

These minutes were approved at the PB meeting of August 29, 2007

**DURHAM PLANNING BOARD
WEDNESDAY, JULY 25, 2007
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL
7:00 P.M.**

MEMBERS PRESENT: Chair Bill McGowan; Vice Chair Lorne Parnell;
Secretary Susan Fuller; Richard Kelley; Richard
Ozenich; Councilor Needell

ALTERNATES PRESENT: Doug Greene; Councilor Carroll

MEMBERS ABSENT: Steve Roberts; Wayne Lewis; Annmarie Harris

OTHERS PRESENT: Victoria Parmele, Minutes Taker

I. Call to Order

Chair McGowan said alternate Doug Greene would be filling for regular member Steve Roberts.

II. Approval of Agenda

*Councilor Needell MOVED to approve the Agenda as submitted. Susan Fuller
SECONDED the motion, and it PASSED unanimously 7-0.*

III. Report of the Planner

- Mr. Campbell said there had been a request that the Caldarola public hearing be continued to the following week. He also said there had been a request that the Taylor public hearing be continued to the August 22nd meeting. He suggested that motions should be made to that effect when the Board got to those Agenda items.
- He said he had met with University planner Doug Bencks, and had provided the Board with a memo on that meeting., provided PB with memo on meeting.
- Mr Campbell said the Council had met on July 16th, and said there had been a good presentation on affordable housing by professionals from the Workforce Housing Coalition and the Housing Finance Authority. He recommended that the Board watch the re-run of this meeting on DCAT. He noted that the Council had passed unanimously the proposed changes to the Zoning Ordinance concerning forestry.

- Mr. Campbell said the Planning Board would be having a joint meeting with the Conservation Commission on August 1st, at which time a film would be shown on conservation subdivisions. He said there would also be discussion about the conservation subdivision process in Durham, and about specific provisions in the Zoning Ordinance and the Subdivision Regulations concerning conservation subdivisions.
- Mr. Campbell said the Mill Plaza Study Committee had held a second public hearing on July 18th, and said over 90 people had attended, including NH American Institute of Architecture professionals and members of the committee. He said the hearing could be viewed on DCAT.
- He said the Board had held two site walks on July 20th, one for the Paine/Taylor application and the other for the Northam Builders application.
- Mr. Campbell said the Economic Development Council had met on July 19th, primarily regarding the draft document for the TIF district for Stone Quarry Drive, etc. He said the Committee had considered recent discussion by the Council on this matter, and agreed to put forth a smaller TIF district than it had previously been in favor of. He said the proposal was that the district would include Stone Quarry Drive plus a section of Canney Road down to Corner. He said the EDC would hopefully be meeting again the following week. He said hopefully a final draft of the plan would be ready for the August 6th Council meeting.
- He said there were no new applications for the August 8th Board meeting.
- Mr. Campbell reviewed the contents of the packet of materials the Board had received just prior to the meeting.

IV. Continued Deliberation on a Site Plan Application submitted by Steven F. Kimball, Auburn, New Hampshire for the building of a 16-unit residential and a 4000 square-foot commercial, mixed-use building on a piece of property. The property involved is shown on Tax Map 2, Lot 6-0, is located at 20 Strafford Avenue and is in the Professional Office Zoning District.

V. Continued Deliberation on a Conditional Use Permit Application submitted by Steven F. Kimball, Auburn, New Hampshire for the building of a 16-unit residential and a 4000 square-foot commercial, mixed-use building on a piece of property. The property involved is shown on Tax Map 2, Lot 6-0, is located at 20 Strafford Avenue and is in the Professional Office Zoning District.

Chair McGowan noted that the Board had received an updated Finding of Fact.

Mr. Campbell reviewed previous deliberation by the Board on the number of parking spaces, and the decision that there would be no fewer than 47 spaces.

There was discussion that the Board had not previously approved the conditions of approval

regarding the wetlands protection overlay. Councilor Needell noted that there were two separate conditional use processes that were part of this proposed development. He asked if the wetlands conditional use process was being folded into the conditional use permit application, and Mr. Campbell said that was correct, and provided details on this. Councilor Needell asked if this meant that when considering conditional use criteria for the entire parcel, they would apply to the wetlands overlay portion of the site as well.

