

These minutes were approved at the May 14, 2008 meeting.

**DURHAM PLANNING BOARD
WEDNESDAY, MARCH 12, 2008
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL
7:00 P.M.**

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

ALTERNATES PRESENT: Wayne Lewis

MEMBERS ABSENT: Doug Greene; Annmarie Harris

ALSO PRESENT: Victoria Parmele, Minute-taker

I. Call to Order

Vice Chair Lorne Parnell served as Chair of the meeting, in Mr. McGowan's absence. He appointed Mr. Lewis as a voting member in place of Mr. McGowan. Mr. Roberts and Mr. Kelley had also not yet arrived at the meeting.

II. Approval of Agenda

*Susan Fuller MOVED to approve the Agenda as submitted. Richard Ozenich
SECONDED the motion, and it PASSED 5-0.*

III. Report of the Planner

Mr. Campbell reviewed the documents that had come in for the Board after their packets had been sent out.

He said he had met with UNH Campus Planner Doug Bencks, and had provided the Board with a memo on the meeting.

He said the Economic Development Committee (EDC) would be meeting on Friday.

He said work was still being done on the turning movement counts for the traffic model and roadway geometrics.

He said the draft Stormwater ordinance had been forwarded to the Town Council, and would be on the Agenda for its March 17th meeting. He said the stormwater regulations were still being worked on. He noted that there had been a good meeting between himself, Town Engineer Dave Cedarholm and Mr. Kelley regarding the ordinance and the regulations, which had resulted in some changes to both drafts.

Mr. Roberts arrived at the meeting at 7:06 pm.

Mr. Campbell said the Town Council had met on March 3rd, and held a public hearing on the Zoning amendments the Board had forwarded to them regarding changes to:

- the definition of subdivision and the mixed use categories
- the Table of Uses for excavation and mixed use
- the Table of Dimensional Requirements for the setbacks in the Church Hill District and the height requirements
- the calculation usable area

He said these amendments were approved by the Council after the public hearing

Mr. Campbell said he had recently met with Conservation Commission members regarding the changes to the State Shoreland Protection Act. He also said he hadn't heard from NHDES since March 7th regarding the administrative rules being developed, and whether they would be done in time for the April 1st deadline. He said changes to the local shoreland protection overlay provisions wouldn't be made until the State's product was final.

He noted that the term of regular member Susan Fuller, and the term of alternate member Annmarie Harris expired as of April, and said residents interested in applying for the positions should come to Town Hall and get an application.

Mr. Campbell briefed the Board that under New Business, he would like to discuss something concerning a fitness center business that was interested in going in at the former Zyla's building. He explained that Code Administrator Tom Johnson felt the use fell under the category of indoor recreational facility, so was not allowed in the Central Business District. He said the application had not yet gone to the Technical Review Committee, and the project was on hold. He said a question was whether the Board would like to accommodate such a use downtown.

Mr. Campbell announced that at the ZBA meeting the previous night, developer Dave Garvey was granted a variance, which meant that the setbacks required under the old Zoning Ordinance would remain in effect for the subdivision, so the project could keep moving forward. He said if this variance had not been granted, the 4-year exemption for the development would have run out, and this would have impacted the TIF district. He said the development agreement between Rockingham Properties and the Town was still being worked on.

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.

Chair Parnell noted that the applicant had requested that the application be postponed until the March 26, 2008 meeting.

Mr. Campbell said Mr. Caldarola had also granted an extension on making the decision on the application.

- V. **Public Hearing on a Subdivision Application** submitted by John H. Farrell, Durham, New Hampshire, on behalf of Shirley A. Thompson Trust, Durham, New Hampshire for subdivision of one lot into two lots. The property involved is shown on Tax Map 3, Lot 3-5, is located at 48 Bagdad Road and is in the Residential A Zoning District.

Councilor Needell recused himself for this application.

Susan Fuller MOVED to open the public hearing. Wayne Lewis SECONDED the motion, and it PASSED unanimously 5-0.

Jack Farrell spoke before the Board. He said if approved, this subdivision would result in one new single-family building lot. He said each lot would be in excess of the lot size and frontage requirements, and he showed the buildable area on each of the two lots.

