

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

**DURHAM PLANNING BOARD
WEDNESDAY, MARCH 26, 2008
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL
7:00 P.M.**

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

ALTERNATES PRESENT: Annmarie Harris; Wayne Lewis; Doug Greene

MEMBERS ABSENT: Steve Roberts; Councilor Peter Stanhope

I. Call to Order

Board member Lorne Parnell served as Chair in place of Bill McGowan, who had not yet arrived at the meeting. He called the meeting to order at 7:03 pm, and said Ms. Harris would serve as a voting member in place of Steve Roberts. He also welcomed Councilor Julian Smith as the new Council representative to the Board.

II. Approval of Agenda

Richard Kelley MOVED to approve the Agenda as submitted. Susan Fuller SECONDED the motion, and it PASSED 6-0.

III. Report of the Planner

- Mr. Campbell welcomed Councilor Julian Smith as the new Council representative to the Planning Board. He also said Councilor Peter Stanhope had been appointed as the alternate Council representative.
- He said he had met with Steve Whitman of Jeff Taylor Associates, to put the finishing touches on the revised Sign Regulations and Parking Regulations. He said he hoped to bring them back to the Board at the April 9th meeting, when they would discuss setting a public hearing date.
- He said the EDC would be meeting on Friday, but said the discussion with the Evangelical Church had been postponed. He noted that there would be a public comment period at the beginning of EDC meetings, and said the committee would be discussing whether meetings would be broadcast live or on tape on DCAT. He said additional topics to be discussed at the meeting were the list of Zoning amendments, and the possible election of Jason Lenk to the committee. He also noted that there would be a subcommittee comprised of Planning Board and EDC members to work on the draft Planned Unit Development (PUD) ordinance.
- He said Town Engineer Dave Cedarholm had spoken with the Council about the draft Stormwater Ordinance on March 17th.
- Mr. Campbell reviewed some grant proposals his office had been working on, including a safe route to schools grant, and an SPR grant that would help fund a study

of the Northern Connector concept. He explained that UNH would not support this concept, and he said the State had therefore been unwilling so far to provide money for a project that probably wouldn't happen. But he noted the traffic modeling currently being conducted in Town, and said this might help the Town get the SPR grant.

- Mr. Campbell said there were two new applications for the April 9th meeting, acceptance consideration for the Henderson Site Plan Application, and the conceptual consultation for the subdivision and site plan applications to develop about 210 units of student housing submitted by JLB Partners, concerning the Tecce property.

Mr. Kelley asked whether the project on the Tecce property would include the extension of water and sewer down Mast Road.

Mr. Campbell said the way this was being presented, it wouldn't work without hookup to the sewer system. He said the development could hook up to water from the Spruce Hole aquifer if the Town went forward with the development of the aquifer, but also said he said he didn't think there would be a problem finding an adequate private well for the development.

Chair McGowan arrived at the meeting at 7:10 pm.

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.

Ms. Fuller and Mr. Ozenich recused themselves. Chair McGowan appointed Ms. Harris in place of Mr. Roberts, Mr. Lewis in place of Mr. Ozenich, and Mr. Greene in place of Ms. Fuller.

The applicant, Joe Caldarola spoke before the Board, and said he was present to update the Board on plans for the project. He said he was presenting, with some embarrassment, a completely different drainage approach than he had spoken of the last time he was before the Board. He said that after reviewing the pump systems for the previous approach, Mr. Roseen had decided that it would be better to have a more dispersed, better distributed infiltration method, over a larger area, which would more closely resemble where rain fell on the site now.

He said he, Mr. Roseen and engineer Rubin Hull had discussed this over a lengthy conference call, and had then agreed on the best approach, which was now reflected in the present drainage plan. He said he was confident that this plan would not change again, and said he had therefore gone ahead with the documentation that followed from that. He said the plans themselves would be completed soon, after all the details were worked out, and said Mr. Roseen would do a formal review of them. He said Mr. Roseen had also offered to speak with the Planning Board to explain how the drainage system would work.

Mr. Caldarola explained that as part of the drainage system, there would be porous

pavement on the roadway. He said water falling on the road, the driveways and the front half of the roofs of the houses would be directed into the storage area under the road. He said the porous pavement system had a 29 inch pavement depth, which included the entire structure, and he provided details on the water storage capacity of the system. He said the test pit information had been used to determine that the ground was porous enough to allow the water to drain out of the storage area within a few days.

