

These minutes were approved at the March 12, 2008 meeting.

**DURHAM PLANNING BOARD
WEDNESDAY, JANUARY 23, 2008
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL
7:00 P.M.
MINUTES**

MEMBERS PRESENT: Chair Bill McGowan; Richard Kelley; Steve Roberts; Susan Fuller; Lorne Parnell; Councilor Jerry Needell

ALTERNATES PRESENT: Doug Greene, Wayne Lewis; Richard Ozenich

MEMBERS ABSENT: Annmarie Harris; Councilor Diana Carroll

I. Call to Order

Chair McGowan said Mr. Lewis would be a voting member in place of Mr. Ozenich.

II. Approval of Agenda

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

III. Report of the Planner

- Mr. Campbell said the Economic Development Committee had met on Friday, and had discussed the work of the Rental Housing Taskforce. He noted that Administrator Selig and Code Administrator/Enforcement Officer Tom Johnson were there for the discussion. He said that following this meeting, EDC members toured the Evangelical Church property, and said they would be evaluating it as a possible Town property.

He noted that there had been discussion on the idea of possibly moving the Town Hall and the Police Station to this facility, and said the Board would be hearing more about this idea in the future. He said architect Bill Schoonmaker would be taking a look at the facility to consider what kind of rehabilitation work would be needed to make it suitable.

- Mr. Campbell noted that Mr. Johnson had recently determined that a conditional use permit application was needed in order to create and operate the trail system for the Great Bay Reserve property on Dame Road. He said Dea Brickner Wood and Cynthia Belowski had subsequently come to him to talk about possible Zoning amendments that if passed, would allow them to do what they wanted without having to go through the conditional use permit

process. He said language for this would be drafted, and said the proposed amendments would come either from the Council or the Planning Board.

There was discussion on this. Mr. Campbell said if this didn't get worked out by either the Council or the Planning Board, he felt that the entities involved would appeal Mr. Johnson's administrative decision.

- Mr. Campbell said that at the upcoming quarterly planning meeting on February 27th, the Board would meet with Town Engineer Dave Cedarholm concerning the draft Stormwater ordinance, and would also be meeting with the Energy Steering Committee again.
- He said he had recently attended a meeting concerning the Main Street West project. He said a Transportation Enhancement Grant for the project had been received for 2009, for \$490,000, also noting that costs had gone up since the grant was applied for in 2003. He said they would try to make up the cost differential, and said the Main Street Committee would start meeting again.
- Mr. Campbell said he had talked with Mr. Kelley by phone after the meeting with UNH regarding the traffic model. He provided details on plans for modeling that had come out of those discussions.

IV. 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. (The applicant has requested that this application be postponed until February 13, 2008.)

Chair McGowan said the applicant had requested a continuance to the Feb 13th meeting.

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, at the corner of Bagdad Road and Canney Road, in the Residential B Zoning District to Feb 13, 2008, at the request of the applicant. Steve Roberts SECONDED the motion, and it PASSED 6-0-1, with Susan Fuller abstaining.

V. Design Review on a Site Plan Review Application submitted by Park Court Properties Inc., Durham, New Hampshire for the construction of a mixed-use, multi-unit building. The property involved is shown on Tax Map 13, Lot 5-0, is located at 262 Mast Road and is in the Multi-Unit Dwelling/Office Research Zoning District.

Bill Doucette, of Doucette Survey, represented the applicant, Perry Brant, of Park Court Properties. He also introduced Clay Mitchell, the Town planner for Epping, who was also an attorney, professor and a student of green technologies. Brad Mezquita of Appledore Engineering, noting building LEED building and also using LID, and Carla Goodnight, CG Architects.

Mr. Doucette said the property was located just north of the orchards. He said they were present that evening to share their vision for the project, based on Mr. Bryant's extensive experience with previous multi-unit developments, and his directive to create an earth friendly project unlike anything that existed in Durham. .

He said it was somewhat unnerving how mechanical the traditional site plan application process had become. He said the design team had a different directive here, to gather information on emerging technologies, and to get input from the Planning Board, community, neighbors, etc, and to then start thinking about what could be done with the site.

Mr. Doucette said the average 11 year old probably knew more about what a low carbon footprint meant than the average 40 year old. He said today's college students cared about these issues, while their parents wanted them to have quality, secure living environments. He said the vision for this project included the possible use of electronic key cards to control access; 24 hour surveillance, and apartments furnished with durable furniture, which minimized the damage that occurred when students moved in and out of apartments. He said Energy Star appliances would be installed.

Mr. Doucette said the site, energy and materials usage, indoor air quality, acoustics, etc would be considered in the design of this development. He said there would be careful selection of native building materials, site materials, and plantings.

He said in terms of restrictions, parking would be restricted, perhaps only allowing hybrid vehicles. He said bicycle use and the use of the campus shuttle would be encouraged, noting that there perhaps might be coupons given to students who had the lowest carbon footprint for a particular period of time.

He said they were looking at having computerized heating systems of various kinds, and were considering possible use of geothermal, wood, solar and other energy technologies. He said one of the goals of the project was to reduce energy use by 50%. He said the goal with the technologies that were chosen was to have lower maintenance costs, lower environmental impacts, and enhanced resident comfort, health, and productivity.