He noted that the subdivision application would be exempt from the conservation subdivision provisions because only two lots were involved. He also noted that a number of waivers were being requested, which for the most part reflected the fact that this would not be a conservation subdivision. He said the only construction beside the house would be to connect both properties to the Town sewer, and said there had been discussion with the Public Works director on this. He noted that the existing home on one of the proposed lots had a septic system.

He said there was a slope easement on the property, and also noted that a portion of the property was located in the shoreland protection overlay area, but said this area was outside of any area that would possibly be built on. Mr. Farrell explained that one of the lots was odd shaped because one of its lot lines ran parallel with the stream it abutted. He noted that there couldn't be any development in that area because it was in the shoreland protection overlay district.

Chair Parnell asked if there were any members of the public who wished to speak for or against the application. There was no response.

Susan Fuller MOVED to close the public hearing. Steve Roberts SECONDED the motion, and it PASSED unanimously 6-0.

The Board agreed that they would deliberate on the application that evening. They reviewed the Findings of Fact and Conditions of Approval. It was noted that there had been a site walk, and no issues were found.

Mr. Campbell noted one addition to the Condition of Approval to be met prior to the signature, - that the approximate location of the slope easement must be shown on the plat. He provided details on this, and said it would be condition #5.

Richard Ozenich MOVED to approve the Findings of Fact and Conditions of Approval as amended, for the Subdivision Application submitted by John H. Farrell, Durham, New Hampshire, on behalf of Shirley A. Thompson Trust, Durham, New Hampshire for subdivision of one lot into two lots for the property shown on Tax Map 3, Lot 3-5, located at 48 Bagdad Road and in the Residential A Zoning District. Susan Fuller

SECONDED the motion, and it PASSED unanimously 5-0.

Councilor Needell returned to the table.

VI. Public Hearing Presentation on a proposal for the expansion of Philbrook Dining Hall on the University of New Hampshire campus.

Susan Fuller MOVED to open the public hearing. Richard Ozenich SECONDED the motion, and it PASSED 6-0.

University planner Doug Bencks explained that Philbrook Hall was one of three existing dining halls on campus, and presently contained a little over 30,000 sf. He said the 2004 campus master plan called for housing more students on campus, and he noted as part of this plan the new units put in at the Gables and in the southeast residence community. He said it had subsequently been found that there was not enough seating capacity at Philbrook Hall, and said the addition would therefore increase the seating capacity of the dining hall.

He said the floor plan showed this new seating area as well as a new entrance lobby. He explained that the entrance area needed to provide space for students to store their backpacks, etc. before coming into the dining hall itself. He explained how flow issues would work better as a result of the expansion.

He said there would be no wetland impacts resulting from the addition, and noted that no additional parking would be required. He said truck activity would be the same. He provided some detail on additional sanitary facilities that would be provided, and said he would be working with the Town's Water, Wastewater and Sewer Committee on this. He noted that all of the dining halls composted much of their food waste, and said this was a very successful program.

Mr. Roberts said his understanding was that Philbrook Hall didn't abut residential neighborhoods, and that the expansion would be invisible to the Town. He also said his understanding was that water impacts would be addressed by the Water, Wastewater and Sewer Committee.

Ms. Fuller received clarification that there was a trash compactor for non-compostable waste.

Chair Parnell asked if the dining hall was actually preparing more meals over the past few years.

Mr. Bencks said the dining halls were serving more people, and more meals. He explained that the University had established a meal pass system, and that people with passes could come and go as many times as they wished. He said the students liked the approach, and said it had reduced the amount of food waste. He also said it wasn't just University students who lived on campus that ate there.

Chair Parnell asked if there were any members of the public who wished to comment on

the project. There was no response.

Councilor Needell MOVED to close the public hearing. Richard Ozenich SECONDED the motion, and it PASSED unanimously 6-0.

Mr. Campbell asked if there were any issues the Board had with this application, which would require him to draft a letter to the University.

Mr. Roberts said he would only like to state that there should be no impacts from this project to residents, or on Town services. He noted that there had been other instances where the impacts of University projects on the Town had been quite heavy.