He said he preferred that the driveways not be porous pavement, explaining that this would be extremely expensive. He said he had asked that the system be analyzed so that the driveways would be conventional pavement, but the water running off of the driveways would be directed into the storage area beneath the road. He said that was what this present system was designed to do.

He said the system was also designed to take up water falling on the front half of the house roofs, and he explained why it would have been awkward to direct the water from the back half of the house roofs to the storage area.

In answer to a question from Mr. Kelley, Mr. Caldarola provided details on piping that would run across the road, spaced 100 ft. apart, which would protect the storage structure from water coming up from below, without short circuiting it.

Mr. Kelley asked that these pipes be shown on the plan, and also said some ditch work would probably be needed on the inside of the roadway to day-light the pipes.

Mr. Parnell noted the 130 ft by 15 ft drain shown on the plan, and Mr. Caldarola said it was still part of the plan, as part of the surface water drainage design for the site. Regarding the rain garden proposed for the house at the western side of the site, Mr. Caldarola said it appeared that only a minor amount of detention would be needed in that area, given the overall infiltration that would be achieved for the entire site. He noted that there would be further analysis of this.

Chair McGowan asked if the concept of catching rainwater that fell on the front portion of the roofs would affect the orientation of the houses.

Mr. Caldarola said it would be binding that 50% of the rainwater hitting the roofs would have to be captured, whatever the orientation was.

Mr. Caldarola next went through the new documents that he had provided. He first discussed

“Declaration of Sophie Lane Homeowners Association, with Covenants, Restrictions and By-laws”. He noted the wording in Article 3 of this document, concerning the maintenance of the porous pavement. He also said the previous wording concerning a restriction on clothes lines had been removed from Article 7. In addition, he said there was a “Duration” section toward the end of the document, which included wording “except that Article 3 and Appendix B are perpetual and may not be terminated.”

He said Exhibit B of this document provided maintenance specifications written by Mr. Roseen, and he also noted two separate documents, “Summary Construction Specifications for Porous Asphalt”, and “Porous Asphalt Pavement Summary”. He said

the intent was that these documents would be part of the submittal documents.

Mr. Kelley noted that the Planning Board had previously discussed the idea of making a list of properties with pervious pavement, recognizing that the maintenance of them could perhaps be shared.

Mr. Caldarola next spoke about the “Declaration of Sophie Lane Roadway Easements and Covenants”. He explained that among other things, it included the drainage easement agreement, and a sample Warrant Deed for a lot in the subdivision. He said that #6 of this document addressed the management and maintenance of the common open space, and that #7 addressed the maintenance specifications for porous pavement.

There was discussion that the lot lines were the same as they had been for some time, and that the open space was the same.

Mr. Caldarola provided details on the Final Common Open Space and Stewardship Plan. He also spoke about the Resource Impact Conservation Plan document, which had not yet been provided to the Planning Board. He noted that in several of the documents that had been provided, the wording that said an ecologist would be hired by the Homeowners’ Association every year had been changed to say every two years.

There was discussion on how things should proceed in terms of finalizing the drainage analysis and having the Planning Board review it.

Mr. Caldarola said it made sense to have Mr. Roseen complete his review of it, and then have him appear before the Board to discuss it. He said it wasn’t clear when this would happen.

Chair McGowan asked if any members of the public wished to speak concerning the application.

Denis Day, 89 Baghdad Road, asked for clarification as to whether the common open space would be jointly owned.

Mr. Caldarola confirmed that the Homeowners’ Association would own it.

There were no other members of the public who wished to speak.

Richard Kelley MOVED to continue the public hearing to the April 23, 2008 meeting. Lorne Parnell SECONDED the motion, and it PASSED unanimously 7-0.

Ms. Fuller and Mr. Ozenich returned to the table.

- V. Public Hearing on 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.

Richard Kelley MOVED to open the public hearing. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 7-0.

Alger Rollins spoke before the Board. He briefly reviewed the application before the Board. (See March 12, 2008 Planning Board Minutes for details). He described in detail the proposed boundaries for the subdivision, noting that the subdivision plan was not final yet, but that the final plan should look much like the plan that had been presented.

