

This set of minutes was approved at the Planning Board meeting on October 10, 2007

**DURHAM PLANNING BOARD
WEDNESDAY, AUGUST 8, 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: Wayne Lewis; Councilor Carroll

MEMBERS ABSENT: Steve Roberts; Doug Greene; Annmarie Harris

I. Call to Order

Chair McGowan said Wayne Lewis would replace Steve Roberts as a voting member. He noted that Town Planner Jim Campbell was not present.

II. Approval of Agenda

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

III. Report of the Planner

Chair McGowan read through Mr. Campbell's memo to the Board.

- Mr. Campbell said that at the Town Council meeting on Monday, the Council had reviewed the latest draft of the TIF district document. He said the Economic Development Committee had met the previous Thursday to discuss the latest draft, which only included Phase I of what was proposed earlier to the Council. He said they recommended this to the Council.
- He noted that the Planning Board had recently met with the Conservation Commission and as part of this meeting, had reviewed the film on conservation subdivisions. He said both parties had gotten a lot out of the meeting, and said it would be important to keep this open communication going.
- He noted that Mr. Ozenich could no longer serve as the Board representative to the Conservation Commission because of time constraints, so another representative would have to be chosen.

Mr. Ozenich agreed to stay on as the Planning Board representative to the Conservation

Commission until another Planning Board member agreed to take this position.

Chair McGowan noted that the upcoming Zoning Rewrite meeting on August 15th was open to the public. He also said there would be no Planning Board meeting on September 12th because of Rosh Hashanah.

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 said the Board had previously addressed the following issues:

- the height waiver;
- the number and placement of parking spaces;
- the conditional use of the wetland buffer;
- the restriction of the hours of operation of the retail business from 6 am to 10 pm;
- the replacement of the existence fence with a stockade fence along the rear of the property.

He noted that the abutters had spoken with Mr. Campbell about the fence issue, and had agreed to pay for a fence that would extend along side the property, along the wetland buffer.

Abutter Jay Gooze said he had discussed this with Mr. Kimball and they had come to an agreement. He said he hadn't talked with his neighbor, Dr. Dimambro about this yet, but would do so.

There was clarification that the Board had also decided that there would be no beer or malt liquor sales in the retail space.

Councilor Needell pointed out that the hours of operations had not been included yet in the Conditions of Approval.

Chair McGowan said the Board had partially completed the discussion on property management at the last meeting. He noted that the Board had subsequently received some information on property management from another property manager.

Councilor Needell said when the Board first discussed this issue, onsite property management was considered essential. But he said after hearing from property manager Mike Davis, he saw that perhaps there could be some flexibility, and that there could be off site

property management. He said there should be some kind of requirement that the persons that would be responsible for this would be identified clearly, and that there be a guarantee that they be responsive at all times. He also said there should be some kind of night time security on site at least Thursday through Saturday.

Mr. Kelley agreed. He also noted that the Board presently had two leases it was reviewing, for two different applications. He said the lease agreement language for Pine Ledge apartments was not as strong as the other one, and he provided details on this.

Mr. Ozenich said offsite property management companies in this area didn't respond very quickly, and said this was why he liked the security people Mr. Davis used. He said he was not saying that offsite property wouldn't work, but he noted again that response times hadn't been good.

Councilor Needell said perhaps there should be someone there at night, but not during the day. He said the security person would not be the property manager, but would be the person to inform people of misdeeds, and inform management as well.

Mr. Ozenich asked if the Board should ask the applicant for a proposal concerning this, and there was discussion.

Mr. Parnell said a point of contact was needed, which was not a security role. He also said the Board needed to have the applicant agree to night time security, every night, to prevent problems.

Ms. Fuller said there also needed to be communication between the management and the tenants, noting that this had been an issue at some Rental Housing Commission meetings she had attended. She suggested that who the tenant contacted in cases of emergency could be part of the lease so there would be no confusion on this.

Mr. Kelley said in order for him to be able to support this application, he would need to see a stronger lease, with rules attached to it. He recommended that the applicant look at the document used as part of the Terrio application.