Mr. Doucette said the team wanted to have an interactive presentation and discussion with the Board on these things.

Epping Town Planner Clay Mitchell next explained that the kind of process that was being undertaken as part of this kind of project, working with a design group on a specific development, was new to him, but he said the process reflected his own philosophy. He said there were 4 areas of interest that he was being asked to integrate into this project.

He said the first was the importance of using a whole building approach in the design process. He noted that a lot of the concerns around green building related to possible increased costs, and explained that when the design process from the beginning considered the various and energy factors and options and the various site factors and options, the cost of construction could actually be lower. He said costs would go down even further in terms of energy use after

a green building was built.

Mr. Mitchell said a second thing he was working on with this project was trying to arrive at a more interactive approach, in discussing design ideas, during the actual build process, and then as part of the living process, where the site and the building on it became an interactive facility. As examples of this interactivity in terms of the facility itself, he said there could be rewards for residents for keeping the carbon footprint down, and that the building could evolve over time as the building needs changed, and as the technologies evolved.

He said a third issue he was trying to incorporate into this project was trying to work with the changing involvement of the Federal and State governments in the realm of energy. He provided details on this, noting REGI, rules currently being developed concerning renewable portfolio goals; and straight tax credits that were becoming available. He said it was important to be aware of these things in order to understand the costs of innovative energy technologies.

Mr. Mitchell said a fourth issue he was looking at was making sure that the team didn't fall into a techno-centric approach. He said it was important that they were looking for the right energy and resource solutions for the site and building, and not for specific technologies. He gave as an example of this that it might be great to use geothermal energy in some situations, but not others. He also noted that deconstruction of the energy industry tended to work against creating an energy system that dealt with environmental, financial and quality of living issues.

Mr. Kelley asked how sanitary flows would be addressed in this project, noting that there was no sewer line out to the site, and that sewer was required there unless the development involved single family homes.

Mr. Doucette said the intention was to tie in with the sewer, and Mr. Campbell said discussions were underway concerning this.

Mr. Roberts asked how architectural and buffer requirements would be integrated into the designs for the project. He said he was concerned with the energy situation, but said a key a question was how visible or intrusive the project would be, and whether it would match other properties in the area and integrate into the community. He noted that this was area was a gateway to the community, as well as to the University.

Mr. Mitchell said those were the more macro, substantive design issues that would be dealt with, but he said right now, the team was trying to explain how this project would be somewhat different. He said they hadn't developed the parts of the plan Mr. Roberts had been referring too yet because they were trying to figure out how they would integrate their new process into the traditional site plan application procedure.

Mr. Doucette said the team was still at the early stage of the design process. He said Mr. Bryant had told them to develop the vision first, and then deal with setbacks, architectural design, engineering requirements, etc. He said there had been discussion with the abutters, - the Grants, Mr. Sanborn and UNH. He said they were trying to make this a living process, so were sharing ideas and getting input. He said that eventually the team would do the traditional site plan

process.

Councilor Needell asked if there were details of technologies they were fond of, and were planning to bring to the table for this project that they could share with the Planning Board.

Mr. Mitchell they were open to innovative approaches. He said they were looking at the site in terms of energy availability and energy needs, both electricity and thermal, and noted that satisfying thermal energy needs would represent the largest percentage of energy use on the site. He said they also had to consider the possible patterns of energy use. He provided further details on the factors that needed to be taken into account.

As an example of the kinds of things they were looking at, he spoke in detail about the potential to use co-generation on the site, noting among other things that it wouldn't make sense to use it on a site unless there were thermal energy needs as well as electrical energy needs.

Mr. Mitchell said they were also looking at green touch screen technology that allowed one to access everything going with a building in terms of energy use. He said such a system would provide real time data on the amount of carbon the building was putting out and the cost of this. He said this had the potential to become a self-regulating situation, and noted that it was possible that small touch screens could be put in individual apartments.

He said the directive from Mr. Bryant was to not leave anything off the table, which was an exciting opportunity.

Mr. Parnell asked if there was anything in Durham's regulations that constrained the use of particular technologies they were looking at.

There was discussion about this.

Mr. Mitchell said they were trying to balance where they might put solar voltaics, and whether it was appropriate that they be visible or not. He noted that a possible option was to integrate them into building materials like roofing shingles.

Mr. Doucette said that he hadn't seen any particular hurdles that would prohibit what they had discussed so far. He said there would have to be discussion about whether residents would want to see solar panels, driving down Mast Road.

Councilor Needell noted that Mr. Mitchell had spoken in Durham a few months back regarding doing green building for commercial development. He asked if it was different trying to incorporate green building approaches into a residential apartment building.

Mr. Mitchell said it wasn't really that different. He said residential development had a different load profile than commercial development, in terms of when those in the building turned on the electricity, and the fact that the thermal energy needs of a residential development were somewhat higher than that of a commercial development because of the call for domestic hot water. He also said a residential project allowed them to look at a more joined approach

concerning electricity and thermal energy.

He noted that centralizing the heating plant allowed cost returns based on the scale. He provided details on this, and on ways there could be interaction with the utility grid. He said a question being asked was whether the building could be sustainable if the grid went down.