He said the reason the final plan hadn't been completed yet was that the family wanted to wait to have this done until the conservation easement agreements were ready. He said a waiver was being requested to allow approval of the subdivision application without the final plat in place yet, and suggested that final subdivision approval could be made contingent upon having completed plan.

He noted the other waiver requests: Waiver from Open space ownership and stewardship plans; additional information such as hydro-geological assessment and traffic analysis; construction plans; and a High Intensity Soils Survey, had to do with the fact that the pre-conceptual design and design review phases had been squashed down into one process.

He said two variances had been received, one for road frontage and the other regarding depth to ledge for the septic system design. Concerning the latter, he explained that the soil scientist had been unable to find a test pit location that met Durham's requirements concerning depth to ledge, although the State requirements were met. He noted that with the conservation easement in place, this limited the areas that were possible for a septic system.

Ms. Fuller received clarification that the septic system had been designed for 4 bedrooms.

Mr. Kelley asked about the conservation easement on the lower lot, and Mr. Rollins said it had previously been sold to NH Fish and Game.

Mr. Parnell said assuming that this subdivision went ahead, it was expected that the new owner of the lot that contained the existing houses would not be able to subdivide further. He asked if there was anything to prevent further subdivision.

Mr. Rollins said this would have to come to the Planning Board, noting that there were other Zoning provisions that would kick in. There was discussion on the size of the "excluded area" on that lot, and Mr. Rollins said it was 10.65 acres.

Chair McGowan asked if there were any members of the public who wished to speak in favor of the application. There was no response, and he then read into the record a letter from David Murphy, which spoke in support of the subdivision application, stating that the creation of the two lots in exchange for protection of the remaining land was in the best interest of the Town and the abutters.

Chair McGowan asked if there were any members of the public who wished to speak against the application, and there was no response.

Richard Kelley MOVED to close the public hearing. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.

In response to a question from Mr. Kelley, Mr. Campbell said the requirement for a

formal plan would not be waived, and was addressed in the conditions of approval.

Ms. Fuller said the Findings of Fact should include the fact that Minutes for the site walk were submitted.

There was discussion that the conservation easement deed should be provided to the Town once it was completed, so would become part of the record for the property. It was agreed that this should be a pre-signature condition of approval.

Susan Fuller MOVED to approve the Application for Subdivision submitted by Dale Rollins Valena, Sherwood Rollins and Alger Rollins, Andover, Massachusetts to subdivide one lot into two lots, at the property located at 313 Durham Point Road, in the Residence C Zoning District. Richard Ozenich SECONDED the motion.

Mr. Kelley said he was interested to know why the applicant needed these approvals prior to having the conservation easement deed and plan in front of the Board.

Mr. Rollins said the family was looking for assurance that the property could be subdivided before completing the conservation easement process. He said the family might have declined the conservation easement approach if the property could not be subdivided.

Mr. Kelley said he supported the application, but struggled with the idea of approving the subdivision application without a plan, and making receipt of the plan a condition of approval. He said he therefore couldn't vote in favor of the current motion on the application, and said he would therefore like to offer an amendment to the motion.

Richard Kelley MOVED to amend the motion, to require that the subdivision plan was similar to what was in front of the Planning Board, with 10.62 acres excluded from parcel two.

Mr. Rollins said a similar question had come up when he was before the ZBA concerning this property. He said some language was included in the ZBA's motion that said the final area of the conservation easement would be at least 90% of what was shown on the draft plan.

Mr. Kelley said he would therefore withdraw his amendment in favor of the applicant's language.

Mr. Campbell noted that the ZBA approach had been included as a condition of approval, and Mr. Kelley said he was satisfied with this.

The original motion PASSED unanimously 7-0.

VI. Public Hearing on an amendment to the Planning Board Rules of Procedure, Section V(C), Records.

Jim reviewed the one change proposed to the Rules, on 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.”

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

There were no members of the public who wished to speak.

Richard Kelley MOVED to close the public hearing. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 7-0.

Mr. Campbell said the Board would vote on this at the April 9th, 2008 meeting.

VII. Public Hearing on an amendment to Article II, Section 175-7, Definitions; of the Durham Zoning Ordinance to add Fitness Center to the definition of Personal Services.

Mr. Campbell said the Board had discussed this issue in detail at the previous meeting, and had finally agreed that “fitness center” should be included in the definition of “Personal Services“. He noted that the use was already included under the definition of “Recreational Facility, Indoor“.

