

D-R-A-F-T

DURHAM PLANNING BOARD MINUTES WEDNESDAY, AUGUST 10, 2005 TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL

PRESENT MEMBERS: Richard Kelley; Kevin Webb; Stephen Roberts; Nick Isaak; Richard Ozenich; Arthur Grant; Councilor Gerald Needell

PRESENT ALTERNATES: Councilor Diana Carroll, Bill McGowan; Annmarie Harris, Susan Fuller, Lorne Parnell

MEMBERS ABSENT: None

OTHERS PRESENT: Jim Campbell, Town Planner; Todd Selig, Town Administrator Selig; Mike Lynch, Public Works Director; and Bob Levesque, Town Engineer

I. Call to Order

Chair Kelley designated Susan Fuller as a voting member for the meeting.

II. Approval of Agenda

Arthur Grant MOVED to approve the Agenda as submitted. The motion was SECONDED by Richard Ozenich, and it PASSED unanimously.

III. Approval of Minutes

June 8, 2005

Page 1 - Kevin Webb's name should be take off the list of Members Present, and notation should be made at the end of the second page that he joined the meeting at 7:30 pm

Page 4 Item 1, line 4, after "...to be designated for this. In addition, the out lane would increase in width to allow an out westbound, and out eastbound lane, with lanes to be designated for this."

Page 5, 3rd paragraph from bottom should say (364 vehicles) Same paragraph, should say "...would enter the site that way over the peak pm hours. He said the analysis..."

Page 6, spelling of Chair Kelley, 2nd and 4th paragraphs from bottom. Also, 2nd paragraph from bottom, should read "...received clarification that in the peak hour, there were..."

Page 7, paragraph 6, should read "...something had to be done about the LOS F rating at that intersection."

Page 10, 4th paragraph, should read "Mr. Webb asked where along the Dover Road the potential accident....."

Page 11, 2nd paragraph, should read "...that page 12 of the Pernaw report." (also, get rid of double period of that sentence)

Page 12, 6th paragraph, should read "...viability of the hotel, based on data provided by the applicant. He said they had agreed....."

Page 13, 5th paragraph, should read "...also noting the poor view this would create as one drove down Church Hill toward the intersection."

Page 15, fix spelling of Montiero, 4th paragraph

Page 17, 2nd paragraph, "...had done the road work on Gasoline Alley..."

Arthur Grant MOVED to approve the June 8th Minutes as amended. The motion was SECONDED by Stephen Roberts, and PASSED unanimously.

Mr. Grant said he had asked that the Minutes of June 22nd be redone and reissued because of some formatting and spelling issues.

IV. Report of the Planner

- Mr. Campbell updated the Board on the Town Council's work in reviewing the Zoning Rewrite. He noted that the Council had passed on first reading the various overlay districts, and said a public hearing on these was scheduled for the August 15, 2005 Council meeting.
- Mr. Campbell said the September 28, 2005 Board meeting was planned as the next quarterly planning meeting. He said this would be a good opportunity to have a more in-depth discussion of some of the issues Chair Kelley had said he would like to see the Board look at.

V. Integrated Waste Management Advisory Committee – presentation on “Green Buildings – Leadership in Energy and Environmental Design”

Jessie McKone and Merle Craig spoke before the Board. Ms. McKone explained that the IWMAC was working on a green building initiative. She said the concept had to do with sustainability and a means of encouraging waste reduction and the wise use of resources. She said there had been some preliminary conversations with Administrator Selig and Town Planner Jim Campbell about this concept. She said the Committee planned to educate the public about the value of green building through presentations by speakers who were familiar with the process. She said they hoped to do this in October, noting the Planning Board would receive special invitations for the presentations. She also said the Board would be asked to provide some guidance concerning this approach.

Ms. McKone noted that the City of Portsmouth was going for LEED (Leadership in Energy and Environmental Design) certification for its new library. She explained that this involved a rating system developed by the Green Building Council, which recognized expertise in green building. She noted that Merle Craig was a LEED certified professional, who was instrumental in organizing the green building initiative in Durham.

Merle Craig said the Committee had some experience related to the field of green building, and hoped to eventually make recommendations to the Council for green

building techniques that could be used for Town buildings. She then described in detail the various benefits of green building.

Ms. Craig said the initial cost involved in green building was said to be 2-4% higher than traditional building, but said this could vary, also noting there was evidence that this could be recouped in energy savings. She noted that the documentation involved in LEED certification involved a certain amount of cost for developers.

She said the green building process was comprehensive, and started before a building site was selected. She noted that assembling an experienced team of architects and engineers was essential for successful completion of a green building project.

Ms. Craig said that as the Planning Board was working to update the Master Plan, the IWMAC Committee would like to know if there was interest in incorporating green building concepts into it. She noted the Committee was not looking for a response from the Board that evening.

Chair Kelley asked whether there was a bar the Committee would like to establish for municipal buildings, and what LEED standard it was looking to meet. He also asked if the IWMAC members knew of any towns in New Hampshire that were doing green building as part of private development.

Ms. Craig provided details on the LEED certification process. She noted that the Jordan Institute was available to guide NH towns and developers wanting to do green development. She spoke again about the fact that Portsmouth was going for LEED certification, and also noted that a new building being constructed by the Forest Society would meet either the silver or gold LEED standard.

Councilor Needell asked if the Committee had a time frame when it would be bringing recommendations on green building to the Town Council, and was informed that the Committee thought this would happen by the end of the year, or the beginning of 2006. It was noted again that the Committee hoped to have some meetings in the fall to educate themselves, other Town boards and committees, and the public at large.

Mrs. Harris asked if the building referred to at the Forest Society was new, and Ms. Craig said it was a new section of the Forest Society's building that had gotten the LEED certification.