VII. Acceptance Consideration of an Application for Boundary Line Adjustment submitted by Doucet Survey Inc., Newmarket, New Hampshire, on behalf of Park Court Properties Inc., Durham, New Hampshire, and the University of New Hampshire, Durham, New Hampshire to change the boundary line between two lots. The properties involved are shown on Tax Map 13, Lots 5-0 and 7-0UNH, are located at 262 and 260 Mast Road respectively and are in the Multi-Unit Dwelling/Office Research Zoning District.

Bill Doucet spoke before the Board on behalf of the applicant, and explained the details of the boundary line adjustment that was proposed. The plans indicated that the intent was to revise the common lot line between lot 5 and lot 7, with area “A” being conveyed to lot 5, and area “B” being conveyed to lot 7. Mr. Doucet said lots 5 and 7 would retain the same total parcel area, and said lot 5, which now had 170 ft of frontage, would become a conforming lot, with 201 ft of frontage on Mast Road. He said lot 7 would remain a conforming lot with 200+ ft of frontage on Mast Road.

Mr. Campbell noted that this application was treated as a modified procedure, and said a public hearing and site visit were therefore not required. He said abutters’ notices have been sent out. He said the application could be acted on that evening if the Board so desired, and said he had provided the Findings of Fact and Conditions of Approval.

Mr. Campbell noted that a letter had been received from David Sandborn, which had raised a lot of issues. He said none of these issues related to the boundary line adjustment application, and had more to do with the applicant’s project. He said it would be more appropriate to address these issues when the Board got the formal application from the applicant. Mr. Campbell said the letter raised issues that the Board should address, and said it would be read at a subsequent meeting.

Mr. Doucet explained that if the boundary line adjustment couldn’t be done, the applicant would need to go for a variance.

Chair Parnell agreed that the issues raised in Mr. Sandborn’s letter had more to do with the project itself than the boundary line adjustment.

Councilor Needell asked if the application was complete, and Mr. Campbell said it was. ***Councilor Needell MOVED to accept the Application for Boundary Line Adjustment***

submitted by Doucet Survey Inc., Newmarket, New Hampshire, on behalf of Park Court Properties Inc., Durham, New Hampshire, and the University of New Hampshire, Durham, New Hampshire to change the boundary line between two lots, Tax Map 13, Lots 5-0 and 7-0UNH, located at 262 and 260 Mast Road respectively, in the Multi-Unit Dwelling/Office Research Zoning District. Wayne Lewis SECONDED the motion, and it PASSED unanimously 6-0.

Councilor Needell asked Arthur Grant, who lived near the properties in question, if he would like to speak concerning this application.

Arthur Grant, 261 Mast Road, said he didn't have concerns about the boundary line adjustment, but would have concerns later on regarding the purpose of the adjustment. He said the extension of the property line would put the boundary directly opposite the front of his house, and said he at that point would have concerns about the driveway and the development's access to the site.

In response to a question from Councilor Needell concerning language in the plan that said "subject to slope and grading easement", Mr. Doucet said there was no such easement at this point, and explained that the area that would be conveyed to UNH would allow the owner of Park Court to have grading and slopes that extended into area "B". He said the deed for this had not been drawn up yet, and noted that the topography in that area was fairly gentle. He explained that because the developer didn't yet know exactly what was going to be done with the property, having the easement allowed the design team some flexibility.

Mr. Campbell noted that the Findings of Fact and Conditions of Approval had been provided.

The Board and Mr. Campbell agreed that the Findings of Fact would make note of the slope and grading easement.

Councilor Needell noted, concerning Mr. Sandborn's letter, that there had been no formal proposal brought before the Board yet. He said there would be ample opportunity to consider the various issues raised in the letter.

Susan Fuller MOVED to approve the Application for Boundary Line Adjustment submitted by Doucet Survey Inc., Newmarket, New Hampshire, on behalf of Park Court Properties Inc., Durham, New Hampshire, and the University of New Hampshire, Durham, New Hampshire to change the boundary line between two lots, Tax Map 13, Lots 5-0 and 7-0UNH, located at 262 and 260 Mast Road respectively, in the Multi-Unit Dwelling/Office Research Zoning District. Steve Roberts SECONDED the motion, and it PASSED unanimously 6-0.