Richard Kelley MOVED to open the public hearing. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

There were no members of the public who wished to speak.

Richard Kelley MOVED to close the public hearing. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.

Richard Kelley MOVED to accept the proposed change to the definition of “Personal Services“, to include “Fitness Center“, and to forward this proposed change to the Town Council. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

Mr. Campbell said he expected this to be on the Council’s April 7th Agenda, for first reading, and said the public hearing would be on April 21st.

VIII. Acceptance Consideration on a Conditional Use Permit Application submitted by Christopher A. Wyskiel, Esquire, Dover, New Hampshire on behalf of Varsity Durham LLC, McLean, Virginia to permit the use of a currently non-legal, unoccupied 2-bedroom apartment to house three occupants. The property involved is shown on Tax Map 2, Lot 8-9, is located at 37 Madbury Road and is in the Professional Office Zoning District.

Attorney Wyskiel said he had some responses to comments made by Mr. Campbell concerning the application, and said that as part of this, there were some changes to the plan.

Mr. Campbell explained that this was a conditional use application because it involved

the expansion of a nonconforming use, and also because it involved an adaptive reuse of a multi-unit building in the Professional Office district. He said this was already a multiunit building, but one of the units was currently not being used as an apartment. He noted that under a conditional use application, an applicant could conceivably be allowed to expand a nonconforming use up to 50%, and said the applicant was asking for only one apartment.

Attorney Wyskiel said the records from the Town were sketchy as to what was allowed. He said 7 apartments were currently being used, while two others remained unoccupied, one of which was in the basement. He said the intent was not to use the basement apartment, but to use the other one, a two bedroom apartment on the second floor. He said this vacant eighth apartment had been used in the past, and provided some details on this.

Mr. Campbell provided some history on the property, noting that when former owner Mike Davis bought the property from Cutter Properties, the eighth apartment was being used at that time, and had been used that way for some time. He said Mr. Davis had planned to make some improvements, and found out that only seven residences were allowed. He said Mr. Davis had then vacated the apartment, and Varsity Durham had kept the apartment vacated as well.

The Board determined from Mr. Campbell that the application was complete.

Mr. Kelley noted that in reviewing conditional use applications involving multi-unit apartments, the Board had generally required that the property owner create a property and safety management plan. He asked if the applicant would explore this idea.

The applicant said they already had such a plan, and would share this information at the public hearing.

Richard Kelley MOVED to accept the Conditional Use Permit Application submitted by Christopher A. Wyskiel, Esquire, Dover, New Hampshire on behalf of Varsity Durham LLC, McLean, Virginia to permit the use of a currently non-legal, unoccupied 2-bedroom apartment to house three occupants, for the property located at 37 Madbury Road, in the Professional Office Zoning District, and to schedule the public hearing for April 9, 2008. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

It was agreed that the site walk would take place on April 5th, at 8:30 am. Attorney Wyskiel suggested the site walk could focus on the vacant apartments, since there were students living in the other apartments.

- IX. Acceptance Consideration on a Conditional Use Permit Application** submitted by Christopher A. Wyskiel, Esquire, Dover, New Hampshire on behalf of Varsity Durham LLC, McLean, Virginia to permit the use of a former first floor office to a 3-bedroom apartment to house three occupants. The property involved is shown on Tax Map 2, Lot 11-8, is located at 22 Madbury Road and is in the Professional Office Zoning District.

Attorney Wyskiel said this application was similar to the previous one. He said there was

a pre-existing non-conforming use, and said a conditional use was needed in order to expand this use by bringing another apartment space online. He said this was also considered an adaptive re-use, in the Professional Office District, so a conditional use was needed for that as well.

He said the space in question was previously used as a business property. He provided details on this, and said the new owner didn't need the office space, so it was now vacant. He said the applicant would like to bring the property on line as an additional student apartment, in the configuration shown as Option 1. He said there would be 3 separate bedrooms, for 3 students, and said this use would meet the conditional use criteria because there would be little impact from what was proposed. He said it would be suggested at the public hearing that the student apartment was a more appropriate use, and would result in less impact to the student residential neighborhood than the existing office use

Chair McGowan asked if this had been an apartment space before it was used as an office.