Ms. Harris noted that the Mast Way School in Durham was built with a significant amount of sustainable conceptual design. She also said the Chair of the Library siting committee had been involved with this, and had great interest in the idea that a new public facility could meet green building guidelines.

Ms. Craig thanked Ms. Harris for sharing this, and said the Committee had intended to make this contact.

Ms. Fuller asked if LEED certification came about once the building was built.

Ms. Craig explained that it was a longer process than that, noting that even after the building was constructed, it had to be documented that the energy system, etc. were performing as expected.

Councilor Carroll asked if there were any buildings in Boston or in the region that were LEED certified.

Ms. Craig provided details on this, and also noted that some cities now had ordinances that reflected green building principles. She said things were really changing in the building community.

Chair Kelley thanked Ms. McKone and Ms. Craig for the presentation.

- VI. Acceptance Consideration of an Application for Boundary Line Adjustment** submitted by Doucet Survey, Inc., Newmarket, New Hampshire, on behalf of Barry T. & Sky M. Ryan, Durham, New Hampshire and R. Gregory & Nicole I. Moore, Durham, New Hampshire to change the boundary line between two lots. The properties involved are shown on Tax Map 16, Lots 26-1 and 23-3, are located at 321 & 343 Dame Road respectively and are in the Rural Zoning District.
- VII. Acceptance Consideration of an Application for Subdivision** submitted by Doucet Survey, Inc., Newmarket, New Hampshire, on behalf of Barry T. & Sky M. Ryan, Durham, New Hampshire and The Nature Conservancy, Concord, New Hampshire to create two lots from one lot. The property involved is shown on Tax Map 16, Lot 26-1, is located at 321 Dame Road and is in the Rural Zoning District.

Mr. Campbell recommended that both applications be run concurrently.

Chair Kelley agreed, but said he would like to make sure that when the Board voted on these items, it put the motion on the boundary line adjustment in front of the subdivision application motion, due to the nature of what was being proposed.

Mr. Isaak said he would recuse himself because he was related to Nicole Moore.

Chair Kelley said Susan Fuller would vote in place of Mr. Isaak.

Chris Daine of Doucet Survey addressed the Board. He said the proposal was to divide Lot 26-1 evenly, leaving 22 acres with the existing farmhouse, and providing 21.8 acres to be acquired by the Nature Conservancy. He said this second parcel would then be transferred to the Great Bay Partnership, and ultimately would be transferred to the Society for the Protection of New Hampshire Forests. He said the plan also provided for a lot line adjustment between the Ryans and the Moores in order to provide a small area to the Moores so they could open it up somewhat in order to improve their lawn.

Mr. Campbell said the applicants had provided what was needed, noting they had applied for a number of different waivers, most dealing with conservation subdivision, which the subdivision was exempt from. He said they were also asking for a waiver regarding the boundary line adjustment, and provided additional detail. He said he did not have a problem with granting this waiver, and said barring any concerns, he recommended accepting the applications, and scheduling the public hearing and site walk.

Chair Kelley said he was fine with the waiver request, but suggested showing the existing and proposed lot for Lot 23-3 on the site plan in time for the public hearing. He also said it appeared that two Lot 26-2's would be created, and said perhaps this could be resolved prior to the public hearing. Finally, he noted the utility easement being granted, and the

fact that the lot line would split the easement. He asked if anything had to be done concerning this.

Mr. Daine said the deed would make mention of the utility easement going through a portion of the property.

Chair Kelley said he did not see a seal on the plan, and Mr. Daine noted that the presentation plan was stamped.

Chair Kelley asked if there were any deed restrictions on the lot that was intended for subdivision, and Mr. Daine said he was not aware of any. Chair Kelley said a note concerning this should be included.

Councilor Needell pointed out comments from Code Administrator Johnson concerning whether septic design was an issue that needed to be addressed.

Chair Kelley said given the nature of the intended owner, he did not believe so.

Councilor Needell asked if there would be a conservation easement placed on the second property.

Duane Hyde, representing the Nature Conservancy, said this would be an in-fee acquisition of the property for conservation purposes by the Nature Conservancy on behalf of the Great Bay Resource Protection Partnership. He explained that the partnership had voted to transfer the property to the Forest Society, and said the transfer involved the fact that the property would be purchased using federal money. He said the funding agency required that the property be used for conservation purposes, and also said the Nature Conservancy would place a deed restriction on the property.

Chair Kelley noted the abutters' list, but said he did not see these names on the subdivision plan.

Mr. Daine said this was a drafting error, and said the names would be on the final plan.

Arthur Grant MOVED to accept an Application for Boundary Line Adjustment submitted by Doucet Survey, Inc., Newmarket, New Hampshire, on behalf of Barry T. & Sky M. Ryan, Durham, New Hampshire and R. Gregory & Nicole I. Moore, Durham, New Hampshire to change the boundary line between two lots. The properties involved are shown on Tax Map 16, Lots 26-1 and 23-3, are located at 321 & 343 Dame Road respectively and are in the Rural Zoning District. Councilor Needell SECONDED the motion, and it PASSED unanimously.

Arthur Grant MOVED to accept an Application for Subdivision submitted by Doucet Survey, Inc., Newmarket, New Hampshire, on behalf of Barry T. & Sky M. Ryan, Durham, New Hampshire and The Nature Conservancy, Concord, New Hampshire to create two lots from one lot. The property involved is shown on Tax Map 16, Lot 26-1, is located at 321 Dame Road and is in the Rural Zoning District. Richard Ozenich SECONDED the motion, and it PASSED unanimously.

Chair Kelley said the Board needed to schedule a site walk and public hearing for these applications.