- VIII. Acceptance Consideration of an Application for Subdivision** submitted by Dale Rollins Valena, Sherwood Rollins and Alger Rollins, Andover, Massachusetts to subdivide one lot into two lots. The property involved is shown on Tax Map 20, Lot 12-5, is located at 313 Durham Point Road, and is in the Residence C Zoning District.

Mr. Kelley arrived at the meeting during discussion on this application.

Alger Rollins said the family had decided they needed to subdivide the property in half, and planned to sell the half on the north side with the existing homes, and keep the property on the south side. He said the family had no immediate plans to build a home on the property, and said the intention was to try to keep the remaining property in the family.

He said two variances had recently been received concerning the property, one regarding road frontage, and one regarding depth to ledge in regard to the septic system design. He said the approval was granted subject to the final acreage of the conservation easement on lot 2. He explained that the family was in the midst of discussions concerning this easement, and said when the agreement was completed, approximately 90% of the property would be in a conservation easement.

Mr. Rollins said a number of waivers had been requested. He said one was to not have to have a plat will full meets and bounds right now. He explained that they were asking for the subdivision prior to the final survey work because discussions with the Nature Conservancy concerning the easement were not complete. He also noted that if the subdivision wasn't approved, the family might take a different tack regarding the property.

He said the plan that had been provided in the application was based on a plan done in 2002, and was based on survey work done at that time. He provided details on this, and said the final plan was expected to look like this plan, and would show the exact bounds of the excluded area in the top parcel.

Mr. Rollins said he would like to be able to use the existing plan for the public hearing, and noted again that the final survey work hadn't been done yet. He noted other waivers being requested:

- Waiver from Open space ownership and stewardship plans
- Additional information such as hydrogeological assessment and traffic analysis
- Construction plans
- High Intensity Soils Survey

Mr. Campbell agreed that this waiver requests were appropriate. He also noted 7.03 G of the Subdivision Regulations, concerning additional information that could be required by the Planning Board. He said he didn't feel this requirement was applicable to this application, so a waiver wasn't needed.

He said the 2002 survey of the property was done when the first conservation easement was established. He said he was ok with granting a waiver from the plan for the acceptance, but said if the Board decided to approve the application, there should be a condition that the plan would need to be received prior to signatures.

Ms. Fuller received clarification that there were two homes on the top property, and that they both had existing septic systems. Mr. Rollins said there was a workshop/barn on the lower property, but said it was not a dwelling. He said in order to make this a conforming

lot, they had to show that there was a buildable location, so the septic design work had been done.

There was discussion by the Board on further survey work to be done.

Mr. Parnell asked why the conservation easement couldn't happen without the subdivision.

Mr. Rollins explained that the family needed to sell a portion of the property, and said if it could not be subdivided, and the family had to sell the whole property, there would be different things to consider. He noted that they would no longer be neighbors to the property.

Councilor Needell noted that because of the condition as part of the variance, if the subdivision was approved, it also would need to be contingent on this condition being in place, so it was implicit that the conservation easement would go through if the subdivision was granted.

Mr. Campbell said the application was complete, other than the plan, assuming that the other waivers were granted.

Councilor Needell MOVED to accept the Application for Subdivision, including the requests for waivers from Sections 5.02, 7.01, 7.02, 7.03 D, 7.03 F, 7.05, 7.06, and 9.09, submitted by Dale Rollins Valena, Sherwood Rollins and Alger Rollins, Andover, Massachusetts to subdivide one lot into two lots, for the property shown on Tax Map 20, Lot 12-5, located at 313 Durham Point Road, the Residence C Zoning District. Richard Ozenich SECONDED the motion, and it PASSED unanimously 6-0-1 with Richard Kelley abstaining because he arrived at the meeting in the middle of discussion on this application.

Mr. Campbell asked Mr. Rollins if he could approximate the buildable areas for the Planning Board, for the site walk. It was agreed that the public hearing on this application would take place on March 26th, and the site visit would take place on Friday, March 21st, at 9 am.