Mr. Campbell said yes, and provided details on this. He also noted the issue of buffering neighboring properties from the proposed development, and said the issue of the request for a stockade fence hadn't been addressed yet. He said the Board would also need to see much better detail concerning property management. He noted that the Board had approved the waiver request concerning the height of the proposed building at the previous meeting.

The Board then discussed outstanding issues concerning these applications:

Fencing

Councilor Needell said this issue tied into another issue the Board might want to discuss as well, - the kinds of uses that would occur on the property. He said that if the hours of operation were limited, this would mitigate some of the concerns about foot traffic.

Chair McGowan said the Board could discuss the two issues together, and he provided details on how the two issues related to each other.

Councilor Carroll pointed out that the neighbors had suggested the idea of fencing.

There ensued detailed discussion by the Board on the issue of foot traffic in the area and the possible need for fencing on the Kimball property.

Jay Gooze, Meadow Road, said there was a little path that went through the Kimball property, which people living in the neighborhood had used for years at the permission of the owner, before Mr. Kimball bought the property. He said the access had been closed off with a wire fence since Mr. Kimball had owned the property.

The applicant's engineer, John Chagnon of Ambit Engineering said that currently, there was foot traffic that came across the Gooze property, and went through the Kimball property. He said Mr. Kimball had put a wire fence along the back of the property, which had cut down the traffic considerably, explaining that people now had to either travel into the wetland area, or go above it. He said Mr. Kimball's position was that putting fencing around more of his property wouldn't accomplish any more than had already been accomplished. He also said having to put up more extensive fencing on the Kimball property would be a problem in terms of snow removal and safety. He said Mr. Kimball felt that if the neighbors wanted to cut down on traffic, they could fence their own property boundaries, going north and south.

Councilor Needell said he was not convinced of any real benefit of requiring fencing of the paved area, in terms of cutting down traffic. He also said it could possibly provide an

attractive nuisance on the property because activity near the fence would not be within view.

But he said a concern he did have was that even with the restriction on a specific type of alcohol sales, there would be a natural tendency for retail operations at this location to be ones that suited the neighborhood, and that this could be a busy place on weekend nights. He said he would therefore like the Board to have a condition of approval that limited retail operations from 6 am to 11 pm. He noted that he had spoken with the Police Department about this issue, and he provided details on this.

Ms. Fuller said she agreed with this, but she suggested that the closing time should instead be 9:30 or 10:00 pm.

Chair McGowan explored further the possible reasons for putting up a more extensive fence on the Kimball property, and also asked if there were perhaps other means to control the flow of pedestrian traffic.

Councilor Needell said that if the lack of additional fencing on the Kimball property created a nuisance, it would seem to be in the owner's best interest to deal with this at that time. He said he therefore wasn't sure it was necessary to make the fence a condition of approval.

Chair McGowan said putting additional fencing on the Kimball property wouldn't solve the real problem, and in fact might simply move it over. He asked how the pedestrian traffic issue could be solved, other than with the fence.

Mr. Campbell said the issue wasn't just foot traffic, it was noise, headlights from parking, etc. He said the question was whether there was enough existing vegetation to provide buffering.

Chair McGowan noted the ledge outcrop issue, and asked how this related to the placement of a fence.

There was further discussion on the fence placement and pedestrian traffic in this area.

Mr. Kelley said when he first heard about the pedestrian traffic issue, he was very much in favor of the idea of putting up a fence. But he said he thought Mr. Kimball had made some good points. He said what concerned him was that the development on the property could become a destination, and could exacerbate the pedestrian traffic situation. He suggested that the Board should ask for a better fence, but not a more extensive one, than what was there now, and that if this pushed the problem onto other properties, it was the burden of those property owners to bear at that point.

There was detailed discussion on the proper location for the fence, the proper height, and the materials it should be made out of. It was noted that if the fence were 6 ft high or greater, it would be considered a structure, and would therefore need to meet setback requirements.

Mr. Campbell asked where snow storage would take place, and Mr. Chagnon demonstrated this. Mr. Campbell asked that these areas be listed on the final plan. It was noted that because

pervious pavement would be used, chemicals could not be used to melt snow.

After further discussion, Mr. Parnell summarized that there should be a stockade fence, slightly less than 6 ft high, in the same location where the existing fence was, and that it should extend to the limit of the property line.