Mr. Campbell recommended that the public hearing be held at the August 24th Board meeting.

It was agreed that the site walk be held on August 19th at 7:00 am.

Mr. Campbell asked that identifiable marking be numbered on the plan and on the site for Board members.

There was discussion on what the site walk would cover.

VIII. Public Hearing Presentation on a proposal submitted by the Town of Durham Public Works Department, Durham, New Hampshire to demolish 3 buildings and construct a temporary 167-space municipal parking lot to act as a hazardous waste mitigation cap. The properties involved are shown on Tax Map 1, Lots 1-0 & 1-1, are located on Depot Road and are in the Residence A Zoning District.

Public Works Director Mike Lynch said if Board members wanted to do a site walk of the property in question at some point, he would be more than happy to accommodate them, either as a group or individually.

Town Engineer Bob Levesque provided an overview of the site, including a brief history. He said that in the mid 1980's NHDES had noted spillage of TCE, a dry cleaning solvent, at the Craig Supply site (the property in question). He explained that the Craig Supply Company was a supplier of this chemical to dry cleaning establishments in the region. and said the spillage had occurred over time, and not as a result of a major spill of some kind. He said in 1989, the company filed for bankruptcy because of the contamination that had been found, and said the bankruptcy was finalized in 1996.

Mr. Levesque said the Roy Weston company completed a site assessment report for NHDES in June of 2000. He said that with grant funding, GZA completed Phase I of a hydrological investigation of the site to look at contamination of soils, and said that in 2002, GZA was contracted to do Phase II of the hydrological investigation, which looked at groundwater contamination issues. He said a Remedial Action Plan (RAP) was developed after that, to determine how to reclaim the site.

He said since the RAP was done, the Town had taken possession of the property through the tax lien process, and had an agreement with the State to clean it up. He said there had been a lot of discussion with the EPA about how to proceed in cleaning up the site, and noted the Town had applied for and received an EPA brownfields grant for \$200,000 for 2005. He said this was a drop in the bucket compared to the total cost of cleaning up the site, but said it was a beginning. He said the cleanup cost would be in the millions, with a 5-15 year time frame.

Mr. Levesque explained that the contamination was confined to a small portion of the total site, and said the Town wanted to construct a temporary municipal parking lot on the site as a short term way to address the contamination, and to provide revenue for the continued clean up of the site. He explained that the parking lot would create an impervious surface which would keep rainwater from getting into the soil of the contaminated area. He also noted that EPA had encouraged the Town to use the \$200,000 in part to develop the parking lot, as part of the clean up process.

Mr. Levesque described the drainage on the site, noting among other things that it flowed down behind the Whittemore Center. He said the thought was that the parking lot would be developed in part as a staging area to allow removal of some of the contaminated soils. He provided details on this, and said there would be an erosion control plan. He said the parking area was thus a temporary application.

He said they had started taking down buildings on the site, but were proceeding slowly, noting that environmental testing was taking place. He said the intent was to have 167 total spaces, 156 of which would be leased, 6 of which would be handicap spaces, and 5 of which would be set aside for people using the train station.

Mr. Levesque noted there would be overhead pole lighting to avoid additional digging, and he provided additional details on this.

He also spoke about the University's desire to dig a tunnel through a portion of the site in the future, as part of its transportation plans, and explained that the tunnel would tie Main Street to Edgewood Road. He noted that this possible future vehicular underpass had been included on the current site plan for the property.

There was discussion among Board members as to why the tunnel was on the plan when there were no plans yet to actually construct it.

Mr. Levesque said he put it on the plan to indicate that this tunnel would not be located in the contaminated area.

Ms. Harris said, looking at the site plan, that at one time this tunnel was planned to be for further to the right on the site. There was discussion about this.

Mr. Levesque said the currently proposed location for the tunnel would be the only spot it could go.

Mr. Grant said he assumed that now that the Town owned the property, it owned the rights to what went on and below the ground.

Mr. Levesque said there was an easement across the property to the railroad, and said all the easement said was that the University would have access to the railroad.

Mr. Grant said he liked the idea of including spaces for people using the railroad, but said five spaces was pathetically small, and approximately 25 spaces were needed.

Chair Kelley said the Board needed numbers on how many users there were on daily basis.

Mr. Roberts provided details on the fact that more spaces were needed.

Councilor Needell asked if users would pay for those spaces.

Administrator Selig said they had been looking at the issue of commuter spaces, and said they had separated the parking for the railroad into two types, the first being a static parking lot, where users would get an annual pass, and could park overnight. He said this could include commuters who used the railroad on a daily basis, and would be part of making parking and taking the train more affordable. He said a second type of railroad

parking would be to provide day passes for the 5 spaces that had been mentioned.

He said it really wasn't known yet exactly how many spaces would be needed, and said the Town wouldn't know this for sure until it started to develop the parking lot. He said if the Planning Board had a recommendation on the number of spaces needed, he would like to hear this. . But he noted that for every parking space that was changed from an overnight to a day space, the Town would lose about \$1,000. He provided additional details on options that could be tried the first year as they saw how much demand there was for the parking spaces. He also said that perhaps a special pricing scheme for commuters could be developed for Durham residents. There was additional discussion about this.

Administrator Selig noted concerning the tunnel that the Town had not given permission in any way to UNH to use or install a tunnel, and had only been talking with them about this from a planning perspective. He said the University had been included in discussion on the contamination issues. He said similar to the plan for the Gables project which at first hadn't shown the northern connector, the Town felt it was important to show the location of the tunnel, and thus indicate to the University that what was planned for the Craig Supply site would not preclude the building of the tunnel. But he said they had not come to any terms on such a tunnel, and said this would need to come to the Planning Board and Town Council.