IX. Discussion on Planned Unit Developments (PUD)

Mr. Campbell spoke briefly about the work that had been done so far on a draft PUD ordinance for Durham. He provided PUD ordinances from other New Hampshire towns that had been referenced in developing the draft. He noted that these ordinances were usually developed independently of land use regulations. He said their purpose statements were often similar, and said the acreage required for PUD's seemed to vary.

He said Epping's ordinance was somewhat unique in that it was only for commercial uses, while most other PUD ordinances allowed a mix of residential and commercial uses. He said the commercial activity in the PUD's was intended for the use of the particular development, not the general public, and said the idea with this was to create opportunities for people in the development to shop locally rather than having to drive

somewhere to get goods and services.

Chair McGowan arrived at the meeting at 8:16 pm.

Mr. Kelley said he had some limited experience with PUD's, noting that one was 200 acres and the other was 400 acres. He said there was a timeline for these developments, and when it expired, the parts of the development that hadn't yet come on line were extinguished. He suggested that if Durham moved forward with a PUD ordinance, there should be an extension procedure, to address this kind of situation.

Mr. Kelley asked whether the towns Mr. Campbell had said had PUD ordinances had actually used them. Mr. Campbell provided details on this, concerning the cities of Portsmouth and Concord. He then provided details on other developments in Town that had come forward as planned unit developments, when the previous PUD provisions were in place.

There was discussion by the Board on these projects, including the original Berton application for the property across from the Courthouse, the Allen Farm and Spruce Wood.

Mr. Roberts spoke about the good buffering at Spruce Wood, and the fact that other PUD kinds of developments could achieve the same kind of thing, serving the needs of those in the development yet being totally invisible beyond the property.

Mr. Campbell noted that PUD ordinances generally had minimum open space requirements, usually around 25%. He noted that PUD's in residential areas needed the bigger open space areas, while those located in more commercial areas might not need that. He also said some ordinances instead had requirements concerning the maximum amount of impervious area that was allowed.

Mr. Campbell explained that the Durham PUD draft was being tied into the conservation subdivision approach, including the calculation of usable area. He also explained that a key step in the PUD process was the creation of a development master plan. He said once this was approved, the developer followed it, and as part of this, came back for subdivision/site plan and other approvals, for the various phases of the project.

Mr. Roberts spoke about the Northern New England Society of Soil Scientists report, which addressed usable soils for development. He noted that it included somewhat poorly drained soils as usable soils. There was brief discussion by the Board on this report.

He asked if it was correct that the same lot size minimums would be applied uniformly in the PUD, unless there were more than two zones involved. There was discussion on this. He noted that in the PUD he had lived in, this wasn't the case, and he provided details on this.

Mr. Kelley said it looked like the draft PUD ordinance had a requirement on overall density, but the way it was spread out on a site was up to the developer.

There was discussion on this. Mr. Campbell noted that Jack Farrell had taken the first stab at developing the language here.

Mr. Roberts said it would be good to look at other PUD's that had been built.

Ms. Fuller said the EDC would be discussing the draft on Friday, and might have some distinct ideas that she could share with the Board.

Mr. Kelley suggested that Ms. Fuller could bring back to the EDC the Board's comments concerning amendment and extension procedures.

Mr. Roberts said another idea related to Concord's approach of incorporating existing developments as part of a PUD, which allowed more flexibility as to where the development could be put.

Mr. Kelley said it was important to better define the requirements of the PUD master plan. He said the language he had read so far was more like programming language. He said the master plan was where developers and regulatory people tended to butt heads, if these master plan requirements weren't clear. He provided some details on this.

Mr. Campbell noted that this was part of the problem with the Town's previous PUD. He noted that the draft was still in its infancy.

Councilor Needell said the draft was an exciting proposal. He noted an important provision in it was the requirement of adhering to the preliminary phases of the application. He also said the draft at first glance looked like conservation subdivision with mixed uses allowed.

He said an exciting but also frightening provision was the one that left the land use possibilities open, and thus made the Table of Uses irrelevant. He said this was a huge paradigm shift, and said a question was whether people would be willing to leave this up to the Planning Board, or whether there was going to be some pressure to limit the possible uses.