Ms. Fuller asked if there was LEED certification available for residential development, and if so, whether a goal of this development was to obtain that certification.

Mr. Mitchell said there was in fact LEED certification available for residential development, and said LEED provided a great guide. But he said it hadn't been decided yet whether they would go for certification it with this project. He said part of the team's goal was to be upfront with the Planning Board regarding this process, and the options that were available.

Mr. Kelley noted that the project could meet the LEED requirements without having to go and get LEED certification, and Mr. Mitchell agreed

Mr. Campbell said being able to measure the carbon footprint was a great idea. He asked about the idea of using green touch screens, and Mr. Mitchell explained that information on this was available on line at greentouchscreen.com. He said this technology was being used for municipal, school and library green buildings to monitor and regulate water and energy use. He said the feedback provided by this technology to those who worked in these buildings was phenomenal, and resulted in changes of behavior. He also noted that this information, for example for a library, could be reported on the library's web site.

Mr. Campbell said this was the kind of thing the Planning Board should be encouraging. He said that here was a developer here who wanted to do this kind of development, and said the Board should encourage this as much as it could. He said he hadn't seen anything that was going to stop these technologies. He said the Board would have the opportunity to do a full review of the application.

He noted that one of the features that had been described, as possible for this development was a requirement concerning the use of hybrid cars. He said this was a great idea, but said he didn't know how that kind of requirement would work in practice.

Mr. Doucette said it was an idea, and said that perhaps there might be a requirement that said any residents with cars that got less than 30 mph would need to find another place to park. He noted that a major part of peoples' carbon footprints was travel, and said it was important to find innovative ways to get at these things through design. He noted that there was a UNH shuttle stop across the street, which might be more convenient than having to walk to a parking lot on the site.

Mr. Campbell noted part of Transportation Enhancement grant that had been received was for a multiple use path off of Main Street, going toward Mast Road He also noted that what the developer did with the parking spaces was up to him, as long as the parking requirements were met.

Councilor Needell said he could really appreciate the concept of getting feedback concerning energy production and usage, and said it was a valuable component of a green development. He said it was wonderful to see his electricity meter at home going backward because his solar panels were sometimes sending energy back to the grid. He said that by paying attention to this information, his family had been able to reduce their use of electricity.

Mr. Kelley said the Board had gotten a great presentation that evening on the basic concepts of green building that were planned for this project. But he questioned whether the applicant was actually at the design review stage. He said this seemed more like the preliminary conceptual design stage, unless something more specific on the project was about to be presented.

Mr. Doucette explained that it wasn't that important to Mr. Bryant and the design team what stage they were at right now. He said whatever this stage of the process was called, the team felt it was important to notify the abutters of what the project was about. It was noted that such notification was not necessary at the preliminary design stage.

Councilor Needell pointed out that at the design review stage, the issue of legal vesting regarding the Zoning Ordinance came into play. He said there was a question of whether this presentation met the requirements of vesting. He said this would be an issue if the Board proposed a change to the Zoning Ordinance a month from now that impacted the plan.

Mr. Doucette said the team was present to share their vision, not to vest particular rights. He asked if the Board was telling him there were vesting issues the developer should be nervous about, in which case he would have to say to his client that he was wrong, and that they should go back to doing things the way they were usually done.

Mr. Kelley said they shouldn't walk away with that impression, and Mr. Campbell said he wouldn't bring anything forward concerning the project.

Carla Goodnight of CG Architects noted that the design team had been involved in several group meetings, which was somewhat unusual, and she discussed the way in which this design process for a green building was different than the process for a more traditional development. She said they had first been looking at the potential building from the perspective of energy efficiency and what would be possible, with no particular function or site in mind.

She said they were present before the Planning Board in part to find out what other issues they needed to consider, such as what the neighbors would think about the inclusion of particular energy designs and technologies. In terms of the design ideas she was looking at, she gave as an example the idea of putting in a glass corridor in the building to achieve solar gain. She said in thinking about this, she also was keeping in mind the idea of discouraging parties at the apartment complex, which was a concern of residents in the area.

Ms. Goodnight said another idea was to develop students' work areas where there was the greatest amount of natural light, which had been found to increase productivity and creativity. She said they hoped to find out how this might impact students' grade point averages for the better. She said another goal in designing the living spaces was to create a variety of different

environments in the building.

She said they were also looking at the issue of water usage. She said the goal was to have resource efficient, modern, high quality, easily maintained apartments. She said another goal of the project was to give something back to the community. She also noted they were looking to perhaps put in some kind of commercial use on the site.

She said the design team was there to collect the Planning Board's concerns, and what their thinking was when they started thinking the way the team was thinking. She described how the approach the design team was taking allowed it to look for other possibilities, noting that so much had to be ruled out when one went strictly by the regulations.

Councilor Needell said he thought the design team's approach was great, and said his first response was to say to go for it. But he said the possibility that Zoning Ordinance requirements might be in the way changed the dynamics of the process. He asked if there was in fact anything in the Ordinance that hampered them in developing a design for the development. He said that procedurally, this was a complex situation.