Attorney Wyskiel said yes, and provided details on the fact that the entire building had been used in the past as an apartment building, and had also been a fraternity. He said the permit to allow an apartment in the building to be used as an office had not been found, but said changing it back to an apartment use was still considered a change of use now.

Mr. Parnell noted that there would be 18 units, and 56 students, which was more than 3 students per unit.

Attorney Wyskiel said this number was consistent with the fraternity use, and he provided details on this.

He said the applicant had suggested that as a condition, there could be a ceiling placed on this, so there would be no further increase. He noted that the Master Plan said this kind of density was appropriate for this district. He also said the density proposed was no greater than what had been allowed in the past. He said there was an abundance of parking and said it was felt the numbers were appropriate.

Ms. Fuller noted that the Board had received a hand drawn floor plan. She asked if this plan was accurate in terms of the configuration of the building.

He said the plan was just meant to provide historical evidence of the use of the property as student residential units. He said what was proposed had been roughly configured that way, but he said it wasn't an accurate plan. He said that currently, there were 56 students living there, in 18 existing apartments, and said what was proposed would add three additional units of living space, each of which would be for one student.

Mr. Campbell said that currently, the applicant was two over in terms of the number of students.

Attorney Wyskiel said his interpretation of the enabling statute for innovative land use controls provided the ability to have some flexibility in terms of standards, including regarding density.

Chair Parnell asked if any construction aspects of the project would go to Code Enforcement Officer Tom Johnson, and Mr. Campbell said yes.

Mr. Campbell said the application was complete. He noted that the abutter information had been corrected, and said the application would have been accepted even without those corrections.

Richard Kelley MOVED to accept the Conditional Use Permit Application submitted by Christopher A. Wyskiel, Esquire, Dover, New Hampshire on behalf of Varsity Durham LLC, McLean, Virginia to permit the use of a former first floor office to a 3-bedroom apartment to house three occupants, for the property involved shown on Tax Map 2, Lot 11-8, located at 22 Madbury Road and in the Professional Office Zoning District, and scheduled the Public Hearing for April 9, 2008. Susan Fuller SECONDED the motion.

The Board agreed that a site walk would be done immediately following the site walk for the applicant's other property.

The motion PASSED unanimously 7-0.

- X. Acceptance Consideration on a Site Plan Review Application and a Conditional Use Permit Application** submitted by the Durham Public Works Department, Durham, New Hampshire for renovations to the Jackson's Landing Recreational Area. The properties involved are shown on Tax Map 11, Lots 9-2, 11-3 and 11-4, are located on Old Piscataqua Road and are in the Coe's Corner and Residential A Zoning Districts.

Chair McGowan recused himself because of his involvement with Great Bay Rowing. Mr. Parnell took over again as Chair.

Public Works Director Mike Lynch spoke before the Board, and provided some history on the evolution of this project. He explained that what had started as an erosion control approach had broadened into a plan to enhance the entire site, and to make it more valuable to the Town.

Ms. Fuller asked about the turnaround for trailers, and the concern expressed by Mr. Hall that there would be conflicts between users.

Mr. Lynch said the existing area for the turnaround hadn't changed with this plan. He said the conflict occurred when there were rowers at boathouse, back from rowing. He said at these times, the turnaround was more difficult. He said the Town was working collaboratively with UNH folks that used the facility to try to be more neighborly, and to allow more room for boat launching. He noted that the boat launch was not used that frequently, in part because of the small window of opportunity because of the tides. He said the conflict was minor, and said they were trying to work it out. He noted that two of the members of the Committee were from UNH.

He said if there was an issue, it was a minor one, and would occur infrequently, perhaps a couple of times a year, when the rowing regattas took place. He provided details on this, and said there wasn't much they could do about that, given that this was a college town.

Mr. Lynch noted the areas of the site that currently had erosion problems, and said what was proposed was to pave some of this area, and to use vegetative drainage swales as part of this. He said there would be no renovation to the existing docks with the current project, but said in the future, the Town hoped to put in another dock system, which among other things would be handicap accessible. He provided details on this.

Ms. Fuller asked if pervious pavement would be used on the site.

Mr. Lynch said no, because of the high water table where it had been proposed, also noting that the slope of the driveway was too severe for this. He said pervious pavement could have worked up at the new parking lot, but said the DES Wetlands Bureau was concerned about this, and preferred that a vegetative swale be used instead. He said a rain garden would also be constructed in the corner, and would recharge the groundwater there. He said he thought this was a good alternative, which would work in that location.