Pervious Pavement

Mr. Campbell noted condition #2 concerning installation and maintenance of the porous pavement in the Conditions of Approval (to be met subsequent) in the Site Plan Review application.

Councilor Needell said the applicant had requested that 50% of the area of porous pavement being provided should count as pervious area, which would mean there would be 41% of impervious area. But he said there hadn't really been discussion about what an appropriate figure was for this. He said his concern was the precedent being set, and what the basis was for the 50% figure the applicant had provided. He provided details on this.

Mr. Campbell said the regulations concerning this in other towns were all over the place, and noted that said the Board hadn't really had a discussion on this issue yet.

Mr. Kelley said the amount of area that was considered impervious in the application was 58%, when 50% was allowed. He said he didn't think it was unreasonable to allow the applicant the extra 8%, given the amount of porous pavement that was being used as part of the development.

There was discussion that the Board had the authority to waive the 50% requirement, for a conditional use permit application.

Councilor Needell said he thought the Board should waive this requirement. He said the use of porous pavement on the property was a huge improvement, and also said that in terms of protecting other decisions the Board would be making concerning this issue in the future, this was the way to go.

Mr. Parnell said it would be difficult to deny the waiver of this requirement. He said this was a new technology, and said as it was used more and more, towns would come up with the proper percentages.

Mr. Gooze noted that the applicant came before the ZBA when the pervious pavement wasn't included in the application, and didn't get the variance.

There was further discussion on this issue. Councilor Needel suggested wording that "because of the use of porous pavement on the rest of the paved surface, the Board would accept that the applicant had met the impervious surface ratio for the district. He said he didn't think the Board should simply be granting the 58% impervious ratio, and provided details on this.

Mr. Campbell said he would work this language in under the Findings of Fact for both the conditional use permit application and the site plan application.

Mr. Kelley said the larger issue on the pervious pavement percentage was one the Zoning Rewrite committee would need to discuss. He said it would be important to be careful with the lot size as well, noting that they didn't want to wind up with a lot that was all pervious pavement, with no green area left.

Councilor Needell noted that if this proposed development was a permitted use and not a conditional use, it might be more difficult to work something like this out.

Councilor Carroll said if they ever had to go to 50%, they could always look at the number of parking spaces.

Restriction of Alcohol Sales

Chair McGowan noted the specific restriction on alcohol sales the applicant had agreed to, which was now included in the Conditions of Approval for both applications, and said that no beer or malt liquor sales would occur in any retail space.

Further on Hours of operation.

Mr. Parnell asked if there were any ordinances in Durham regarding hours of operation for retail stores.

Mr. Campbell said there was only an ordinance concerning noise. He said there were no restrictions on hours of operation, noting that a limitation on closing time had been considered for a take out pizza place, but didn't go anywhere.

Chair McGowan said because this was a conditional use permit application, the Board could impose a restriction like this. But he asked whether in doing this, the Board would be constricting what retail use could go in there.

Councilor Needell said yes, but said because this was a conditional use, there was the option for the Board to do this. He said if the Board didn't do this, it would be hard to meet the conditional use criteria concerning fiscal impacts and impact on the neighborhood. He said there would definitely be an increase in the potential for negative impacts if the Board didn't do this.

He also said he thought the Zoning Rewrite committee in the future should consider whether retail uses belonged in this area. He said this was the first attempt to put retail outside of a business district and in a neighborhood, and said this was the kind of situation that the conditional use process was designed to address.

Mr. Kelley said he agreed. He also asked if there would be the ability for a business to seek

relief from this restriction if it could demonstrate that the nature of its business would meet the conditional use criteria.

Councilor Needell said this was possible, but said it was a very high threshold to reach. He suggested that if Board members weren't comfortable with this restriction on hours of operation, they should deal with this now.

There was further discussion by the Board on this issue. Mr. Kelley said he could support the hours of operation of 6 am to 11 pm, while Councilor Carroll said that 6 am to 10 pm was more consistent with the neighborhood, without jeopardizing businesses that might be located there.

Councilor Needell noted that this restriction in hours of operation would only be for retail operations, and said there was no reason to restrict hours of operation for professional office uses there..