Mr. Ozenich agreed, and said he was surprised at the strength of the provisions in the Terrio document.

Chair McGowan said the Board could ask the applicant to provide this, or could develop language to put in the conditions for the conditional use permit.

Mr. Kelley said he was reluctant about the idea of having the Planning Board write these terms, and said he believed this burden fell on the applicant.

Councilor Needell agreed. He also said he wondered if there could be a phrase in a condition that the management plan must be submitted to the Code Enforcement officer and the Police Chief for approval.

Mr. Kelley suggested that elements of such a condition would include the primary contact 24 hours a day, a secondary contact, provisions for private security, and review of the lease and rules.

There discussion that there might be some flexibility in this plan as long as it met the approval of the Code Enforcement Officer and the Police Chief. There was also further detailed discussion on the elements of the condition.

There was detailed discussion as to whether the Code Enforcement Officer and the Police Chief should be responsible for reviewing the management plan and also the lease details.

Councilor Carroll said the applicant had heard that the Board didn't think the lease was up to par, and she said it wasn't the Board's job to go through the details.

Chair McGowan asked if there were other issues concerning this application that the Board needed to go through.

It was determined that there didn't need to be a condition concerning the fence, and that the neighbors would address this issue.

There was discussion on the issue of assessment of an impact fee, and whether it applied here. It was agreed that this would be addressed with Mr. Campbell.

Mr. Lewis asked if Board members were happy with the specs on the pervious pavement.

Mr. Kelley asked if these specs had been submitted, and Mr. Chagnon said no. He said the applicant had thought that approval of the applications would be contingent upon approval of the design.

Mr. Lewis said his concern was that in order for the system to work properly, it had to be installed properly. He said someone who knew what he was doing needed to be out there to enforce the specs. He said the wording "independent engineer" could mean a lot of things.

There was discussion about this.

Mr. Chagnon said the Board could say that this person would have to be approved by the Public Works Director.

Councilor Carroll asked what happened if the pervious pavement system didn't work properly, and there was discussion on this.

Mr. Kelley said he would be fine with the suggestion that the independent engineer would be approved by the DPW.

Mr. Lewis suggested the following wording "an independent engineer who is experienced

with pervious asphalt, and approved by the DPW”.

Chair McGowan noted that if the deliberations were continued, the applicant would need to grant an extension.

Mr. Chagnon said it was his understanding that the one issue causing the Board not to end deliberations was the lease that was proposed. He asked what sections the Board thought needed to be modified, so he could come back with something.

Mr. Kelley suggested that the applicant look at the lease for the Terrio application, which had a lot more teeth than the lease the applicant had proposed.

There was further discussion on specific items that could be included to improve the lease.

Chair McGowan reviewed the details of the condition the Board had agreed to concerning a property management plan:

- 24/7 primary contact to resolve security issues in a responsible time and manner
- secondary contact if primary contact is not available
- contacts updated as required
- night time security on site during hours of 8 pm-6am seven days a week
- this property management plan meets with the approval of police, fire, code enforcement
- this plan can be reviewed, modified, and updated by either the owner and/or town officials. All modifications must be approved by these town officials.

Richard Kelley MOVED to continue deliberations on a Site Plan Application and 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 to the August 22, 2007 Planning Board meeting. Richard Ozenich SECONDED the motion.

Mr. Parnell asked if the most recent lease agreement was the one that was submitted to the Board in May, and Mr. Chagnon said yes.

Chair McGowan said at present the Board didn't feel there was enough substance in the agreement. He also said the applicant might want to talk with Mr. Campbell about the impact fee issue.

Chair McGowan asked if the applicant was willing to extend the application.

Mr. Kimball said yes, since the impact fee assessment hadn't been done. He said his concern regarding the lease was that he had needed some resources to go to get a clear sense of what it should include. He said the process otherwise was a bit arbitrary.

The motion PASSED unanimously 7-0.

- 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.

Ms. Fuller and Mr. Ozenich recused themselves.

Richard Kelley MOVED to continue the public hearing. Lorne Parnell SECONDED the motion, and it PASSED unanimously 7-0.