There was discussion on this by the Board. Mr. Campbell said this essentially created an overlay district over the existing Zoning districts. Ms. Fuller said it would foster innovation from a developer to create something that was acceptable to the community.

Councilor Needell noted that nothing was permitted by right, and nothing was prohibited by right. He asked whether there might be some things the Town would want to prohibit in the PUD.

Mr. Kelley said this was one reason why it was important to include a sunset provision, for an approved PUD. He provided details on this.

Mr. Parnell asked if the PUD concept was something that was practical for Durham. He noted that the Town was trying to develop a commercial center, in keeping with the Master Plan, yet PUDs would set up separate little villages.

Ms. Fuller said she thought that for Durham, PUDs would be smaller scale projects, that could include uses like workforce housing, student housing, offices, and small retail uses like a coffee shop where people could congregate. She said it was a similar idea to the MUB, selling good services.

Councilor Needell noted that there didn't have to be a residential component. He also referred to previous discussion by the Board about the idea of applying conservation subdivision to a nonresidential development, and said in a sense, a PUD could do that.

Mr. Roberts said instead of calling them conservation subdivisions, some towns that had PUDs had a whole planning system that required well-designed developments. He said it could be called all kinds of different things, but it was the same thing. He said the key thing for commercial development was good design, and how a development fit with the surrounding area.

Councilor Needell said he presumed that if a developer proposed a use that was permitted, the PUD wouldn't be needed.

Mr. Kelley said that instead of going to the ZBA, under the PUD ordinance, the Planning Board could waive or amend specific standards of the Zoning Ordinance where it was demonstrated that a waiver was warranted.

There was discussion on this, with Mr. Campbell stating that it would be no easy process for a developer to go through a conservation subdivision and a conditional use application, and as part of that to ask for waivers.

Councilor Needell also said that as part of the conditional use process, the Planning Board could extract a price for granting waivers.

Mr. Campbell pointed to the proposed use for the Zyla's building, which wasn't allowed under the Zoning Ordinance. He said under a PUD ordinance, this could be introduced, as a use that was appropriate in that area. He said there was that flexibility that was allowed under a PUD ordinance, but he said the question was how far one would want to go with this.

Councilor Needell noted that the process was somewhat onerous.

Chair McGowan asked what the method of appeal was if a developer proposed a use as part of a PUD and the Planning Board said no.

Mr. Roberts spoke about what the State RSA's said about innovative land use controls, when supported by the Master Plan. He said that as part of this, with a PUD, the Planning Board could waive portions of the regulations.

Councilor Needell said if the PUD ordinance permitted waivers, the Planning Board could grant them, but he noted that at this point, it didn't.

Councilor Needell said in order to bring forward innovative land use controls, it must be

rooted in the Master Plan. He said the only reference in the Master Plan now was to get rid of the PUD provisions that existed at the time the Master Plan was updated. He said the comments in the Master Plan were clearly tied to the PUD ordinance that existed at the time. He said implementing a new PUD ordinance would need to be tied back to the Master Plan, so was an important piece to include.

Mr. Roberts said the Town Attorney might therefore need to suggest a modification to the Master Plan as part of this.

There was discussion that justification for PUD might very well still be found in the existing Master Plan.

Mr. Kelley said he had seen a lot of words in the draft PUD ordinance that the Board could argue over. He noted wording like "...must have a strong potential to contribute to the creation and maintenance of a healthy and prosperous community". He provided other examples, and said perhaps the objectives weren't specific enough.

There was discussion about the process. Mr. Campbell explained that the EDC had initiated the idea of developing the Ordinance. He said Ms. Fuller, who was a member of the EDC, had brought this up to the Planning Board. He said Board members had said the concept should be considered, and he noted that it was the Board's rights to also say it wanted nothing to do with the ordinance. He said the draft could still move forward without the Board.

Ms. Fuller said the Bryant mixed-use development proposal could be a possible PUD, and said this was what had caused the EDC to consider this approach.