Dr. Gooze noted that office hours other than 6 am to 10 pm might be necessary for a medical office in the case of emergencies.

Richard Kelley MOVED to limit the hours of operation from 6 am to 10 pm. Susan Fuller SECONDED the motion, and it PASSED 6-1, with Richard Ozenich voting against it.

Richard Kelley MOVED to continue the deliberations on the Site Plan Application and the Conditional Use Application submitted by Steven F. Kimball, Auburn, New Hampshire for the building of a 16-unit residential and a 4000 square-foot commercial, mixed-use building on a piece of property to August 8, 2007.

Councilor Needell asked if the Board would be receiving any additional information on property management.

There was discussion about this with Mr. Chagnon.

Councilor Needell said it would be helpful to see a concise statement of what was planned, or to be directed to an existing document that clearly stated this.

Mr. Chagnon said nothing formal had been submitted concerning this. He said Mr. Kimball wanted to run a place that he didn't have to worry about, and he also noted that Mr. Kimball was used to dealing with these issues. He provided further details on Mr. Kimball's approach concerning this.

Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

The Board told the applicant's engineer that it would be in Mr. Kimball's best interest to have a property management plan to present to the Board at the next meeting.

VI. Continued Public Hearing on a Conservation Subdivision Application submitted by

Joseph Caldarola, Portsmouth, New Hampshire for subdivision of one lot into 9 lots. The property involved is shown on Tax Map 10, Lot 7-0, is located at the corner of Bagdad Road and Canney Road and is in the Residential B Zoning District.

Richard Kelley MOVED to continue the Public Hearing on a Conservation Subdivision Application submitted by Joseph Caldarola, Portsmouth, New Hampshire for subdivision of one lot into 9 lots to August 1, 2007, at the request of the Conservation Commission, with the acceptance of the applicant. Councilor Needell SECONDED the motion, and it PASSED 7-0.

- VII. Public Hearing on an Application for Subdivision** submitted by Arnet Taylor Jr., Durham, New Hampshire, on behalf of Katharine Paine, Durham, New Hampshire to subdivide a property into 2 lots. The property involved is shown on Tax Map 11, Lot 35-1, is located at 51 Durham Point Road and is in the Residence C Zoning District.

Mr. Kelley MOVED to open the public hearing on an Application for Subdivision submitted by Arnet Taylor Jr., Durham, New Hampshire, on behalf of Katharine Paine, Durham, New Hampshire to subdivide a property into 2 lots. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

Chair McGowan noted that the applicant had asked that this hearing be continued to the meeting on August 22, 2007. But he said members of the public who were present to speak on the application at the present meeting were welcome to do so. There were no members of the public who wished to speak.

Richard Kelley MOVED to continue the public hearing on an Application for Subdivision submitted by Arnet Taylor Jr., Durham, New Hampshire, on behalf of Katharine Paine, Durham, New Hampshire to subdivide a property into 2 lots to August 22nd, 2007. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

Recess from 8:25-8:35 pm

- VIII. Public Hearing on a Site Plan and Conditional Use Permit** submitted by Northam Builders Inc., Durham, New Hampshire, on behalf of Joyce Terrio to build a multi-unit dwelling structure consisting of 48, 2-bedroom units. The property involved is shown on Tax Map 9, Lot 8-2, is located at 53 Old Concord Road and is in the Office, Research and Light Industry Zoning District.

Richard Kelley MOVED to open the public hearing on a Site Plan and Conditional Use Permit submitted by Northam Builders Inc., Durham, New Hampshire, on behalf of Joyce Terrio to build a multi-unit dwelling structure consisting of 48, 2-bedroom units. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

Doug LaRosa, Trichtech Engineering, represented the applicant, and introduced the project team.

He provided a brief history, noting among other things that the property for the proposed

development had been rezoned to ORLI (Office Research Light Industry). He spoke about meetings that had been held with Mr. Campbell and Town Engineer Dave Cedarholm concerning the proposed development.