Mr. Caldarola said as the next step, he was hoping to get a sense of to what degree the Board agreed with his prioritization list of the secondary conservation area.

There was discussion that it was accepted that there was vernal pool on the property, and Mr. Caldarola said he would work around it, although this would mean that a number of things in the plan would have to be revised.

Councilor Needell suggested that they were all therefore forgetting about the lot lines for the subdivision for now, and would be working with the primary and secondary conservation area issues.

Chair McGowan asked if there were any member of the public who wished to speak concerning the application.

Pam Bradley, 4 Ambler Way, said her problem was that when the vernal pool filled up, it connected up with the rest of the water on her property. She said if she was going to protect salamanders, she needed someone to protect her too. She said she couldn't have water rushing through her property, stating that this had been very destructive.

Councilor Needell asked Ms. Bradley what she would like to see happen concerning the vernal pool.

Ms. Bradley noted that there had been discussion that the vernal pool needed to be protected. She said there also needed to be some kind of barrier to stop the water from overflowing the vernal pool onto her land.

Councilor Needell asked if Ms. Bradley wanted something to be added to this project concerning this, and Ms. Bradley said yes.

Chair McGowan said the Board needed to reach a consensus as to whether it was satisfied with the prioritization list for the secondary open space.

Mr. Kelley read through the list that had been developed by the applicant:

1. Wildlife corridors along the northeast corner of parcel

2. Wildlife habitat
3. Buffer to abutting properties north and east
4. Stone walls, perimeter and interior
5. Specimen trees
6. Buffer to exit street south and west
7. Interior hardwood grove
8. Ledge outcrops
9. Remnant shed structure

Mr. Kelley said that while he personally might want to move one or two of these items around, he felt that in general, they were well prioritized.

Chair McGowan said he thought the list made sense.

Councilor Needell said he agreed with Mr. Kelley, and said he appreciated Mr. Caldarola's explanation of why the list was done this way, and the fact that a different ordering could result in a very different use of the property. He said the wildlife corridor especially would be the element that would be most disrupted by a different design approach, and said he had no quarrel with the choice to preserve that above all else.

Mr. Parnell said he had no major problems with this list, but said that given the fact that the applicant was trying to put a lot of things on the site, perhaps the buffers should be put ahead of the specimen trees. He said he agreed that the main priorities were the wildlife corridor and the abutting property owners to the north and east.

Mr. Kelley said the other big issue was regarding the swapping out of some of the somewhat poorly drained soils, and he said he didn't take issue with this. He said the residents of Ambler Way had always had the luxury of having the existing open space area behind them, and he said a change in the design would put the new homes in their backyards and into the wildlife corridor.

Mr. Parnell said he agreed, but he noted that the Board had heard different opinions as to whether the somewhat poorly drained soils were buildable. He asked what the proper view was on this.

Councilor Needell said his reading of the Ordinance was that this depended on what type of subdivision was involved. He said for a conventional subdivision with 3 lots or less, there was nothing in the Ordinance that prevented building on somewhat poorly drained soils. He said what prevented this in a conservation subdivision was the requirement in the subdivision regulations that all somewhat poorly drained soils were to be part of the primary conservation area, which must be excluded from the buildable area.

Mr. Kelley noted that the Board had the ability to waive this, since it was part of the subdivision regulations. He said that otherwise, Mr. Caldarola would be before the ZBA concerning this.

Mr. Parnell said if that was the case, he agreed with Mr. Kelley that this was a swappable area.

Councilor Needell said the applicant had made a reasonable argument, and he said if there was no other solution, it was something he would be willing to consider. But he said he was not prepared to grant the waiver now, and noted that the plan had to be reviewed further, given the existence of the vernal pool and the problems with the lot boundaries on Canney Road. He said some things would have to change in the plan anyway, so the problem with the somewhat poorly drained soils might go away.

Mr. Kelley agreed it would be good if the swapping of the somewhat poorly drained soils could be avoided. He also said he believed that Mr. Campbell had said the Board was afforded some flexibility with the lot sizes on Canney Road.