Chair Kelley said to him, this tunnel would not work, and would not be in the best interest of the Town, without a much more comprehensive solution to transportation issues facing Madbury Road and Edgewood Road. He said the University would be best served by coming in with solutions to those problems, if they thought the tunnel would work. He noted he was only speaking for himself.

Administrator Selig noted that something to explore was whether the northern connector and the tunnel projects could work together in some way.

Mr. Grant asked for additional details on where drainage flowed from the site.

Mr. Levesque said it was piped underground along the back side of the Whittemore Center, and he provided additional details on this. He said this had always been a brooked area, but said it had been piped. There was discussion about this.

Councilor Needell asked if the bus turnaround shown on the site plan was a Town or a University proposal.

Mr. Levesque said there had been joint discussion about this.

Councilor Needell asked if this turnaround would exist if the plan went ahead.

Mr. Lynch said the University put in a federal transportation grant for upgrade of the platform of the railroad station, and said as part of this, intermodal transport into that corridor was included. He noted that C&J Trailways signed the grant proposal, with the idea that there would be some kind of intermodal set up. He said what was on the plan was simply an overlay of what was envisioned if the turnaround was installed. He noted that the idea of intermodal transportation meshed with the brownfields grant, which also took this concept into consideration.

Chair Kelley asked if the proposal for the design of the parking lot would be done in-house, and then the construction would be put out to bid. He also asked if the building that had not yet been demolished was slab on grade or had full foundation.

Mr. Levesque said the design would be done in house. He said the building was slab on grade, but noted the floor grade was 2-3 ft higher than the existing grade, so there was fill material under that area.

Chair Kelley asked if it was expected that this area was contaminated.

Mr. Levesque said yes, and he provided details on this.

Chair Kelley noted there would therefore be soils disposal costs for that end of the building.

Mr. Levesque said that was correct. He said the soils cleanup was priority one, and said priority two was that some contamination had gotten into the culvert in the area, and said this area would need to be sealed and lined.

Chair Kelley asked if GZA had indicated what level of cleanup would be needed for the TCE, and what the associated costs for this would be.

Mr. Levesque provided details on this, and said the cost was in the \$4-5 million range. He described a potential biological process for treating the contamination on-site, as well as an electrolytic process that would be much cheaper, but noted NHDES hadn't yet decided which approach to take.

Ms. Fuller asked about the cost involved in shipping off the soils, and asked if the Town could afford this.

Mr. Levesque said the estimation of \$4-5 million should cover this.

Chair Kelley asked if the intent was to give the Board updates on the cleanup process.

Mr. Levesque said it certainly was.

Councilor Carroll said concerning parking, that residents in town could use A lot for parking free of charge on Saturdays and Sunday. She also noted that the parking meters near the Dairy Bar were not in effect on weekends.

Councilor Carroll said as she looked at the contaminated area on the map, her heart pounded as she realized this was as a result of the dry-cleaning process, which they all benefited from, and had resulted in a significant cost to the Town.

Mr. Levesque said the chemical had been used during the 1980s, but was no longer used. He provided details on the toxicity of TCE. He said the chemical was currently in a pocketed area of the site, and said there did not appear to have been a lot of action around the site.

Councilor Needell asked how the spillage of the chemicals had occurred.

Mr. Levesque said there was a 5000 gallon above-ground tank, and said the chemicals were pumped from railroad cars into the tank, and were then distributed to trucks that

delivered the chemicals to dry cleaning establishments across the region. He said the housekeeping at the site had been atrocious, noting hoses were found on the ground with the chemicals still in it. He said the spillage caught up with the company, and noted they even had a log book of the spills.

Councilor Carroll said she wanted to take special note of the significance of this issue. She said it was important to focus on what the problem was, how it happened, and what it would take to clean it up, in order to make sure that problems like this did not happen again in Durham. She said it was a good time for residents to think about the chemicals they used, and the fact that these chemicals eventually wound up in the water, somewhere.

Mr. Lynch said they would be videotaping the entire cleanup process, and said the intention was to put this on DCAT. He said the idea was to allow others to follow progress on the cleanup of the site, and said eventually a 30-minute video would be developed. He said this entire project would be a very public process, involving more hearings, and updates to the public through the Administrator's Notes, DCAT and additional information on the Town website.

Chair Kelley asked Mr. Lynch to provide the Board with updates at various milestones during this process.

Councilor Needell MOVED to open the public hearing on a proposal submitted by the Town of Durham Public Works Department, Durham, New Hampshire to demolish 3 buildings and construct a temporary 167-space municipal parking lot to act as a hazardous waste mitigation cap. The properties involved are shown on Tax Map 1, Lots 1-0 & 1-1, are located on Depot Road and are in the Residence A Zoning District. Susan Fuller SECONDED the motion, and it PASSED unanimously.

Bill Hall said there should be parking at the parking lot not just for Durham residents, but also for residents of nearby towns. He said the pricing might be based on how much it cost to drive to Exeter and back, and could be used as an incentive to get people to use the train instead of driving on Route 108.

Mr. Hall described the previous operations at the Craig Supply site. He said there were two trucks that were filled from the large tank, and pumped solvent into dry cleaning establishments throughout the region. He said it was too bad this had happened, and said this was the kind of thing that inspections were for. He noted another issues in Town that had needed better inspection.

Mr. Hall spoke about the potential tunnel UNH had proposed for the site. He said this was a key issue in conversations between the University and the people who represented the Town, and provided additional details about this. He said the only solution to the traffic problems was the northern connector, and said the idea of letting A lot come out onto Edgewood Road was an insane proposal. He said he would provide more details on this in future discussion on transportation issues.