He then provided details on the project:

- He said the proposed building, which would contain 3 stories, and would have 96 bedrooms, would sit 60 ft off of the property line, and said the main access to the building would be on the Durham side.
- Two proposed driveways will provide in and out access. The proposed driveway permits from NHDOT look fine, but noted that the process allowed the Town to have input on these driveways.
- Impervious surface
- He said there would be 4 handicap parking spaces at the front of the building.
- He said there would be a 40 ft by 100 ft area for recreation that will be loamed and seeded.
- He provided details on proposed site lighting, noting among other things that there would be 3 lights that the applicant would like to have on all the time, to provide security during late night hours in case people had to park further away from the building.
- He said he had spoken with landscape architect Robbie Woodburn at length about buffering of the development from the roadway and abutting properties. He said in front, a 3-4 ft high dirt berm was proposed, on top of which would be placed an appropriate amount of trees and shrubs 6-8 ft and 8-10 ft high. He noted that on the Lee side to the northeast, there was an open area where it was proposed that a 55 ft long, 6 ft high fence be placed, in order to screen a house on the abutting property from car lights as well as a view of the building and parking lot.
- He said approximately 1.5 acres out of a total of 16 acres would be built upon, and said the remainder of the land would be maintained in its existing state. He said it was felt that this proposed design would provide a minimal amount of intrusion, but would provide a maximum amount of usability of the site.
- He said it was realized that a 3-story building represented a fairly large mass, and said the architects had tried to vary the roof line and the wall lines to soften the mass of the building and give it more of a residential feel. He noted that the colors that had been chosen were more natural in order to soften the visual effect.
- He said that concerning the drainage design, a 3-prong approach had been used. He said that on the NHDOT side of the property, there were flatter slopes with abundant vegetation, so that what was propose there was sheet flow off the parking lot, which would be treated prior to entering the wetlands. He noted that the wetlands were greater than 75 ft away from the proposed impervious surfaces on the site.

He said runoff from the entire building and a bit of the back walkway would be collected and brought to a small infiltration system at the back of the parking lot. He said the drainage system for the remainder of the site, which was a little steeper, would involve collection of runoff in catch basins and a rain garden. He noted that Ms. Woodburn had provided specific planting materials as part of this design, and he provided some details on this.

Mr. LaRosa said he had spoken with Town Engineer Dave Cedarholm about the proposed storm water management design, who had asked for storm water management plan, He said this had been provided. He said he felt the approach the engineering team had designed for the proposed development worked well with the topography and the ability of the site to treat storm water, and was more than adequate. He said the drainage outlets were over 250 ft away from the Oyster River.

Anothony Deburto, 282 Main Street, said his concern was that this proposed development would be located diagonally across the road from him, and asked if the buffering that was proposed would hide the building. He said he had seen what some other campus apartment buildings looked like, and asked who step in to make sure this place didn't get out of control.

Chair McGowan said the applicant had some ideas to propose concerning property management.

Mr. LaRosa said apartment property owner Mike Davis was supposed to be present at the meeting to discuss this, and also said he could speak about it as well.

It was noted that the Deburto house was located in both Durham and the Town of Lee.

Brian Rains, 13 Old Concord Turnpike, in Lee said it was unusual that he was added as an abutter, but said he was glad because he thought everyone who lived down Old Concord Turnpike would be affected by this proposed development. He noted that some people living in this area had just found out about this proposed development.

He said over a dozen children lived the neighborhood located in the Lee portion of this area, and he also said Goss created traffic in the area. He said adding 96 people from this development would mean there would be a lot more cars in the area, and not just from people who lived there, but from their friends as well. He questioned whether there would be enough parking spaces for all of these cars. He also said although it had been mentioned that Wildcat Transit might provide bus service to the apartment building, which could alleviate some of the traffic, it wasn't clear whether UNH had agreed to this, for a number of reasons.

Mr. Rains provided details as to whether he thought the proposed fence would provide sufficient buffering. He said he was concerned about the development's possible impact on the Oyster River and the wetlands in the area. He also said he was concerned about noise and light pollution that would come from the apartments, and also asked where snow storage would take place.

He said the big thing to him was how this proposed development would affect his property values. He said he had talked to three realtors, and said he had been told that adding a facility like this would bring down the value of houses in the area.

Mr. Campbell noted that the Town of Lee was noticed about this proposed development.

Councilor Needell noted that at the site walk, there had been discussion that the purpose of the 6 ft fence was to block car lights at the apartment building from being visible by

neighbors, but not to block the building from view.