Councilor Needell said his understanding was that there was no flexibility with the lot sizes on Canney Road, and that the applicant would have to go to the ZBA to address this.

Chair McGowan said that was his understanding too.

Mr. Kelley noted that a buffer was needed around the vernal pool, so it seemed pretty clear that it would be very difficult to get those two lots on that corner and still maintain the minimum lot size requirement without going to the ZBA. But he noted that the applicant was afforded some relief on the private drive off Bagdad Road.

Councilor Carroll said the houses on Canney Road in the design at present were quite close.

Mr. Caldarola said at present, the width of the lots where the houses were proposed on Canney Road was approximately 150 ft as a minimum, which was the frontage required for the district. He said that was what they had been going for in order to maintain the aesthetics.

He said if some of the lots got tightened up, there would be a lot width of about 100 ft and a lot size of about 20,000 sf, which still wouldn't be ridiculously narrow. He said he and Mr. Hull would look at this when they looked at the vernal pool issue and the one lot vs. two lot issue.

Councilor Needell asked how much of the usable area would be lost when the buffer was drawn around the usable area.

Mr. Caldarola said the two lots together had about 33,000 sf, and he said about a third of it was lost to the buffer.

Councilor Needell asked if nine lots could still be put on the property if the buffer was drawn around the vernal pool.

Mr. Caldarola said yes, one way or another. He said his first guess was that there would only be one lot on Canney Road. He said he would need to discuss this aspect of the design further

with the Board. He said the obvious way to solve the problem was for two smaller lots on Canney Road to have an easement to the open space. He noted that even if there were only one lot, it wouldn't be 40,000 sf, so an easement would still be needed.

Mr. Kelley said the proposal Mr. Caldarola had made concerning the easement might sit better with him because he was providing more open space than was required. He provided details on this.

There was further discussion on this, and it was clarified that there was sufficient excess area in the open space so that some of this could be provided to a lot on Canney Road, in the form of an easement, and that this would mean that the lot would have the 40,000 sf.

There was further discussion on this, and it was clarified that even if 7,000 sf was taken from the primary/secondary open space for a lot on Canney Road, there would still be about 33,000 sf more than what had to be provided as open space for the development.

Councilor Needell said the ownership aspects of this use of the open space would need to be discussed further. He then noted that the applicant's plan for handling drainage had changed over time, and he provided details on this.

Mr. Hull said not making the changes on Canney Road wouldn't change the amount of water going to the vernal pool, but said what he and the applicant had previously proposed concerning making changes on Canney Road would have decreased the amount of flow going into the vernal pool.

He said having talked to the Town Engineer, the Board, the Conservation Commission and the abutters about this issue, his personal feeling was that there were still questions that needed to be explored concerning the overall drainage in that area.. He said he therefore hadn't taken anything off the table yet. He said if the approach was to look at the culvert and what happened on the other side of Canney Road, and to decided that overall that was the greater improvement, this should be looked at. He noted that the Town Engineer had recommended that the applicant just focus on the drainage engineering on the site.

Mr. Kelley said he agreed with Mr. Hull, and provided details on this. He said no reason was given by the Town Engineer as to why the applicant's original plan, to revert back to the preexisting drainage conditions in the area, where water ran on the east side of Canney Road and crossed underneath the culvert, to the west was not acceptable.

Mr. Hull said the rationale was that the outlet to the culvert now went onto private property, and he said it wasn't clear what the ramifications on those lots would be from increased flows.

Mr. Kelley said during the time the application had been before the Board, there had been two 100 yr storm events. He said he had seen the Bradley lot, and said the existing conditions were pretty bad. He said the design showed no net increase in the peak flow rate, and he asked if this held true for quantity as well.

Mr. Hull said it was a quantitative analysis, and said the plan was to get water back into the ground at the source, with underground chambers, the number of which was based on what would be needed to infiltrate the water sufficiently. He said at the rear of the site, where no improvements were proposed, there would be nothing that would change the rate of infiltration. He said what could be controlled was what came onto the area to be developed and what came onto the site from Canney Road.