Arthur Grant MOVED to close the public hearing. Richard Ozenich SECONDED the motion, and it PASSED unanimously.

Councilor Needell asked if any changes were planned for the intersection with Main

Street.

Mr. Lynch said nothing was planned at present, and said the theory was that with leased spacing, car movement would be spread out over time. He noted they had looked hard at trying to capturing Whittemore event parking, which would be lucrative for the Town, but said this idea had been abandoned for the time being because of concerns about traffic congestion after events, pedestrian traffic, etc. But he said they would continue to look at this.

Mr. Roberts asked if the lot was suitable for structural parking, and what capacity could be held there.

Mr. Lynch said it was suitable for structural parking, and said there had been talk about multilevel parking, and buildings.

Mr. Roberts said that really would provide the opportunity to address the transport hub idea.

Mr. Lynch said there had been a couple of models and conceptual drawings developed on this.

Mr. Campbell noted there was something on this in Chapter 2 of the Master Plan.

Mr. Lynch said this was a 10-15 year process they were looking at, to clean up and redevelop the site.

Mr. Roberts noted that Amtrak was actively trying to sell the idea of transit to Washington DC, so the idea of providing long-term overnight parking would be appropriate.

Recess 8:30-8:40 pm

IX. 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.

X. 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.

Frank Montiero said the architectural design element issues had been resolved at the last meeting. He said that hopefully, traffic issues could be resolved that evening.

Mr. Pernaw noted he had gone through the details of traffic issues at the previous meeting. He said he had since that time traded data with the Town's traffic consultant, Mr. Rhodes, and said based on estimates of the delay for left turns into driveway C, and

vehicles turning left during the green phase of signal, he had come up with a potential impact on the traffic signal for the westbound turn lane, of 6 less cars per hour, which meant a potential 1% loss of capacity. He said when Mr. Rhodes used his numbers, he had come up with a capacity loss of 2%, and provided details on this.

He also noted he had received a copy of NHDOT's Bureau of Highway Design comments, which supported the conclusion from District 6 that they were conceptually on board with the proposed access configuration. He provided a copy of these comments to the Board.

Chair Kelley asked what the term "concept approval" meant, as stated by District 6.

Mr. Pernaw said it meant NHDOT agreed with the study recommendations about access design, and agreed that driveway access C was the preferred location for left turns in and out. He said this approval did not include final engineering review of the construction details.

Councilor Harris asked what the length of the stacking lane on Dover Road was, and Mr. Pernaw demonstrated this on the site plan.

The Town's traffic consultant, Don Rhodes of Norway Plains Associates, spoke before the Board, and went over the details of his memo concerning the proposed traffic design, noting it addressed the issues he and Mr. Pernaw had been discussing over the last few weeks. He said much of this information was a recap of what Mr. Pernaw had already presented.

He said Norway Plains had reviewed the traffic plan and made initial comments in a May letter to Mr. Campbell. He said this present memo summarized his previous comments, and also addressed the supplemental information provided by the applicant since then.

He said the methodology of the traffic study was consistent with standard NHDOT procedures, as well as other procedures of other jurisdictions he was familiar with. He noted that traffic counts were done in November 2004 and were adjusted to peak month conditions based on a year round traffic recorder on Route 4 in Durham.

He said the traffic generated by proposed development was estimated to be 240 trips during the morning peak hour, and 271 trips during the afternoon peak hour. He said for comparison purposes, the actual traffic counts at the Gibbs site were 199 trips at the morning peak hour, and 154 trips at the afternoon peak hour. He said the adjusted traffic volumes represented conservative conditions for analysis purposes.

He said the majority of generated traffic would be diverted from existing traffic already on the roadway, and said new trips would represent a small proportion of the total.

Mr. Rhodes said the analysis of the signalized intersection indicated that the proposed development would increase the volume capacity ratio from 0.83-0.86 during the morning peak hour, and 0.88-0.92 during the afternoon peak hour. He said that meant the proposed development was using 3-4% of the capacity of the signalized intersection. He said average cue lengths on approaches to the traffic signal would be increased by approximately one vehicle.

He said that under the proposed access plan, the left turns into the site would be made only by westbound drivers on Dover Road, and would be made from the same lane the drivers used to turn left at the traffic signal. He said the average cues of that left lane would be 11-12 vehicles in 2006, which would mean that on a regular basis, the cue from the traffic signal would back up across the driveway that led into the site. He said a cue of 7 vehicles would block access to the site, so vehicles waiting to turn into the site would be cued with vehicles waiting to turn left at the traffic signal.

He said if vehicles within that cue turning into the driveway were delayed by eastbound traffic on Dover Road, the traffic approaching the traffic signal might also be delayed. He said he thought that was one of the substantial issues that might result from the development, and spoke with Mr. Pernaw about looking into this in more depth. He said as Mr. Pernaw had already described, calculations and discussion on this had gone back and forth. He said the result of those calculations, using the more conservative assumptions he had asked Mr. Pernaw to use, resulted in a 2% decrease in the capacity at the traffic signal, so there was an impact, but it was a relatively modest one.

Mr. Rhodes said that in the May 31st letter to Mr. Campbell, he noted that traffic on Newmarket Road was significantly lower than traffic on Dover Road, and it therefore might be worthwhile to consider whether left turns might be more easily accommodated on Newmarket Road. He said subsequent information and site analysis resulted in the conclusion that the proposal to the Town to restrict the Newmarket Road driveway access to right turns in and right turns out was desirable, and in fact was a desirable benefit of the development. He said it was agreed this would not be an appropriate driveway for the left turns to take place.