Mr. Campbell said he had thought about this issue, and about whether this was the preconception design phase or the design review phase. He noted that three designs had been provided, and also said a lot of what the team was talking about right now was beyond what was covered in the Zoning Ordinance.

He suggested that the Board could perhaps say it preferred one of these designs, and the team could come back next time with more specifics on it. He noted that he had a number of questions on design issues and requirements, but was waiting to get the energy and living environment concepts out before addressing them.

Mr. Doucette said if it could be demonstrated that there was a benefit of reducing the number of parking spaces, in that this would force greater use of the bus, and this then required that the applicant had to go before the ZBA, that could be done.

Councilor Needell said those were the kinds of things that raised flags for the Planning Board.

Mr. Doucette said they were prepared to ask for a variance if needed, and said if this then failed, they would rethink what to do. But he said that just because a design idea wasn't allowed, this didn't mean that they wouldn't suggest it.

Brad Mezquita of Appledore Engineering said in terms of designing the development of the site from a low impact development perspective, they were looking at minimizing what had to be done to the site. He said having less impervious cover, less parking, etc. reduced what needed to be done in terms of storm water management, erosion control, etc. He said a goal was to keep as much vegetation out there as possible while developing the site.

He provided some details on this approach, and noted that they had been looking at several Low impact development techniques, and couldn't decide which ones would be used until further investigations on soils, bedrock, topography, and vegetation were done. He provided

details on this, especially concerning storm water management techniques that might be used to encourage infiltration on site, on a smaller footprint than with a conventional design. He noted that they were also considering capturing rainwater for reuse on the site.

Mr. Mezquita said a lot of these techniques were common sense methods vs. old school approaches. He noted that he was in regular contact with the UNH Stormwater Center, and would be using their information as the project moved forward.

Mr. Greene asked if it was appropriate to consider the context of the site at this point in the process, and was told that it was. There was then discussion about the location of the site, the kind of properties nearby, the kinds of uses that were appropriate in this area, and the degree to which they would be visible on the site.

Mr. Doucette noted that the 3 design concepts that had been submitted were dramatically different from one another. He noted that one of the designs had located the building at the edge of the road, while another design placed the building toward the back of the site. He said the purpose of this was to get feedback from Board members on which location they preferred.

He noted that the MUDOR District allowed mixed use development that included office research uses. He said they didn't have any specific ideas on what commercial uses would be good there, but said they would like it to be a use that incorporated the ideas of residents. He noted that it would be hard to have a commercial use that no one saw, as compared to a residential use.

Mr. Greene asked whether, given the orientation and exposure on the site, there was a particular location for a building that was the best in terms of sun, wind and water available.

Mr. Doucette said his opinion was that the development would be more sympathetic to the single family homes that abutted it if it were located toward the back of the site. He did note however that old New England homes were often located right near the road.

Mr. Campbell said that UNH was planning to construct a multi-unit development with about 750 units of housing adjacent to the site.

Mr. Greene said perhaps this meant that it made sense, if there was going to be a commercial unit of some kind on the first floor, the new building should be located closer to the road, where there would be greater visibility.

Councilor Needell said there had been active discussion on how to protect Mast Road, as one of the gateways to the community, and said it was a major concern to some residents what would happen along that road in terms of development. He also said that a commercial space on the site wouldn't necessarily have to be visible to passing cars unless it was a retail space. He said some commercial uses might actually welcome being hidden from view.

Mr. Campbell noted that signage could be used to point to a commercial establishment that wasn't easily seen from the road. He also noted that mixed use development that included retail

or office use was allowed in that zone, as a conditional use.

Mr. Greene said the visibly factor was therefore something to keep in mind.

Mr. Campbell said Mr. Bryant and his wife disagreed as to whether the old house on the property should stay. He noted that the outline of the house was in design 2 but not the other designs.

Mr. Doucette said his own opinion was that the proper spot for the entrance to the site was not across from the Grant home, so to properly facilitate access, the removal of the house might have to be considered.

Mr. Kelley noted that all three designs that had been provided encroached into the wetland setback and buffer. He suggested that when the application came before the Board, enough information on this wetland on the site, and on its interrelationship to surrounding wetlands should be provided so the Board would be able to understand its value.

He also asked how the concept of low impact development could be reconciled with the wetland encroachment. He said the designs that placed the building in the back removed a lot of the forest, and placed the building within the buffer zone, which was an important transition zone between the wetland and the upland area.

Mr. Doucette agreed, and said their environmental consultant was tasked with looking at how to make a 40 ft buffer function as well or better than a 50 ft buffer. He provided details on the site and the access options, and said his preferred access would have been to go through more wetlands on the Leeward Orchards site than on the ditch side. But he said the environmental consultant had walked the site and had determined that the more important wetland complex was down near the ditch, and that more buffers could be provided by keeping the access road further away from this ditch. He said the consultant was also looking at the idea of restoring the lower quality wetlands on the site, through the development and implementation of a management plan.

Mr. Kelley noted that it had been said that the University had ambitious plans to develop the abutting parcel, and he asked if it perhaps made sense for the applicant to approach the University about the idea of having a common drive for the two properties. He said access to the applicant's site might be from University property.

Mr. Doucette said there had been discussion about this among team members, but not yet with UNH. He said it was envisioned that the UNH access could be through Mr. Bryant's drive. But he said Mr. Kelley's idea was also a good one.

