water body became shallower, it started to drop silt more, which accelerated the siltation process.

Ms. Spang next spoke about possible solutions. She said the character of the river's sediments had been studied two times, to determine if toxic sediments would be released if it was dredged, and said it was found that for the most part the river was very clean. She said this pointed to the fact that there had never been tanneries or other polluting industries along the river.

She also said it was determined that if the river were dredged, there wouldn't be significant ecological problems, because the existing organisms were fairly tolerant, although noting that NH Fish and Game Department disagreed about this concerning the oysters. She said Jackson Lab on the other hand felt that dredging was the best thing that could be done for the oysters, and that they would quickly repopulate the river.

She said in terms of possible related improvements to the wastewater plant as a result of dredging, things became more difficult, because NHDES was not clear about what it wanted in terms of a dilution factor. She provided details on this.

Ms. Spang said estimating the cost of undertaking this work was difficult, and provided details on this. She also said the issue of what to do with the dredging spoils had not yet been solved, noting the UNH location originally proposed was no longer available.

Ms. Spang said it would be inappropriate to go further with this project without an indication from the Town that it would approve this, noting this was especially important in terms of finding money for the project. She said the Task Group was hopeful that federal money could be obtained for the dredging operation. She said she was coming to the Planning Board in hopes that it would vote to endorse proceeding with the effort, with the understanding that there might be stumbling blocks along the way.

Chair Kelley said there were advantages to doing this project in order for the wastewater treatment plant to meet the regulations, and asked if it could be an alternative to making improvements to the plant.

Ms. Spang said this couldn't be said for a number of reasons, and provided details on this. She also noted the regional outfall approach that was being considered. She said what was known was that if the dredging occurred, dilution would occur, and this would have ecological benefits and would restore the river to its rightful place in Durham as a

recreational resource for the Town.

Mr. Campbell said the Public Works Department was not looking at this approach as the solution for the wastewater plant, noting they were looking at various options concerning this. He said it was more important to look at this project as a way to increase recreational opportunities.

Ms. Spang provided details on the limitations of the river at present.

Ms. Carroll asked if the money were in place to dredge the channel, whether something would have to be done at Jackson's Landing and at Mill Pond first.

Ms. Spang provided details on this

Pete Cathey, Head Coach of the UNH Men's Rowing team, said he had done historical research on the river and land uses along it, and said it was amazing to see the amount of water that used to be in the river.

Councilor Needell asked if there was any information available on when the river had been dredged in the past.

There was discussion about this. She said it had been informally dredge in the past, but said there was nothing in the records of the Army Corps of Engineering concerning any kind of formal dredging. She noted the Lamprey and Exeter Rivers had been dredged, and all the rivers in the area were being impacted by runoff.

Mr. Isaak asked how long the results of the dredging would last, and there was detailed discussion about this with Ms. Spang and with Dr. Larry Harris, a UNH Zoologist/Marine Biologist.

Ms. Fuller asked about the location of the oyster beds, and Ms. Spang said they were right off of Deer Meadow Point.

There was additional discussion about the degraded state of the river.

Mr. Webb asked about the current alewife population, and Dr. Harris said the evidence suggested that there weren't the number of fish now that there had been.

Mr. Grant asked whether the Council had considered the feasibility study.

Ms. Spang said she had distributed the reports to Council members in 2002, but had not yet gone before the Council because she wanted to go before the Planning Board and Conservation Commission first.

Chair Kelley asked for more specifics on the cost estimates, and what they included.

Ms. Spang said the figures developed by the engineering firm were very sketchy and needed a lot more work.

Chair Kelley asked if any cost figures were available from other river projects being done in the area, and there was discussion about this. He said the issues still out there concerned the

cost, locating a site for the spoils, and where to find the funding.

Ms. Spang said the Chair Kelley could appreciate the level of detail that would be required in order to get meaningful cost estimates. She said the Task Force had decided it made no sense to go to the next stage until there was some sign from the Town that it would be willing to follow through until the facts mitigated against this.

Mr. Roberts agreed with the need for the dredging, based on his own experience of navigating the river.

Chair Kelley said in the report, it spoke about blades turning up sediments, and the damage this did to the habitat. He asked if there would be some habitat damage during the process. There was discussion about different kinds of dredging, and their impacts.

Councilor Needell said the fact that the dredging issue was occurring for the first time brought up the question that they needed to do a lot more work to find out why it was happening.

Ms. Spang spoke in detail of the responsibility to clean up the siltation, and said once they had to pay the cost of cleaning it up, more would be done to prevent it.

Councilor Needell said he was trying to put an historical picture of what had happened in the last twenty years besides storms to cause this.

There was detailed discussion by members of the Task Force about growth in the region and the runoff problems that had resulted from this. Ms. Spang said there really was the chance to turn a whole new page concerning runoff issues, and she provided details on this.

Chair Kelley asked if there would be any property rights issues as a result of changing the mean low tide, and there was discussion about this.

Mr. Webb said if the Town proceeded with this, it would have to be accompanied with erosion control measures at places such as Jacksons' Landing. There was discussion on the work that was needed there. Mr. Webb said an active education program would be needed for shoreland owners in Durham.

He also asked what willingness the University had shown to support the whole project, noting the siltation problem affected their portion of the wastewater plant and some of their crew teams.

Ms. Spang said the University had been generous about offering its expertise, but said it would be unrealistic to ask them to put money into the dredging.

Kevin Webb MOVED to endorse issuing a statement of support for pursuing dredging of the Oyster River channel. The motion was SECONDED by Nick Isaak.

Councilor Needell asked if this was being directed specifically to the Town Council.

Ms. Spang said a blanket endorsement would work well.

Mr. Roberts asked what specifically Ms. Spang would like the Board to recommend. There

was discussion about this, and it was agreed that the general motion was sufficient at present.

Councilor Needell asked why the Planning Board should be involved in endorsing this.

Ms. Spang said the Planning Board was one of the bodies that had asked for this study to begin with. She said this was a Planning Board policy/goal and was part of the Master Plan, and also noted the Board had provided a letter of support in the grant application.

Mr. Isaak received clarification that the Task Force was asking for reaffirmation, now that the Planning Board had seen the study.

Bill Hall provided detailed comments on why the amount of water coming up the river wouldn't change a bit as a result of the dredging, so the dilution of the wastewater treatment water wouldn't happen. He also said some shallow portions of the river hadn't changed that much over the years, and also said only one area of Mill Pond had become shallower. He said he didn't think it had filled in a bit.

Ms. Spang asked Mr. Hall if he had read the report, and he said he was basing his comments on what she had presented to the Board.

The motion PASSED unanimously.

Richard Ozenich MOVED to adjourn the meeting. The motion was SECONDED by Kevin Webb and PASSED unanimously.

The meeting ADJOURNED at 10:45 PM.

W. Arthur Grant, Secretary