Chair Kelley asked Mr. Rhodes if he was in agreement with NHDOT's concept approval for the proposed traffic configuration. He also asked, regarding Item 7 of his memo, if Mr. Rhodes thought increasing the cycle time for left hand turns would provide any benefit for vehicles making that left turn, or vehicles entering the site.

Mr. Rhodes said possibly, but not necessarily. He said adjusting cycle lengths could be done to fine tune the operation of the signals, noting it had been shortened to reduce the average delay time. He said it was generally preferable to keep the cycle time shorter, but said there were circumstances when it made sense to increase the cycle length.

Chair Kelley asked who owned the signal, and Mr. Rhodes said he believed NHDOT owned it.

Chair Kelley asked if NHDOT was generally willing to test different cycle lengths at the signalized intersection, at the request of the Town, and to make modifications if needed, and Mr. Rhodes said yes.

Mr. Roberts asked if Mr. Rhodes could estimate what the current capacity of the intersection was, and how much more it could hold.

Mr. Rhodes said the overall capacity during the morning peak hour would increase from 83-86% with the development in place, and said in the afternoon, it would go from 88-92%. He noted this did not represent an average condition, and said that during a 10-year period, there would be times when the capacity could be reached or exceeded.

Mr. Roberts said he had asked this question because of the Town's overall concerns about this intersection, whether the applicant's development was there or not.

Councilor Harris said given that Great Bay was an obstacle to providing alternative north and south traffic flow in the area, if the intersection was at 92% capacity at 2006, they should be thinking another 20 years out, to what the capacity would be then. She asked Mr. Rhodes if there would potentially be a solution to the concerns expressed regarding left turns into the property from Dover Road, or from the Irving station left on to Dover Road, by putting in break-away polls that prevented left turns entirely from the stacking lane.

She noted the applicant had said it was anticipated that most of their business would be supported by existing traffic doing right turns from Dover Road and Newmarket Road, so it seemed this wouldn't be terribly detrimental to their business. She said these break-away polls were placed in front of Nesmith Hall near the Dairy Bar, and did not take as much space as an island.

Mr. Rhodes said that was one of the things that was considered, - whether the left turns into the site would affect the signal. He said if the number had been very great, he would categorically have said this was a good idea. But he said there would be a relatively modest impact from the left turns. He said there would be benefits to restricting left turns, but said there would also be tradeoffs, and he provided details on this. He said what he did not know from his analysis was whether it would make a difference to the volume capacity ratio at the signalized intersection, and said further analysis would be needed to determine this.

Ms. Harris asked if there was a mechanism for measuring this impact on the signalized intersection further.

Mr. Rhodes said this could be done, but would be somewhat complicated.

Councilor Needell noted that at the last hearing, the proposed plan was described as being the best plan that could be implemented, and at that time he had asked whether this meant it was a good plan. He asked Mr. Rhodes if he thought this was actually a good traffic plan for this intersection.

Mr. Rhodes said he would like to see a zero percent impact there, but said he hadn't been able to find a way to accomplish that. He said there were benefits to this design, but said there would also be some impacts to the roadway. He said this was the best they could do with the assumptions so far.

Councilor Needell said the Board had the option to say this would still be a big impact. He asked Mr. Rhodes if there would be a huge impact on the intersection because of this particular development, and also asked Mr. Rhodes if he liked the traffic plan.

Mr. Rhodes said the impact was in the grey area, noting it wouldn't have a great impact. He said any development on that site would result in some impact.

Ms. Carroll noted that Item 7 on Mr. Rhodes' list had said the traffic cue would stretch back to the entrance to the Irving station and thus block access to it at peak hours, with an average cue of 11-12 vehicles, with the 7th car blocking access to the station. She asked

if the 6th car was going to make a left hand turn into the Irving site, how long the cars behind that car would have to wait.

Mr. Rhodes said he had discussed this issue with Mr. Pernaw, and said it involved a probability analysis. He said the 2% impact they came up with spoke to this. He noted that if that kind of thing happened at every cycle, left hand turns into the site would have to be restricted.

There was additional discussion about this. Ms. Carroll said she was concerned about safety if drivers were not willing to wait for the car in front of them to make a left turn into the station, and tried to get into the right lane on Dover Road, or tried something else.

Mr. Rhodes said this was an issue he was concerned about, noting that it had been outside the bounds of the traffic study, so was not addressed in the initial report. He said it was addressed later, and said Mr. Pernaw had done an appropriate analysis of this based on more conservative assumptions.

Chair Kelley noted Mr. Rhodes had spoken briefly about phasing the signal to allow turns from Dover Road left onto Newmarket to have a longer cycle. He asked if it would be beneficial to prohibit right turns on red from Newmarket Road to Dover Road, which would allow more time for left turns into the station without having to conflict with the cars turning right from Newmarket Road.

Mr. Rhodes said it would benefit left turns, but would have a substantial impact on the intersection because it would actually use up some of the capacity at the intersection. He provided detail on the problems that would result, noting that the right turns onto Dover Road were much heavier than the left turns onto Newmarket Road.

Ms. Harris said if 38 cars turned left during peak hours into the Irving driveway, there were also people potentially turning left out of the site onto Newmarket Road during peak hours. She asked if this was something that had been analyzed and could be calculated.

Mr. Rhodes said if a question from the Board were regarding what impact there would be on the level of service as a result of restricting left turns in and out of the site, all of the left turns would have to be reconsidered.

Ms. Harris said turning left in and out of the site could become chaotic, especially because so many of the drivers were 18-24 years old.

Mr. Rhodes said left turns out experienced very long delays, but typically had less of an impact on the signal. He also noted the number of left turns out of the Gibb site, 40-50, which was similar to what was expected at the Irving site.

Ms. Harris noted that the Gibbs site was way down the road relative to the signal.