Mr. Campbell said the use being considered for the site required that a conditional use permit had to be obtained. He noted that there was a further conditional use issue regarding the wetland buffer. He said that unfortunately, this lot had a number of constraints concerning wetlands. He provided details on this, and Mr. Doucette said the team was fully aware of the situation.

Mr. Campbell noted that the design(s) were a bit short in terms of road frontage.

Mr. Doucette said there would be a lot line adjustment with the University, and said the plans for this would be submitted in a few days.

Mr. Campbell said that since this application was for a conditional use permit, the Board had the authority to allow more or less parking than was required in the Zoning Ordinance. He said it was important to keep this in mind. He asked if the design team had some idea as to what amount of parking it did want to include for the development.

Mr. Doucette said the idea was to provide less impervious surface, have less impact on the site, and encourage other forms of transportation. He said he understood that there were constraints, but said these would not stop them. He said they would go through the proper steps concerning the conditional use permit application, and meeting the conditional use requirements concerning the wetland. But he said the essential thing they were doing that evening was to share their vision with the Planning Board.

Mr. Campbell said that as a Board, they tended to lean toward wanting less parking rather than more. But he said the applicant and design team would probably find there would be backlash concerning this approach from the Police Department, which would be asking where additional people coming to the site would park.

Chair McGowan asked if this site was an appropriate location for pervious pavement, and Mr. Doucette said they were looking into this.

There was discussion on what the proposed building height was going to be.

Councilor Needell said the parking issue was a struggle, because the site was out of town, and there would be people coming to visit the people who lived there. He said Mr. Bryant had a great reputation for being a responsible property manager, but said the Planning Board had to look beyond the current owner and make sure that no matter who owned it, there wouldn't be problems as a result of the design.

Mr. Campbell noted that if there were retail commercial uses on the site, there would be loading bay requirements that would have to be met.

Mr. Doucette said it wasn't yet known what the nonresidential uses on the site would be, and said the question was how to create a space that satisfied the regulatory process and didn't make things difficult for the businesses that might come in.

Mr. Campbell noted that regarding the issue of building height, anything over 40 ft would require a waiver from the Planning Board. He also noted that the development standards for the MUDOR district included such things as the requirement that there be a streetscape buffer, a residential buffer, and an outdoor recreation area for the residential development.

Mr. Doucette said there had been discussion with Mr. Bryant about the outdoor recreation area

requirement, and noted that Mr. Bryant had over 20 years of experience concerning this kind of thing. He said an answer would be provided concerning this.

Chair McGowan asked if there was some kind of timeline for the project, and Mr. Doucette said no.

Mr. Roberts noted that the University didn't have to meet the conditional use permit requirements, but Mr. Bryant's development did. He said not harming the residences on Mast Road would be a high hurdle that would have to be gotten over with the conditional use application. He suggested that when they did the layout for the project, it was critical that they think about its potential impact on the residents.

Mr. Doucette said the team would be taking this into consideration.

Mr. Campbell said what the Planning Board and the Town had in mind out there, through the Zoning Ordinance, was the inclusion of a residential buffer and a streetscape buffer. He also noted that the conditional use permit process would allow the Board to require more landscaping than normal on the site. He said it was realized that Mr. Bryant wanted to be sensitive to the other residents in the area.

Councilor Needell said when the team had started their presentation, they had said they were trying to approach this process differently. But he noted that the Planning Board was a regulatory body. He asked what the team thought the Board's role should be in this process, and what it was asking the Board to do differently.

Mr. Doucette said that some Planning Boards were a little more creative than others. He suggested that Mr. Campbell could perhaps serve as an intermediary between the Board and the design team so that ideas and concerns about the project could be expressed.

Councilor Needell said trying to do a green development in the way that had been described was a great idea. He said trying to put such a development on this particular property raised a lot of questions for him, as a Planning Board member and as a member of the community. He said it would be great if this kind of development were going to be built on an upland site, with no one around, and said there were complex issues to be addressed.

Mr. Doucette agreed, and said the design team had the same questions that the Planning Board did.

Mr. Campbell said looking at the site and the design, a straight block building might fit the best, and wouldn't be in the buffer. But he said this wasn't what he personally would want to see on the site. He also said it was important to keep in mind the view of the building from the abutters, and what could be done to reduce the mass from those views, when thinking about the design of the building. He noted that design #1 included an L-shaped building, but the mass was more toward the University property, which could be a good thing. He suggested that they keep this in mind.

Ms. Goodnight said this was an excellent time to start thinking about that.

Mr. Campbell suggested that the design team take the Board's comments and come back again at a future meeting to continue the design review process.

Mr. Greene asked if they would be coming back with multiple options on the plan layout, or they would be focusing on specific layouts. He asked if the Board should be commenting on the three design options now.

Mr. Campbell said absolutely.

Mr. Doucette said it worked better to have the building in the back for solar purposes and because it would be further from the Grant home and the Sanborn home. He said these were pretty strong arguments for putting in the back.

Mr. Greene said he liked the idea of leaving the older building upfront, and perhaps using it for commercial, perhaps even retail purposes later on. He asked if there was anything to prohibit that.