Mr. Campbell noted that the Bryant property was in the RB district, and he provided details on this. He said the uses the developer wanted weren't allowed there. He said the idea was to allow some flexibility to allow this kind of development without having to change the Zoning Ordinance.

Mr. Kelley said he had seen PUDs work, but said some work was required, and said they all should know what they were getting themselves into. He said he was interested in exploring the idea. He also asked if people on the EDC had the time to get this done.

Mr. Campbell said the EDC wanted to get some things done, and said he could get comments from the Board to them, revise the draft, and bring it back to the Planning Board.

Board members agreed that there should be a joint meeting with the EDC to discuss the proposed PUD ordinance.

Mr. Ozenich said he agreed with Mr. Roberts that it would be good to see a PUD that had been in existence for a few years.

Mr. Campbell said he would look into this.

X. Other Business

A. Old Business: Discussion of Change to Planning Board Rules & Procedures (page 6)

Mr. Campbell said the only proposed change was to page 6, under V. C. He said instead of reading "...a brief description of the subject matter shall be open to public inspection within 144 hours of the public meeting, the time period should read "within 5 business days." He said there would be a public hearing on this at the next Planning Board meeting.

There was brief discussion by the Board on possibly changing VI. Amendments. Councilor Needell noted previous discussion on this, at which time he had said he would like to keep the language as it was. The Board agreed to keep the existing language.

B. New Business:

Mr. Kelley extended an invitation from the Lamprey River Advisory Committee to Planning Board members to visit the UNH Stormwater Center. Some Board members said they had already visited the site.

Mr. Campbell briefed the Board on the fact that Zyla's was no longer in business, and that a business person wanted to lease the building as a health club, starting in May. He explained that "fitness center" was currently included under the definition of indoor recreation facility, which was not an allowed use in the Central Business District, where the Zyla's building was located.

He said this could be appealed to the ZBA, but would cause delays in getting the new business going. Mr. Campbell said that perhaps the Board could do something concerning this.

Ms. Fuller said she felt it was more appropriate to include fitness center under personal services.

There was detailed discussion about this, and about how best to address this situation in the definitions and Table of Uses in the Zoning Ordinance.

Susan Fuller MOVED to remove "fitness center" from the definition of "Recreational facility, indoor", and place it under "Personal services". Richard Kelley SECONDED the motion.

Mr. Roberts said he opposed this, stating it should be done in a way so that fitness centers were still allowed at indoor recreational facilities in other districts.

Councilor Needell said he didn't feel that the Board should change the Zoning Ordinance to allow a specific project, although he said he was fully sympathetic that the categorization should be fixed.

There was further detailed discussion by the Board on how to proceed, including whether

there was a problem with having “fitness center” in both definitions. It was agreed that this was acceptable, and the Board agreed that Ms. Fuller’s motion therefore needed to be amended.

Susan Fuller MOVED to amend the motion to read that the Planning Board will add “fitness center” to the definition of personal services. Richard Kelley SECONDED the motion, and it PASSED unanimously 7-0.

Richard Kelley MOVED to have a public hearing on March 26, 2008 for the change in the definition of “Personal services“. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

C. Next meeting of the Board: March 26, 2008

XI. Approval of Minutes –

January 23, 2008

Page 1, Mr. Ozenich should be listed as being absent.
Page 9, 3rd paragraph from bottom, should read “Mr. Greene..”

Susan Fuller MOVED to approve the January 23, 2008 Minutes as amended. The motion was SECONDED by Lorne Parnell, and it PASSED 6-0-1, with Richard Ozenich abstaining because of his absence from that meeting.

February 13, 2008

Page 1, heading at top of page should read DURHAM PLANNING BOARD
Page 2, 4th paragraph, should read “...development in Durham, such as...”
Page 6, 3rd paragraph, should read “Mr. Roberts asked whether ponding that the Board had observed on the site would be conducted off by a drainage channel.”

Susan Fuller MOVED to approve the February 13, 2008 Minutes as amended. Richard Kelley SECONDED the motion, and it PASSED unanimously 7-0.

XII. Adjournment

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

Adjournment at 9:36 pm

Victoria Parmele, Minutes taker