Mr. Rhodes agreed, but said he was speaking in terms of the ease of making the turn.

Mr. Parnell noted that if one was turning left into the station, and wanted to continue to Main Street, he could turn right of the site onto Newmarket Road to do this. He said that presumably, most people going down Main Street would use that access.

Mr. Rhodes said it would only be people who wanted to go to Newmarket who would have to turn left out of the site.

Attorney Peter J. Saari, of Casassa and Ryan Hampton, provided a summary document to the Board, and then spoke. He noted that when he submitted the application, he had provided an item by item summary of the conditional use requirements. He said this present document was a supplement based on what had been produced at the various hearings on the applications. He said he was willing to go over the summary document with the Board if it wished to do this.

He said he had represented Mr. Mitchell for over 20 years. He said what characterized uses like this was that the design was generic and spoke to the company name. He said they had started out that way with this application, because that was the way Irving liked to do things. But he noted that the Planning Board did not exactly like it.

He said it was agreed the layout worked well, but what they all did not agree on was whether it looked good. He said the applicant tried to tweak the design, but said it became clear they were in a rut with the design. He said it wasn't easy to bring in an outside architect, but they had decided to do this, and said they all could now agree the design was a vast improvement, and was a good product.

He said it was fortunate in this instance that both sides wanted to accommodate each other's concerns. He said as the process continued, the concerns were made known, and resulted in a different product. He said regardless of whether or not blue or yellow were nice colors, or if Irving was attached to these colors, the company could live without them. He said it was realized this station would do well without them. He also said the Irving station would probably take business from Gibbs, and vice versa.

He said one of the big concerns that came up early on was traffic issues, noting this was recognized from day one, because of a lot of kids, with cars in Durham. He also said it was understood there was a higher number of accidents in this area than in other parts of Town. He said it was a busy intersection, located in the center of Town, and needed special attention.

Attorney Saari said that when Mr. Mitchell first saw the site, he was really excited about having four access points. He said he went to Steve Pernaw because of his reputation for being very knowledgeable, and telling things like they were. He said Mr. Pernaw indicted early on that four curb cuts wouldn't work from a traffic point of view. He said Mr. Mitchell could have said gone ahead anyway, but instead, he listened to Mr. Pernaw about restricting access.

He said they did this despite the fact that both stations across the street had two full service accesses, on much smaller sites. He said they thought this was a good design, and had given up a lot for a safer site. He said this did not mean there wouldn't be an accident there, unfortunately. He said there would be an impact from this use, but the bottom line was that the traffic design was appropriate.

He said most developers wanted to do what the Town felt was reasonable to do, not necessarily because they were good guys, but because their reputation preceded them, and they knew that other issues with the Town would come up. He said Mr. Mitchell was

willing to work with the Town on the Courthouse issues.

He said in their minds, this use was at a point where it was as good as it was going to get. He said it would have no more impact than other permitted uses for the site. He said it was a lot better than what was there now from a safety point of view, and was no or more less safe than other uses in the area.

Chair Kelley said this was a continuation of the public hearing, and asked members of the public if they wished to speak.

Beth Olshansky, Packers Falls Road said she appreciated Mr. Rhodes perspective, but said she felt he had been put in an uncomfortable situation because he had communication with the developer. She said her question was how independent a consultant was when he had to negotiate back and forth with a developer. She said this was an interesting and uncomfortable situation for an independent consultant to be in.

She noted a traffic count that had been done recently at the Gibbs station and had been quoted, but she said August in Durham did not represent a typical traffic situation, so they should take this data with a grain of salt.

She also noted that when she spoke with an employee at Smittys recently, he said that at the most intense hour, there were about 12 cars in and out of that site. She also noted an increase of 2% did not mean much to most people, and said thinking about cuing up, and what happened when the light changed, made things much clearer to most people. She said Councilor Carroll's perspectives on this were good, including the fact that the Town had a lot of impatient drivers. She also said the left hand turn out was not really addressed in the traffic analysis.

Ms. Olshansky said she had spoken with Tim Roach of the Strafford Regional Planning Commission recently, and said she had noted to him that there was a proposal to have left hand turns out of the Irving Station. She said he had said it sounded like a bad idea. She said she asked him why NHDOT would approve the traffic plan if this were a bad idea, and he said the same thing she had heard previously about NHDOT rubber stamping plans.

She said there was discontent in many towns in NH about this approval process because there were so many negative impacts to towns trying to preserve their rural character. She said she was told NHDOT was revamping its review process based on this high level of discontent, and said towns would have the opportunity to develop statements (for their Master Plans??) concerning high impact areas of town in terms of traffic, and what they wanted for these areas.

She said as part of this, NHDOT would then be obligated to consider the town's interest, in reviewing applications. She said if an application did not meet the town's vision for these areas, NHDOT would have to take a different route than what they had been doing. She said Mr. Roache had told her this was in the works, and she said the documents on this would not be ready in time for this application. But she said it was important for the Board to know that some towns had been hurt by this general process.

Scott Mitchell noted he had never spoken to Mr. Rhodes, and in fact had never met him.

Chair Kelley said the Board was appreciative of all the professionals who had come before the Board concerning this application, and said there was no reason to believe in anything but the integrity of the traffic consultants for this project.

Bill Hall said he was impressed that Mr. Rhodes had concurred with the State engineer. He noted he lived in this area, and said the light was red for two phases, which was in direct dispute with the specifications for this intersection. He said this meant he couldn't get out of his driveway, noting there was no device to interrupt traffic, so there was no restriction on cars going through town. He said if the Town was concerned about intersections and lights, they could look at this too.