Mr. Doucette said no, unless there was a situation where the impervious cover allowance for the site was exceeded.

Mr. Campbell said leaving the older building there would keep the character of the site, and wouldn't change the streetscape.

Mr. Doucette said a constraint would be to provide another parking area as part of that. But he said he was not opposed to the idea of keeping things the way they looked today.

Mr. Greene said the concept appealed to him, and said there was the wetland area in between to act as a natural buffer.

Councilor Needell said he was bothered by design #3, which had the parking lot out back.

Ms. Fuller said she agreed, noting there could be safety issues there at night.

It was noted that designs #2 and #3 had access adjacent to the Sanborn lot, and design #1 had access adjacent to the University lot. He said the environmental consultant preferred that access be adjacent to the UNH lot, although to him, this impacted more wetlands. But he said she though the net gain would be greater if the access was adjacent to the UNH lot, and would be speaking to this.

Mr. Campbell noted that design #1 didn't face the Grant house.

Mr. Doucette said he thought there needed to be a blend of the curb cut in design #1, and the access road that abutted UNH land, which was also in design #1. He noted that there was excellent sight distance along this stretch of Mast Road.

Councilor Needell said he felt that the evaluation of the consultant concerning the wetlands should drive the placement of the access road.

Mr. Campbell noted that he had sent the application out to Town department heads, and said he would get the comments that had been received out to the design team. He briefly reviewed these comments.

VI. Discussion on Ordinance Amendments. Discussion on amendments to the draft parking section of the Ordinance and the Shoreland Protection Overlay District.

Mr. Campbell explained that the Planning Board would need to overhaul the Shoreland Protection Overlay District provisions of the Zoning Ordinance, based on changes that had recently been made to the State Shoreland Protection Ordinance. He said he would prepare a draft on this that the Board could then respond to.

The Board then went on to discuss possible changes to the Parking regulations . Chair McGowan noted that the Board had previously gotten through Section 175-111.

Mr. Roberts said the Minutes didn't appear to reflect the fact that the Board had reached a conclusion on Section 175-111 G-7. There was discussion that Board had decided to remove this, and to deal with it in instead in the storm water ordinance.

Mr. Campbell said the key parking provisions for the Board to deal with were Section 175-112, Central Business District Special Conditions. He noted that the Master Plan called for eliminating parking requirements for residential and commercial uses in the Central Business District (CBD).

Upon questioning by Councilor Needell, there was discussion about what Section 175-112 B - 1, "The site shall accommodate as much as practical, the number of parking spaces required by this chapter", was really saying .

Mr. Campbell said that depending on the property, there could be different situations concerning parking. He said he wasn't sure the wording had captured this idea correctly, but said that was the intent.

There was further discussion on what the Master Plan said regarding parking in the CBD, to what degree Section 175-112 B-1 was needed, and that perhaps Section 175-112 B-3 covered it: "Existing parking spaces shall not be eliminated by any proposed addition, unless approved as part of a property redevelopment plan by the Planning Board".

Councilor Needell said the Master Plan recommended getting rid of regulations for the Central Business District. He asked why, if the Town wanted infill development to occur in the CBD, why Section 175-112 B-3 was saying that if there was existing parking, it couldn't be built on.

There was discussion on this.

Mr. Roberts said this provision was saying that if a proposed development was planning to eliminate parking, the developer had to show cause for this.

Councilor Needell said some parking was necessary in any downtown, but he asked if it was a Town's responsibility to provide this.

Mr. Campbell said the Master Plan was sort of pointing at that. He provided details on alternative approaches for providing parking downtown.

Mr. Roberts asked whether the Planning Board would want to see something like Houghton Hardware proposing an addition that eliminated all of their parking.

There was discussion on this, and it was noted that there could be situations with properties downtown where the Board wouldn't want to see existing parking eliminated, but there also could be situations where the Board would say yes to eliminate parking.

Mr. Campbell read from the Master Plan, noting that among other things it said not to put the onus on building owners to provide parking, and that the Town and UNH should step up to provide parking.

Councilor Needell said for residential uses, the Master Plan was trying to say that parking would have to be provided somewhere else. He said that was an issue landlords and renters would then need to deal with. But he said for commercial uses, customers and employees did need to have a place to park, for customers, employees is issue, they do need a place to park.

There was discussion on this.

Mr. Campbell said there were a number of things being done to address this issue. He said one approach was limiting the amount of time that people could park downtown. He also noted that with the newly instituted residential permit stickers, the amount of time that residents could park downtown had been extended.

Mr. Roberts provided an example of where some UNH students need to have cars to get to classes.

Mr. Campbell spoke about some recent downtown buildings projects that had been approved, where parking reductions had been allowed. He also noted that Mark Henderson had a proposed mixed use project for the downtown area, and had to go for a variance that would allow a reduction in the amount of parking required. He said the ZBA had had some issues with the variance request, given the existing parking provisions.

There was discussion on whether there was currently a problem with parking downtown.

Ms. Fuller said for a developer planning to provide apartments downtown, not necessarily for students, it would be important to be able to provide some parking.

Mr. Campbell noted that the proposed provisions said a developer could provide this parking, but didn't have to provide it.