There was discussion about the lighting that would come from the property, and Mr. Campbell noted that the applicant had provided a lighting plan.

Lindsay Rains, 13 Old Concord Turnpike, said she understood that the 6 ft fence was meant to provide a buffer for the immediate abutter, but she said it would do little for the rest of the residents who lived on the street. She said she had a chance to look at the proposed lease agreement, which among other things included fines for noise violations. But she said there was nothing in the agreement that said a resident could actually be kicked out of the apartment if there were problems.

She said her concern was that 100 students would be living in this building, and she described this as a nerve racking situation. She spoke of her concerns about parties that would take place, and asked where everyone would park. She asked Board members to consider what they would want, if they lived close to a proposed development like this.

Dick Weyerick, representative of Oyster river Watershed Association, provided a letter he had written, and read from it, which gave a general overview of the Association's concerns about the proposed development. He said the Oyster River was an undeniably critical resource, providing the primary water supply for Durham and the University of New Hampshire. He said if it flowed into the Great Bay Estuarine system, another critical coastal and marine resource.

He stated that the Association held monthly river walks, and said the impacts from the severe storm events that had been occurring in recent years had been substantial. He said this had demonstrated that in many cases, the storm water treatment systems designed to handle runoff had been inadequate, and he said the Oyster River watershed and receiving waters had suffered as a result of this.

He said of foremost concern was the proximity of the project to the river. He said if it flowed through a portion of the land, where it served an important floodplain function. He said it was crucial that this function be unimpaired by alterations in the terrain not only close to the river, but also at higher elevations away from the river banks.

He said the project would produce substantial storm runoff from impervious surfaces, as well as waste water treatment, which would require carefully planned and maintained treatment and temporary storage structures. He said recent storm events had demonstrated the inadequacy of existing technology and design, and said that coupled with un-enforced maintenance, this could have devastating impacts on receiving waters.

Mr. Kelley asked that the Association provide specific comments on the applications over the next 4-6 weeks. He noted that members of the Association were free to review the details of the application at the Planning Office. He then asked Mr. Weyerick how far back the Association would prefer to see the development from the Oyster River.

Mr. Weyerick noted that there was a 400 ft sanitary zone around the Lee well. He said if it was felt this distance was important in order to protect a water supply, it should apply to the Oyster River as well.

There was discussion that water from the Oyster River was treated at the water treatment plant, since it was a surface water.

Mr. Weyerick noted that for the watershed at College Woods, it was recommended that a 300-400 buffer be used. He said he felt that anything less than this would probably not as good.

Melanie Rothburn, 49 Old Concord Road, said she had purchased a home about a year ago. She also noted that she was a biologist at Boston University, and was extremely concerned about the watershed. She said she was concerned about the traffic that would result from this development, and also asked where the Wildcat buses would be turning around. She said even if the bus did stop at the apartment building, there would still be impacts to the road. She said there were already beer bottles there on a weekly basis, and also said she sometimes saw people driving drunk down the road. She said she was concerned that these things would increase if there were an additional 100 students living in that area.

Ms. Rothburn also said she would prefer to see native plantings as part of the landscaping that was proposed. She said if the conditional use permit went ahead, she would like to see the development fit as much as possible into the surrounding area. She noted that the development would be located near the border with the Town of Lee, and asked which police force would be responsible if there were problems in the area that resulted from the apartment building.

Councilor Needell noted that the suggested plan was that the Wildcat Transit bus would be able to turn around on the lot itself, since there would be two driveways.

Ms. Rothburn suggested that if visitors might park their cars in a way that blocked the opportunity for the bus to turn around.

Ms. Rains said she came from Dutchess County in NY, which at one time was much like Durham. She said it broke her heart now to go back there, because it was filled with urban clutter, and said this had happened gradually over time. She questioned whether the property management that was proposed would be sufficient, and said it sounded like this would be a satellite dormitory kind of situation.

Chair McGowan suggested that the hearing should be continued to the August 8, 2007 meeting, and said the applicant could at that time address some of the concerns that had just been raised.