Mr. Parnell said it seemed that there should be a solution to the water coming onto the site from Bagdad Road, regardless of what happened with the development of this site. He noted that it came through the property and ended up on Ambler Way.

Mr. Hull said that was the drainage issue he and Mr. Kelley were talking about. He said by making repairs on Canney Road, they could keep the water there. He said if nothing was changed there, the water would end up on the Bradley property, and said if the repairs were made, the water would discharge onto another private property, although not on the building portion of that property. He said with the Bradley property, the water went right to the house area and became a moat around the house. He provided further details on this situation. He stated his preference for looking at the overall drainage issues in this area, and not just focusing on drainage issues on the site.

Councilor Carroll said it sounded like the vernal pool needed water but the Bradley property didn't need any more water, and they were close in proximity to one another. She said either there had to be a little less, but sufficient water going to the vernal pool, or something needed to be done between the vernal pool and Mrs. Bradley's property.

Councilor Needell said mitigation of the effect from the vernal pool was a tough issue. He asked whether re-engineering the site would make the vernal pool go away.

Mr. Hull said he didn't think so because the vernal pool was a bowl, so collected spring melt and other runoff. He said there was very shallow damming of the pool, and it overtopped easily.

Councilor Needell said it was good that Mr. Hull planned to discuss further with Mr. Cedarholm what should be done concerning the drainage issues.

Mr. Kelley said he thought Mr. Cedarholm should either come to the meeting to discuss this issue or put his thoughts down on paper.

Mr. Caldarola said he agreed, and said he felt the better thing to do was to correct the culvert situation. But he noted that the drainage easement across the street was vague. He said the culvert situation didn't have anything to do with the proposed development, and was more of a Town issue. He said he was willing to correct the culvert, but needed help in doing this.

Ms. Bradley thanked the Board, and said she felt they had heard her. She said she realized

this was more of a Town issue, but she said it had always been her issue. She said if development was going to happen in that area, it was time to address that issue. She said she had lived on Ambler Way for a long time, but said the water problems had been worse in recent years because there were more storms. She said the water flowed to her property from the vernal pool as well as another area.

Chair McGowan asked Mr. Caldarola if he was ok with the feedback he had been given, and Mr. Caldarola said he was.

Councilor Needell asked what would happen with the application at the next meeting, and Mr. Caldarola said he would be submitting a revised plan.

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 22, 2007. Lorne Parnell SECONDED the motion, and it PASSED unanimously 7-0.

Break from 8:50-9:00 pm

Ms. Fuller and Mr. Ozenich returned to the table as voting members.

- VII. Continued 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.

Engineer Doug LaRosa said he had spoken with Wildcat Transit regarding the issue of possible bus service to the proposed development. He said there had not yet been a decision on this by UNH, but he said he was confident that this was doable.

He noted that the applicant had responded to some of the issues that had been raised at the last meeting, in a letter to Mr. Campbell dated August 2, 2007. He said the letter provided details concerning the property in relation to abutting properties, regarding traffic as well as lighting issues. He referenced a traffic analysis that showed that the proposed apartments would generate about a third of the traffic that a permitted office use would. He also said it was expected that the driveway permit would be issued by NHDOT unless there was objection from the Town.

He noted that there was a lighting plan. He also said a plan had been submitted showing a fence to be constructed as a buffer for the closest neighbor, which would shield abutting properties from car lights.

Mr. LaRosa said Mr. Davis was available to answer questions concerning the proposed lease agreement.

There was discussion regarding the location of the Clark property, as well as the location of the Oyster River relative to the Terrio property.

Mr. Parnell asked if Mr. Davis could speak to the board concerning property management issues and the lease the applicant had proposed.

Mike Davis, Sumner Properties, said the lease was essentially the same as his lease. He explained that over the last 6 years, he had updated all of his leases, and said he hadn't had any trouble in the last 2 years. He said there was night time security Thursday-Saturday, from 9 pm to 2 am, with one swing night as well, to surprise people. He said there had previously been a lot of foot traffic, which caused most of the problems, and said this had been cut down significantly. He noted that that shouldn't be a problem with this property.