He noted that originally, there was an additional boat parking area in the plan, but said this was taken out. He explained that the alternative was that boat trailers would be backed into the back parking area, an area that was intended as parking for the skating rink in the winter, but was reasonably empty in the summer. Mr. Lynch said the skating rink had had a successful season, finishing in the black, and also said more enhancements were needed to generate more revenues.

He said that there would be no other motor vehicle parking down by the water than the boat trailer parking, and said this would address possible pollution issues. He said there would be signage saying no motor vehicle parking would be allowed at the landing, and that only drop-off for boats and pedestrians would be allowed. He noted that 9.3% of the site would consist of impervious surfaces, while 33% was allowed.

He said the master plan has been before the Parks and Recreation Committee, the Town Council and the Conservation Commission. He said the intention at the front of the site was to turn the barren gravel area into a turf area with stone dust paths, landscaping, and shade trees with small crowns. He said a goal was to not impede the view. He said there would be picnic tables and benches, and said it would be a park like setting.

Mr. Lynch noted that the plan included the removal of 11,000 sf of phragmites, an area that would then be re-vegetated with native plants. He said a wetlands permit would dictate exactly how this removal would be done, by professionals.

He provided details on how the existing trail system at the landing would be enlarged upon, and that it would be open to the public. He also said there would be educational signage, and said most of it would be wheelchair accessible. He noted that the Parks and Recreation trails committee had volunteered to maintain the trail.

He noted that the National Resource Conservation Service had provided the Town with a grant for \$315,000 for the project, and that the Conservation Commission had provided significant matching funds, from the land use change tax fund, which would be used primarily for the erosion control aspects of the project. He said it was hoped that the project could be completed in 2008, except for the phragmites removal, which would take two years, .

Mr. Kelley asked if the Town got revenue from the University for the use of the boathouse.

Mr. Lynch said no, but noted that UNH did some maintenance work, and took the docks in and out each year. He said there was a formal agreement between the Town and the University, but said no money was involved.

Mr. Kelley said the deed for this parcel did have a condition of conveyance that this land would be used for Town purposes only, and said he didn't see how the University fit into this.

Mr. Lynch said Mr. Jackson had been excited about the idea of allowing the University to build the boat house and utilize the site, but he acknowledged there were some questions.

Councilor Julian Smith asked if there was a restriction on who could put boats in the water, and Mr. Lynch said no. He said one didn't have to be a Durham resident, and said the only restriction was the tide. Councilor Julian Smith summarized that the Town maintained the site but couldn't limit it to Town residents, and Mr. Lynch said that was correct.

Chair Parnell asked if this would be a Town parking lot, and Mr. Sievert said yes. Chair Parnell asked about lighting.

Mr. Lynch provided details on this, stating that it would be low impact lighting. He noted that the parking lot would allow parking for other uses besides skating.

There was discussion that the rink was already being rented out to ice hockey groups beyond Durham. Ms. Fuller asked if the ice rink could be expanded, and Mr. Lynch said no, but said it would be great to rent the rink out as much as possible. He provided some details on landscaping and architectural work planned to give the building more of an identity. He said there would also be signage, as well as a crosswalk to facilitate pedestrian access from the parking lot.

Mr. Greene asked if there would be recycling receptacles, and Mr. Lynch said there would be receptacles for both trash and recyclables.

Mr. Kelley noted the drain pipe on the plan, and Mr. Lynch said he would look into this. Mr. Kelley then asked if the plan was complete.

Mr. Campbell said there were some items missing from the plan, but said in an effort to save taxpayer money, the plan would be updated one more time with all of the needed information, and then finalized. He said he was keeping a list of items that needed to be included. He also noted that there was a request for a waiver from having to provide surveyed boundaries on the plan, and said the Board should vote on this.

Mr. Lynch said the current plan was a result of the master planning process. He said it was not the formal plan, and was intended for public viewing.

Mr. Kelley said waiving the need for a boundary line survey opened the Town up to

liability issues, especially the boundary line to the west. He said he personally could not accept such a waiver.