He said there were significant gaps in traffic flow, creating pulses that allowed people to make left turns into the Smitty's site. He said it was considerably more difficult to turn left into Gibbs, noting there were large numbers of cars coming down from Route 4, with no gaps.

Mr. Hall said he sincerely hoped one of the traffic solutions was the southern connector, and said he did not see how the Board could hold people up when it did not have a statement to the Town Council saying the southern connector should be put in, which would cut the traffic in this area by 30%.

Ms. Olshansky said she was not implying that Mr. Rhodes spoke with Mr. Mitchell, but said it was her understanding that Mr. Pernaw and Mr. Rhodes discussed the traffic design.

Mr. Pernaw said there was a general agreement that this was the best plan, but said concerning whether this was an appropriate use, he said if one looked at the net change in traffic volume, the numbers showed it was an appropriate use for the site. He noted the traffic changed considerably from day to day based on random traffic flow, while the impact from this use was negligible, especially compared to what happened in the area on a regular basis.

He also noted the State had said the development would attract minor amounts of new traffic to the area, and would have slight impacts at the signalized intersection. He noted again that this was not a destination use, as compared to something like an office building, which would generate more new traffic in the area.

Councilor Needell said he appreciated Mr. Pernaw's comments, and the fact that Mr. Rhodes had essentially concurred with them. But he said although the statistical impact would be minor, there was a question as to whether the Town would like the plan when it was implemented. He asked if the Town could, if it approved the project, put in a condition that said left turns were conditionally approved, reserving the right to prohibit left turns in and out of the site later. He said he was throwing this out for later discussion on the conditions of approval.

Chair Kelley said he would think that within reason, the Board could put any condition on the approval, including that. But he said it was a state highway, so the Town would have to appeal to NHDOT to put in a small division or median island to prevent left hand turns.

Mr. Roberts said that should this be necessary, it was so minor that it would not be

difficult to accomplish.

Councilor Needell said his concern was that if a condition were not put in now, it would be harder to make the change later.

Mr. Pernaw said in his 20 plus years in this profession, he had never seen this happen. But he said that at any time NHDOT wanted to, it could install a median without getting Town or applicant approval, since it owned the highway. He said the signal could be tweaked, and should be done on an annual basis anyway. He also said other things like allowing no right turns on red, or phasing could be changed in the future. He said all of these things could be done after the fact, but said the design as it was should be approved. He said in six months, they would all chuckle about this.

Councilor Carroll asked what right the Town had to put in a barrier to prevent left hand turns, and was told the Town could only appeal this to the NHDOT. In response to this, she said that if something on this issue were put in as part of the agreement, NHDOT would see the Town had some concerns about it early on.

Chair Kelley said if it was part of the conditional use, the burden was put on the applicant to do this. He said he did not think the Board could do that, because there was no guarantee that NHDOT would agree to do this.

Councilor Harris said there could be a recommendation concerning this to NHDOT.

There was discussion about this, and it was agreed it was best discussed under deliberations.

Bill Hall noted he had seen the Town go to Superior Court several times. He said he was a keen observer of what happened at intersections, and said instead of worrying about this intersection, they should look at what happened at the end of Town after an event, when traffic really backed up.

Arthur Grant MOVED to close the public hearing. Richard Ozenich SECONDED the motion, and it PASSED unanimously.

Councilor Carroll noted that what the views would look like, especially in terms of the landscaping, were not yet known by the Board.

Chair Kelley said the landscape plan had been done, and said perhaps the Board could simply use this existing plan, although it might be somewhat difficult. He then asked if perhaps the applicant could color in the landscaping around the buildings, on the most recent renderings of the buildings, in order to allow the Board to better see this.

Ms. Harris said she hoped that included in this would be the Newmarket Road perspective, and the applicant's back lot perspective, which was the Town's front view. She noted that everyone who came in and out of the Town Hall saw this view so it was a very important perspective. She said there should be some rendering to show this, as well as the view coming down Church Hill, which was an angled view of the courthouse and the Newmarket Road access.

Chair Kelley said a full landscaping plan had already been submitted, and said it was important for the Board to be able to look at plans in two dimensions, and imagine them

in three dimensions. He said the Board would otherwise have to revise its site plan review requirements to include these renderings.

Ms. Harris said these views had been discussed at the earliest stages, and said she would hope the significant view from the bank, and up the hill, as well as the applicant's back lot line could be provided. She noted she had a very good ability to see things in three dimensions, which was why she asked the question, because she did not think others necessarily did.

Chair Kelley said perhaps the applicant could bring the Board those embellishments. He said the conditions out there presently were pretty ugly, and the Board could all agree the plan that had been submitted would be an improvement, But he said those embellishments would be a great help in understanding what they were getting.

Mr. Roberts said he agreed that coloring in the elevations with the landscaping would be a good idea.

Mr. Campbell said he agreed the applicant had provided a detailed landscaping plan, and also said it was important for Board members to look over the landscaping section of the Ordinance.

Chair Kelley said deliberation on the application would take place at the next Board meeting, on August 24, 2005.

XI. Other Business

- A. Old Business: **Wiswall Dam Parking & Recreation Concerns
Traffic Congestion-Northern Connector**
- B. New Business: **Town Council Meeting August 15, 2005**
- C. Next meeting of the Board: **August 24, 2005**

XII. Approval of Minutes –June 22, 2005 July 13, 2005

These minutes were moved to the August 24, 2005 agenda for approval.

XIII. Adjournment

Councilor Grant MOVED to adjourn the meeting. Richard Ozenich SECONDED the motion. The motion PASSED 4-3 with Stephen Roberts, Councilor Needell, and Chair Kelley voting against it.

The meeting ADJOURNED at _____ PM.

W. Arthur Grant, Secretary