He provided details on how the nighttime security worked. He said with the people who were there the first year, there were always a few who would create trouble, and he said it was important to get right on them, and to go right to the court system with a writ of summons. He said if they created further trouble after this, they got kicked out. He said he had worked with the Durham Police Department to fine tune this approach over time.

Ms. Fuller asked if night time security was ever needed on other days, and Mr. Davis said one other day was a floater, which surprised people. He said once people knew the property was patrolled on a regular basis, there wasn't trouble.

Mr. Kelley asked if Mr. Davis had looked at the proposed rules and regulations and the lease agreement, and Mr. Davis said they were essentially his. He said they had evolved over time as he had added rules and regulations.

Mr. Kelley asked Mr. Davis if there was anything he was thinking of changing in the existing lease agreement, and Mr. Davis said no, nothing that he hadn't had to change anything over the past two years.

Councilor Needell noted the police were nearby to Mr. Davis's properties, but the proposed student housing development would be further out. He asked Mr. Davis what changes he might suggest to the lease agreement, given this.

Mr. Davis said he would probably have the nighttime security make rounds every half hour. He also noted that the Bryant property was further out, but didn't experience problems with students.

Councilor Needell asked who was the point of contact for his properties.

Mr. Davis said first there was the property manager, also noting that there was the person who was on call if there were maintenance problems, the security person, and himself.

Councilor Needell asked where the property manager was located.

Mr. Davis said he was located in Dover. He said having a maximum of a half hour travel time was good.

Mr. Kelley asked if Mr. Davis had had to go through the procedure of having the Sheriff remove a tenant, and Mr. Davis said this had happened twice.

Councilor Needell noted that this was a conditional use permit application. He asked what Mr. Davis thought about the approach of having the applicant's property management plan reviewed and approved by the Police Chief, the Fire Chief, and the Code Enforcement Officer, rather than having the Board discuss exactly what the management plan should be. Mr. Davis said the conditional use permit was a good tool, noting it was revocable.

Councilor Needell said the plan would have to be approved by Town staff and said this could be a condition of approval, but he said the idea was to provide some flexibility so the plan could be fine tuned by the owner and the Town over time.

Councilor Carroll asked if the property management office would be open during regular business hours.

Mr. La Rosa said he wasn't sure what the hours of operation would be. He said the office would be used primarily for setting up leases, and collecting rents.

Chair McGowan MOVED to open the public hearing. Richard Kelley SECONDED the motion, and it PASSED 7-0.

Chair McGowan asked if there were any members of the public who wished to speak in favor of the application. There was no response. He then asked if any members of the public wished to speak against the application.

Richard Wyerick said he was present again to represent the Oyster River Watershed Association, and said he had a few more points to make.

He said there was a pretty good size culvert running from the property underneath Route 4 onto the Joe Ford land across the street. He said this flowed into a stream that then flowed into the Oyster River from the Ford land. He said this meant that all the runoff from the applicant's property went to the Oyster River in one way or another. He noted that snow storage would also be placed on that portion of the land, and said whatever was contained in the snow would go into the wetland area and then into the river.

He said that in view of the increase in impervious surface as a result of this development, this raised the question of whether the culvert was adequate, and whether this had been examined as part of the engineering design for this proposal.

Mr. Wyerick said recent severe storm activities suggested that the storm water design standards should be raised to deal with the increased flows that were occurring. He said

regardless of whether this was a trend or a cycle, responsible stewardship should involve designing for the long run, especially when downstream resources and landowners were at risk.

There was discussion about the location of the culvert Mr. Wyerick had referred to.

Mr. Kelley asked if the Old Concord Road bridge had been an issue, with the recent storm events.

Mr. Wyerick said the bridge just barely made it, in both 2006 and 2007, and noted that the water had been about 6 inches from the top of the bridge.

Mr. Kelley asked what the setback from the Oyster River was in Lee., and Mr. Wyerick said it was the same as the setback in Durham, 250 ft.

Councilor Carroll asked whether having pervious surfaces in the parking area would help the situation Mr. Wyerick had described.