There was further discussion on whether the elements of Section 175-112 B worked the way they were currently written, and whether B-1 could be eliminated.

Mr. Campbell said B-2 was a holdover, and asked if there was a need to keep it. He asked whether it made sense that if a developer was not required to provide parking and therefore didn't provide it, a fee than had to be paid.

There was discussion on whether keeping this provision would help the Town get funds so it could provide alternative parking downtown.

Mr. Campbell suggested that the Board could eliminate B-1, keep B-2, and see how this did a public hearing.

There was discussion about the process by which the Town sold parking permits, and how that related to the parking situation.

Mr. Campbell noted wording in a proposed new section, 175-114 regarding shared parking, but said that didn't really address the issue Councilor Needell was speaking about either.

Mr. Parnell asked why 175-112 A was needed, when there was the wording in 175 112 B. There was discussion on this.

Councilor Needell said if the Board said there were not rules concerning parking in the Central Business District, some property owners would still want to provide some parking because it added value to a commercial or residential development, whereas for some other property owners, more value would be added to a development if there was no parking. He said it was not clear what would happen downtown if the Board took this section out of the Zoning Ordinance, something that the Master Plan had sort of suggested.

There was discussion about the idea of putting in place an impact fee for parking, and whether it could provide sufficient funding for the Town to provide a high rise parking structure to support development in the Central Business District.

Mr. Campbell said that was essentially what 175 112 B-2 was doing.

There was discussion on how the parking garage idea might work in Durham.

Mr. Campbell said 175-112 A would make more sense if the wording in 175-112 B wasn't there.

After further discussion on Section 175-112, the Board agreed to take out 175-112 A, and also to removed items 1 and 4 under what was currently 175-112 B.

Mr. Campbell reviewed the proposed changes to Section 175-113 - “Required Parking” for the various uses.

Mr. Roberts noted that for dwelling units permitted to be occupied by 3 or more unrelated individuals, 1 parking space per resident was now required, as compared to 0.75 spaces. It was noted that another proposed change was that there would be 1 parking space per dwelling unit for elderly housing, as compared to the previous 1.5 spaces per dwelling unit.

Mr. Campbell said the parking requirements for Bed and Breakfasts and Hotels and motels had been combined. He said the parking requirements were similar to what they had been before, but he noted that while before, the requirement was that there be 1 parking space per 75 sf of meeting space for these facilities, what was now proposed was 1 space per 400 sf of meeting space.

Mr. Roberts noted that the proposed parking requirements for carry-out restaurants was now somewhat complicated. He also noted there was no longer a 10 space minimum. There was discussion on this.

Mr. Campbell Jim asked if the Board was ok with the proposed parking requirements for restaurants over 4000 sf, noting they were the same as they previously were.

Councilor Needell noted that for restaurants that were less than 4000 sf, 1 space per 100 sf of seating area was required, to a maximum of 40 spaces, and also said there had to be 1 parking space per employee on the maximum shift. But he said there was no requirement regarding employee parking for restaurants that were greater than 4000 sf. It was noted that there would probably be more employee parking needed for a larger restaurant.

Mr. Roberts also noted that there needed to be sufficient employee parking to address overlapping shifts.

Mr. Campbell noted that for professional office uses, the proposed change was to provide 1 parking space per 350 sf instead of 1 space per 250 sf. He also noted that the category Retail II in the Required Parking table was new.

Mr. Kelley asked whether there was actually sufficient square footage in the properties in Church Hill and Courthouse districts to fit restaurants and retail stores as well as the parking that would be required.

There was discussion on this. Mr. Campbell noted that this issue had also come up when the parking needs for a library on the Town Hall site were calculated.

Mr. Kelley asked why a developer would want to take down an existing apartment building in districts that were generating income in order to put in a retail establishment or restaurant. He said if the Town would like to see that kind of development occur in these districts, he thought it would have to waive the parking requirements there, similar to what was being done for the

Central Business District. He said the Town would also have to look at possibly providing structured parking. He noted that the bank property across the street from Town Hall had a large amount of surface area.

Ms. Fuller asked if there were standards/guidelines for square footage/parking space ratios for the various uses.

Mr. Parnell asked what the purpose was of having these minimum parking space requirements. He asked what difference it made to the Town if a person who wanted to run a restaurant said he/she only needed a certain number of parking spaces.

Mr. Campbell said there were different views on this in the planning field. But he said if a business didn't provide parking, the question was where people would park, - in a fire lane, etc. He said there were things the Town was trying to control with the parking requirements.

There was discussion on this.

Councilor Needell said this might be something that depended on where a use was proposed. He also noted that a maximum number of parking spaces requirement was now proposed in the Parking regulations: "Parking lots may contain up to ten percent (10%) more spaces than the required minimum. Any additional spaces above ten percent (10%) shall be allowed only as a conditional use upon the finding that such additional spaces are needed."

Mr. Roberts noted that this issue had come up with the Berton hotel application, where the applicant had wanted to be able to provide more parking than the regulations required.

Mr. Campbell said the proposed regulations would still allow for this.

There was discussion on this, with Mr. Roberts suggesting that the number of spaces could vary depending on the use, as part of the conditional use process.