Richard Kelley MOVED to accept the Site Plan Review Application and a Conditional Use Permit Application submitted by the Durham Public Works Department, Durham, New Hampshire for renovations to the Jackson's Landing Recreational Area, located on Tax Map 11, Lots 9-2, 11-3 and 11-4, are located on Old Piscataqua Road, in the Coe's Corner and Residential A Zoning Districts. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

Richard Kelley MOVED to hold the public hearing on April 9, 2008. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

Board members agreed that they could visit the site on their own rather than holding a site walk.

After discussion, it was agreed that a surveyed property line for the project would be provided.

Richard Kelley MOVED to grant a waiver from Section 7.02 D, concerning copies of the plan to be made. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

It was agreed that having a boundary survey done would be a condition of approval.

Chair McGowan returned to the table as Chair.

XI. Other Business

A. Old Business: PUD--Discussion on Subcommittee with EDC

Ms. Fuller and Mr. Kelley said they were willing to serve as the Planning Board representatives on the PUD subcommittee.

Mr. Campbell noted that the Council members of the PUD committee were Councilor Karl Van Asselt and Chris Mueller.

Richard Kelley MOVED to appoint Richard Kelley to the PUD subcommittee. Chair McGowan SECONDED the motion, and it PASSED unanimously 7-0.

Mr. Campbell said anything that came out of the PUD subcommittee would go before both the Town Council and the Planning Board.

Chair McGowan told Board members that Councilor Julian Smith had proposed the idea of having a section on the Agenda that would allow Board members who served on subcommittees to speak about what was going on with that subcommittee. He asked if Board members thought this was a good idea.

There was discussion on this, and it was agreed there could be a roundtable discussion every meeting, or every other meeting, under either Old or New Business.

Mr. Kelley noted that Board members had received an email regarding the fact that Goss was looking to expand, and that this might come before the Board. He asked for an update on this.

Mr. Campbell provided details on the reason for the expansion, and said it had been determined that what was proposed was within the approved building envelope.

Chair McGowan asked about the Zoning Ordinance “hit list“, and Mr. Campbell said the final versions of the Sign Ordinance and Parking Ordinance would hopefully be provided to the Board at the April 9th. He said the Town was also entering into a contract to update the landscaping regulations, and to update the septic regulations to reflect the newer engineered septic systems that were now available. He said he hadn’t been able to get to the other items on the list.

Mr. Kelley said he had received a call from a State representative from Hooksett, who had thought he was still the Chair of the Planning Board. He said the call was in regard to House Bill 1472, which mandated that NH towns must provide workforce housing. He said the bill had passed the House and had moved on to the Senate.

He said a concern being raised was that if it passed, it would become effective 60 days later, and he noted that the NH Office of Energy and Planning was not a big supporter of it going into place so quickly because NH towns were not set up to implement it. He also said the law would be broad and vague, and would leave the specifics up to the individual towns. He said the regional planning commissions were not supporting the bill for those reasons. He said it was felt that the effective date should be extended in order to allow NHOEP and the regional planning commissions to develop model regulations that could be provided to the towns.

Mr. Kelley suggested that Board Members take a look at the legislation. He said he had been told the bill was driven by the developers’ lobby. He noted that he had explained that because of the student population in Durham affordable workforce housing was difficult to achieve.

Mr. Campbell said Durham generally exceeded workforce housing requirements because of the student housing available. He also explained that NH OEP wanted to get its Housing and Conservation program off the ground and get some empirical data before moving into the approach taken by the proposed workforce housing legislation.

Mr. Ozenich noted that the most recent issue of the NH Business Review had had a spread on the Mill Plaza redevelopment proposal.

Councilor Julian Smith said the next meeting of the Mill Plaza Study Committee was on April 2nd. He said this would be the first opportunity for the Committee to agree on a set of recommendations going to the Town Council. He said there might be a second meeting on April 16th, if necessary. He said the project was going to happen.

XII. Approval of Minutes – February 27, 2008

Page 3, 3rd paragraph, should read ““..important to know what the time frame was..”

Susan Fuller MOVED to approve the February 27, 2008 Minutes. Lorne Parnell SECONDED the motion, and it PASSED 5-0-2, with Richard Kelley abstaining because of his absence from that meeting, and Councilor Julian Smith abstaining because he wasn't yet on the Planning Board on that date.

XIII. Adjournment

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

Adjournment at 9:40 pm

Victoria Parmele, Minutes taker