Mr. Wyerick said he believe it would be helpful, but he said it wouldn't resolve the snow storage issue. He noted that if there were chemicals used, they would probably end up in the river, whether the release was slow or fast.

Councilor Carroll asked if perhaps the Board should look at what chemicals should be allowed or not allowed, and Mr. Wyerick said he thought that would be the wise thing to do.

Mr. Kelley said with some grading revisions, the snow storage could drain back to the parking area, be collected and sent to the treatment systems. He asked if the best management practices proposed by the applicant were acceptable to the Association.

Mr. Wyerick said he was not confident that they were sufficient. He said it appeared that standard engineering designs had not been sufficient for these recent large storm events, and he said he felt the standards needed to be raised. He said he had seen enough of this watershed to know that the standard had been exceeded.

Chair McGowan noted that the Board had previously been told that the conditions on this site didn't allow for the use of pervious pavement.

Mr. LaRosa said he appreciated the concerns of the Association. He said a lot of the drainage systems in the area had failed because they concentrated water in one place. He said with the storms, some had overtopped and caused significant erosion because they weren't built for 100 year storms.

He said three different storm water management areas had been designed, based on the topography. He said close to the NHDOT building, the water was sheeted across a heavily vegetated area to remove sediments right off the parking lot. He said all the roof water was taken and infiltrated back into the ground.

He said the third section, closest to Lee, collected water in pipes and sent it to a rain garden. He said if the water there rose to a certain level, it would go to a concrete structure and then shoot into a rip rap area that would reduce the flow velocity, and would spread it over the least sloping area, and toward the Oyster River.

Mr. LaRosa noted that the entire system was designed to be outside of the 250 ft setback from the river. He said the closest the parking lot was to the Oyster River was about 330 ft, and said most of the built area was 400 ft away. He said this was a 16 acre site, and said the development would disturb about 1.3 acres of it. He also noted again that all of the roof area would be infiltrated back into the ground. He said he had taken extra care in the design, and appreciated the concerns about the Oyster River.

He spoke about the wetland that fed into the culvert that ran under Route 4. He said the stormwater design was for a 50 year storm, and said in such a situation, there would be a 1% increase in peak flow. But he said for a culvert of the size that had been designed, the impact would be negligible. He provided further details on this.

There was discussion on the stormwater plan for the proposed development, with Mr. LaRosa explaining the content and the sequencing of the plan.

Councilor Needell noted that it was within the purview of the Planning Board to have an independent review of the stormwater plan. He asked whether this might be a good idea, given the level of the concerns that had been raised.

Mr. Kelley said that might be appropriate in this instance.

Mr. LaRosa said Town Engineer Dave Cedarholm had reviewed the storm water plan, and there was discussion concerning this.

Councilor Needell said he didn't have a problem with the Board asking Mr. Cedarholm if he recommended an outside review of the plan, before having the Board go ahead and require this independent review. He noted that this might delay the process.

There was further discussion about details of the storm water design.

Robin Mower, Faculty Road, said she had a big picture question to ask, as to whether there should even be student housing in the ORLI district,. She said she didn't think it fit in this neighborhood, and said the people living out there would rather see a small office park like Goss, which would increase the tax base but without the student housing problems.

She noted that it had been said that there had been an improvement in student/landlord relations in recent years. But she said there might still be problems with large concentrations of young people out there. She said she realized this was a permitted use, but said she hoped that a lot of attention be paid to the lease, to make sure it would be strict and would have real teeth.

Ms. Mower also noted that the property was almost across from a cemetery, and that there were two curb cuts on the property that were pretty close to the cemetery. She said there were visibility and safety issues involved. She also noted that she bicycled out in that part of Town, and said she had concerns about traffic. She also said she had seen broken bottles out in that area.

Concerning the drainage issue, she noted that when trees were remove from a site, this naturally tended to increase drainage problems. She urged the Board to consider some safeguard in reviewing the documents before them.

Ms. Mower said her biggest objection to the proposed development was the scale of the project, and said it would dramatically increase the number of people and vehicles using that area of Town.