There was discussion that the variance process could also be used to address this, with Mr. Kelley also noting that the Planning Board could make its feelings known concerning the parking for a specific application.

Mr. Roberts asked why the provision was needed concerning the maximum number of parking spaces allowed.

Mr. Kelley said this prevented the kind of situations where a developer maxed out the impervious surface ratio simply in order to be able to lease parking.

Mr. Kelley asked where the numbers for the Required Parking table had come from. He noted that the ITE produced design guidelines for traffic engineers, and said perhaps these should be checked to see what the most recent recommendations were.

Mr. Campbell said the standards in the proposed changes to the parking regulations were similar to what other towns in the area had, but he said he would take another look at them.

Mr. Campbell said that the proposed change under “Other Uses” in the table in Section 175-113 including his name: “Closest similar use as shall be determined by the Director of Planning“, but he said he thought it should instead say “determined by the Zoning Administrator“, as the existing regulations said.

Mr. Campbell said that perhaps the next time the Board went over the draft Off street Parking and Loading provisions, they could start with Section 174-114 (Shared Parking), which was new, and Board members could have specific comments ready.

Councilor Needell noted that at the ZBA meeting in January, some ZBA members had expressed their frustration about the existing parking provisions, and that they would like the Board to get the changes to them done as soon as possible.

Chair McGowan said perhaps the Board needed to schedule an additional meeting to get these changes done. After discussion, the Board agreed to have an additional meeting on February 6th, when they would address both the Parking provisions and changes needed to the Shoreland Protection Overlay District provisions based on the revised State Shoreland Protection Ordinance.

VII. Other Business

A. Old Business: Discussion of Letter to New Hampshire Fish & Game

Mr. Campbell asked if Board members thought the letter he had developed was sufficient, and if perhaps some things should be added to it from the letter Mr. Roberts had developed.

There was discussion, and agreement was reached on which items from Mr. Roberts’ letter should be incorporated into Mr. Campbell’s letter.

Mr. Kelley suggested that the Board should ask if there could be a conservation officer visit the site on a regular basis. There was discussion on this.

Mr. Parnell suggested there should be signage at the site on hours of operation. He said this had probably already been thought of, but said the Board should still emphasize the need for this.

Mr. Kelley noted that he had walked the property recently and said he had seen a lot of beer cans there. There was discussion on this.

After further discussion, Chair McGowan summarized that the Board was in favor of the letter Mr. Campbell had written, as amended.

There was then detailed discussion by the Board of the issues around possibly requiring this kind of project, and others like it, to have to go through the conditional use application process.

Mr. Roberts noted that according to this kind of scenario, many of the proposed trails listed in the trail system developed for the Town would be illegal.

Mr. Campbell explained that when a private property on which there were trails became a public property to be used for public use, Mr. Johnson considered this to be a change of use. Mr. Campbell said he personally saw this as a change of ownership, not a change of use.

There was discussion on this.

Mr. Kelley said a concern was that there was a change from a private entity that could be posted if property owners didn't want people walking on the trails, to a public entity, which welcomed access by the public as long as they stayed on the trails.

Councilor Needell asked what criteria would be considered as part of the conditional use process as applied to these kinds of situations, and there was discussion on this.

Ms. Fuller said she could understand the purpose behind requiring these kinds of public properties to go through the conditional use process. She said among other things, the process provided the public with the opportunity to know that these properties had undergone a change of use, and that public use of these properties would be available.

Mr. Roberts said other communities tended to share Mr. Campbell's perspective concerning this issue.

Councilor Needell asked what happened if a conditional use permit application was denied, and whether this would mean that the landowner then had to post the land and not let people on it, so it therefore couldn't be used by the public.

Mr. Parnell noted that new trails were being built on the property in question.

Chair McGowan asked whether, if the conditional use permit process was required, the Board could perhaps streamline this process.

Mr. Campbell said if the Board got involved with doing conditional use applications, it would wind up seeing applications involving all the trails that weren't owned by the State. He suggested that the Board should wait to see how this issue played out, noting that the entities involved were in the process of trying to find out whether the Planning Board or the Town Council would want to initiate a change to the Zoning Ordinance concerning this issue.

There was discussion that if Durham required that there be a conditional use application, this might set a precedent in the State. Mr. Campbell said he wouldn't be surprised if the Great Bay Conservancy took the Town to court over this as a result of that possibility. But he said these issues would be first be aired at the Town Council and the Planning Board levels.

Ms. Fuller said requiring the conditional use application would provide everyone with the opportunity to get educated on how to behave on the property.

Mr. Campbell agree that it would, also noting that the people living near the Dame Road

property felt enforcement concerning behavior out there was currently lacking. He also said he agreed that bringing abutters into the process of developing a management plan was important.

Councilor Needell asked if the entities would appeal Mr. Johnson's letter to the ZBA. There was discussion on this, and on whether, if the ZBA reversed Mr. Johnson's administrative decision, the discussion on this issue would be over.

B. New Business:

C. Next meeting of the Board: February 13, 2008

VIII. Approval of Minutes –

December 12, 2007

Postponed

IX. Adjournment

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

Adjournment at 10:30 pm

Victoria Parmele, Minutes taker

Susan Fuller, Secretary