Richard Kelley MOVED to continue the Public Hearing on a Site Plan and Conditional Use Permit submitted by Northam Builders Inc., Durham, New Hampshire, on behalf of Joyce Terrio to build a multi-unit dwelling structure consisting of 48, 2-bedroom units to August 8, 2007. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

IX. Conceptual Consultation submitted by Mark Henderson, Madbury, New Hampshire for a Retail/Residential Expansion. The property involved is shown on Tax Map 4, Lot 1-0, is located at 1 Madbury Road and is in the Central Business Zoning District.

Mr. Henderson said he had been considering this project for many years, but it had never seemed to be the right time to do it, financially, etc. He said he would be meeting with the Historic District Commission concerning his ideas to develop the property, and also said he was looking to discuss with the Planning Board the general sense of what he was trying to do, and to get feedback as to what both boards would like to see.

He explained that the property contained an old building, and was located right across from the Post Office. He provided details on the property, noting among other things that there had been a barn on the property at one time. He said he would like to create a barn like structure there, and he provided some drawings for the Board to look at. He said the idea was to reconstruct a barnlike structure on the Main Street side of the property, and to have retail uses on the first floor, and residential on the second floor.

He said a dilemma with the lot was that there was a very chaotic parking lot there at present, and he also provided details on some issues there had been concerning the lot boundaries. He said the area had been surveyed, so the property lines were now clear. He noted that the “Wildcat lot” went with his property.

Mr. Henderson’ presentation covered the following goals he had for the site:

- To better utilize the site through the development of professional office space, retail space, and residential space
- To keep the integrity of the existing building, the Joshua Ballard Building, which was built in 1790; and to improve the lot around that building.
- To create hidden, underground parking to improve the existing appearance of the current parking lot
- To build new professional office space and retail space that currently does not exist in the Central Business District
- To build new residential space behind and above the retail/office space that meets all current zoning and building regulations
- To keep green space on both the Main Street and Madbury Road side of the project
- To construct the building so that it appears to be of the same period of the existing Joshua Ballard building, through architectural design and building materials.

Mr. Henderson said the overall goal of the project was to bring business downtown, to bring residential space downtown, and to create positive tax dollars for the Town of Durham.

He next went through some of the possible designs for the building, noting among other things that because of the slope of the land, it would be possible to put parking under the building, and that it wouldn’t be visible. He said it was realized that some people who would live in the building wouldn’t necessarily need to have parking spaces there, and could park elsewhere.

He said currently on the lot, in addition to the historic building, there was a 20 ft by 20 ft structure that would be removed.

There was discussion about the idea of a deck appearance for the first floor, Mr. Henderson said he saw professional office space more than retail, for the Madbury Road side. He said there might be a few tables located outside this area. But he said the Main Street side would be more suited to retail/food establishments, because of the foot traffic and accessibility.

He provided further details on the design.

He said the first floor would have commercial facing Madbury Road, but residential facing Main Street. He said the second floor would be all residential. He said a goal would be to provide individual bedrooms for residents.

There was discussion that 4 beds per unit were allowed in this Central Business district with the appropriate sf, but said as a manager, he would prefer to see more units and less people. He said he had about 20,000 sf, and said he would need to maximize the residential load, on the premise that the commercial area in Durham was tough. He said he would like to see that he could make it work with a commercial space, but would also need to be able get enough beds so it would work for him and the Town.

Mr. Henderson said he was trying to get as much on the table as early as possible.

Mr. Kelley asked what Mr. Henderson liked about the building that had been designed, and Mr. Henderson provided details on this. He said he liked that it improved Durham in various ways.

Mr. Kelley said this façade looked contemporary, and asked if this was the look he was going for, or was trying to put it in harmony with the building in the corner.

Mr. Henderson said if he had his way, he would want it to look exactly like the building on the corner. He said it would need to blend with the old structure, and would do his best to make it look older.

Mr. Campbell noted the importance of being able to distinguish between old structures and new ones.

Ms. Fuller asked if the building would accommodate the need for parking.

Mr Henderson said businesses on Main Street didn't provide parking for both customers and employees. He said he envisioned having employees and customers here, and noted that there was other free parking available in the immediate area.

It was noted that the building on the site was the only historic building in the downtown area.

Councilor Needell said it was an exciting plan. He said there was a concern that there might be a problem with having residential space on the first floor, according to the Zoning

Ordinance.