She also said she would like some clarification as to what the proposed recreation area would involve. Finally, she said that she didn't think that the traffic flow would be only a third of what would be expected for a commercial facility. She said because it was a place people had to drive to, she thought people would come to party and would stay there. She said she thought it would require more effort for the police to come there because it was further from Town.

Melanie Rothburn, 49 Old Concord Turnpike asked if there was any sort of regulation concerning parking on the road, and Chair McGowan said there were.

Ms. Rothburn said she would like to know how many infractions there had to be for a particular student before this went to the police department. She also said that during the most recent storm event, the water did cover part of the Old Concord Road bridge. She noted that it was a conservation area in Lee that flooded and caused this. She also said she would like Mr. Cedarholm to put his reputation on the line concerning the drainage plan.

Ms. Mower said it didn't make her happy that the proposed recreation area would be near the grave site. She asked if there could be constraints on the size of parties, and there was discussion. She said this area was zoned as ORLI, but the abutters in reality were single family residences.

There was discussion that the apartments would each be 600 sf, and that there could be 2 people living in each of them.

Mr. Davis said that the conditional user permit was a good tool to use concerning the recreational area.

Councilor Needell noted that recreational areas were required for multiunit developments in the MUDOR district, but not in the ORLI district. He requested that the Planning Board review this.

Susan Fuller 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, until August 22, 2007. Richard Kelley SECONDED the motion..

The Board agreed that they needed to get clarification from Mr. Cedarholm on the drainage issues, and clarification from Mr. Campbell concerning the recreation area.

Mr. Kelley said if it was the will of the Board to have an independent review of the storm water plan, it should vote on that now. He said this review could be accomplished before the next meeting.

Councilor Needell MOVED to amend the motion, and to request an independent review of the stormwater management plan. Richard Kelley SECONDED the motion.

Mr. Lewis said given the significant concerns about drainage issues, he thought an independent review would help a lot.

Mr. Parnell said it should be part of the request for the independent review that it be done before the Board's next meeting.

Mr. Kelley noted a discrepancy in the plan, and received clarification that Mr. LaRosa would be able to get an updated plan to Mr. Campbell.

The motion PASSED 7-0.

The original motion PASSED unanimously 7-0.

VIII. Voluntary Lot Merger submitted by the Town of Durham, Durham, New Hampshire for the merging of two lots. The properties involved are shown on Tax Map 5, Lots 4-10 and 4-11, are located at 13 and 15 Newmarket Road, and are in the Courthouse Zoning District.

There was discussion that the two parcels involved were the Town hall property and the adjacent parking lot, which were on two separate lots, and that the Town wanted to combine them.

Richard Kelley MOVED to approve the Voluntary Lot Merger submitted by the Town of Durham, Durham, New Hampshire for the merging of two lots, for the properties shown on Tax Map 5, Lots 4-10 and 4-11, located at 13 and 15 Newmarket Road, in the Courthouse Zoning District. Richard Ozenich SECONDED the motion, and the amended version PASSED unanimously 7-0.

IX. Other Business

- A. Old Business:
- B. New Business:

Mr. Kelley noted that the Lamprey River Advisory Committee had created some informative flyers, which Bill Hall would bring to Town Hall, where they would go out to local boards

and residents. He noted that the Town Council had until the end of August to comment on the Committee's draft management plan update, and he said if Planning Board members had any comments, they could be consolidated.

C. Next meeting of the Board: **August 22, 2007**

There was brief discussion on the need for prioritization of the Zoning Rewrite work.

X. **Approval of Minutes** – June 27, 2007

Page 7, 5th paragraph from the bottom, should read "*The motion FAILED 2-4, with Councilor Needell and Steve Roberts voting in favor of it.*"

Lorne Parnell MOVED to approve the June 27, 2007 Minutes, as amended. Susan Fuller SECONDED the motion, and it PASSED 5-0-2, with Chair McGowan and Richard Kelley abstaining because of their absence from that meeting.

XI. **Adjournment**

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

Adjournment at 10:21 pm

Victoria Parmele, Minutes taker