Mr. Henderson said he understood this. He said he might come to the Board and say he wanted to commit 10,000 sf to a new commercial space if the Town allowed this. He said if this was not allowed, he would have 20,000 sf, but would then look at having another floor and doing some residential. He said he was leery of doing that much commercial space there.

Councilor Needell said he was not sure that negotiation with the Board could even happen, noting that a variance would be needed in order to have residential on the first floor.

Mr. Campbell asked if the thought was to put residential on the first floor in order to limit the height of the building in this area.

Mr. Henderson said he wanted the Ballard building to be at the forefront of everything. He said he would like to add a third floor, but said such a building would be twice the size of Wildcat Convenience, and he said the question was whether that would fit. But he said he would be taking the path of least resistance in terms of variances.

Mr. Kelley said another thing that would need a variance was the building setback. He read from the Ordinance concerning the development standards for this district on page 66.

There was discussion about this. It was noted that there was some flexibility in this provision.

Mr. Kelley said he was not adverse to what had been shown, but he said the development standards in the Zoning Ordinance on page 66-67 should be looked at carefully, in terms of the design. He said it was an exciting project, and said he looked forward to seeing it come before the Board.

Councilor Carroll said she liked the scale and the balance of the drawing, and said any additional height might not work. She applauded Mr. Henderson's efforts to make the Ballard building the focus of what was planned, and not simply an ornament.

Mr. Kelley left the meeting.

Mr. Henderson said he was hearing that first floor residential was not allowed. But he said he hoped they could work together to make this work without too many variances. He asked if it would make sense to come back with a conceptual plan, before moving forward with an application, and Mr. Campbell said that would be a good idea. Mr. Henderson said he would do this.

X. Other Business

A. Old Business:

B. New Business:

Mr. Campbell noted that the Planning Board's recommendations concerning the 2008-2017 CIP were due, and he asked if there were any items that Board members wished to add to the list of items. He reviewed the current list of items in the CIP:

- The Main Street improvements out to the railroad bridge, for 2009.
- Continuation of Wagon Hill parking improvements, for approximately 50 vehicles.
- ORLI improvements (extending water and sewer) in order to expand the tax base.
- Route 108/Route 4 interchange
- Main Street improvements that are going on now
- Money for a transportation study, which was taken out of the 2007 Budget.

Mr. Ozenich noted that Wagon Hill had been described in the Union Leader as being a public recreation area, but he said the sign in Durham said it was only for Durham residents. There was discussion about this.

It was noted that ongoing discussions regarding the development of the Durham Business Park were going well. Mr. Campbell said some easements from the previous subdivision of the property needed to be addressed. He said the subdivision was extinguished, but a lot of the easements were kept. He also said that Chinburg Builders was discussing the idea of possibly condominiumizing the different pods, which would force the development to go through the subdivision review process. He said the regulations did not require that this be a conservation subdivision, since it was not residential. He noted that during the Zoning Rewrite process, there had been discussion about requiring conservation subdivision for commercial development, but the regulations were not written that way.

There was discussion by the Board that extra meetings would be needed to do Zoning Rewrite work. It was agreed that this would be discussed at the Board meeting the following week.

XI. Approval of Minutes –

June 6, 2007

Page 2, 4th paragraph from bottom, should read”.. Ms. Belowski’s letter..”

Susan Fuller MOVED to approve the Minutes of June 6, 2007 as amended. Lorne Parnell SECONDED the motion, and it PASSED 3-0-3, with Richard Ozenich, Doug Greene and Councilor Needell abstaining because of their absence from this meeting.

June 13, 2007

Councilor Needell should be listed as being present

Page 3, 3rd paragraph, should say “Acting Chair Parnell...”

Lorne Parnell MOVED to approve the June 13, 2007 Minutes as amended. Councilor Needell SECONDED the motion, and it PASSED 6-0.

June 20, 2007

The pages should be numbered

Mr. Ozenich should be listed as being present.

Page 16, 5th full paragraph, removed the lone “Mr. Roberts MOVED the question.”

Councilor Needell MOVED to approve the June 20, 2007 Minutes as amended. Susan Fuller SECONDED the motion, and it PASSED unanimously 6-0.

XII. Adjournment

Richard Ozenich MOVED to adjourn the meeting. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

Adjournment at 10:20 pm

Susan Fuller, Secretary