

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

**DURHAM PLANNING BOARD
WEDNESDAY, APRIL 9, 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 (left at 11:25 PM); Steve Roberts; Richard Ozenich; Councilor Julian Smith

ALTERNATES PRESENT: Doug Greene; Annmarie Harris

MEMBERS ABSENT: Wayne Lewis

I. Call to Order

Chair McGowan called the meeting to order, and said Ms. Harris would be a voting member in place of Mr. Kelley.

II. Approval of Agenda

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

III. Report of the Planner

Mr. Campbell said volunteers were needed to help do traffic counts so this work could be finished the following week. He provided details on this.

He said there were no new applications for the April 23rd meeting, also noting that there might be an amendment to the Christie site plan, involving drainage issues.

He noted that he had met with University planner Doug Bencks, and had provided a memo on this to the Board. He also said he had recently met with the Chair of the Conservation Commission, and had provided a memo on this to the Board.

He said the Economic Development Committee would be meeting on Friday at 7:30 am, and had invited members of the Evangelical Church to discuss their plans for the property. He provided details on this. He said Committee member Jason Lenk would provide a summary to the Committee on the 1999 Economic Development Plan. He also said Jack Farrell would provide the Committee with a review of the JLB project.

Mr. Campbell also said the EDC's PUD subcommittee had met on Friday, had reviewed the draft PUD Ordinance, and would be making some changes to the language as necessary. He said there were two members of the Planning Board, and two members of the EDC on this subcommittee.

He said he and Code Administrator/Enforcement Officer Tom Johnson had recently met with someone who was interested in the Cumberland Farms property. He said he had also met with Ted Mulligan, 10 Madbury Road, concerning proposed adaptive reuse of a multiunit apartment building, which would be a conditional use application.

He said there had been a meeting with the Board of Stewards of the Community Church, concerning parking guidelines. He said it had been a good discussion, and said hopefully there would be some action to alleviate some of the problems there had been.

Mr. Campbell said the Council had passed on first reading the Planning Board's proposed changes to the Zoning Ordinance to allow fitness centers to be listed under Personal Services, and said there would be a public hearing on this at the April 21, 2008 Council meeting.

He also said the Council was sending to the Planning Board two proposed Council initiated changes to the Zoning Ordinance, the first concerning the definition of wholesale sales, and the second, a proposal to remove Section 175-9 (A) 13, the "Most Conservative or Restrictive" provision of the Ordinance.

IV. Public Hearing 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 represented the applicant Varsity Durham, LLC, and said David Arthur, the property owner was present. He said the property at 37 Madbury Road was a student rental, and now had 8 apartments, one of which was unoccupied. He also noted that the former owner of the property had renovated a 9th apartment which was also unoccupied at present. He said the Town's file for the property indicated that only 7 units were allowed to be occupied..

He said the 8th apartment had been allowed to be used in "emergency" situations at times, which had demonstrated the reasonableness of this use. He said the applicant was asking to legalize this use now, with a limit of 3 students in that apartment. He noted that the Planning Board had done a site walk of the property, so had seen the apartment.

He noted that the property was located in the Professional Office district, so this was a conditional use application, for an expansion of a nonconforming use. He said as part of this certain criteria had to be met. He said he had addressed all of these criteria in the March 5, 2008 letter submitted with the application. He went through each of these and reviewed the criteria and how they were met, as outlined in the letter.

Attorney Wyskiel noted that Mr. Campbell had asked the applicant to find out if water and sewer permits would be needed as part of this. He said he had contacted the

Public Works Department, and said it wasn't anticipated they would be needed. But he said if the meters indicated there was an increase in usage, the water and sewer fees would be adjusted accordingly.

Attorney Wyskiel spoke in detail about the density being requested and said that 19 students plus an additional 3 was significantly less than the density historically in the building. He also said he didn't believe that the 3 unrelated provision applied to this structure. He said his March 3rd letter had suggested that the Board include a condition in its approval of this application that no greater density would be allowed in the future.

He provided details on the property management plan, noting among other things the applicant's experience in this area based on managing other properties. He also said if there was anything that could be improved upon, the applicant would do this.

***Susan Fuller MOVED to open hearing the public hearing Annmarie Harris
SECONDED the motion, and it PASSED unanimously 7-0.***

Chair McGowan asked if any members of the public wished to speak in favor or against the application.

Tom Hawthorne, 17 Woodman Road, said he felt there would be a negative impact as a result of adding more students to this area of Town. He said that the previous fall, the noise in the area had been so bad that an extra police car was put in place in the Woodman Road area. He provided details on the existing problems with noise, garbage, etc.

Susan Hawthorne, 17 Woodman Road, said she had a private practice as an outreach councilor on Madbury Road, and also lived on Woodman Road. She said this proposed change therefore impacted her business, and also affected her as a resident. She said she was concerned about the idea of more students living in this area, noting that her business was across the street from the property in question, and that the area was noisy even in the middle of the day.

She said the security measures weren't working, and also said there were problems with garbage. She said there were sometimes more people staying at the house than those who had permission to do so, and said adding a couple of units to the house therefore didn't mean there would only be 3 more kids living there. She said the property had been wild when it was a fraternity, but said it still was not where she would like it to be in terms of property management. She also spoke about parking problems in the area.

Mr. Parnell asked if Ms. Hawthorne's comments had more to do with the general area, or the building that this application was about.

Ms. Hawthorne said her comments had to do with the area around both 37 Madbury Road and 22 Madbury Road.

Attorney Wyskiel said that the area was policed by Varsity Durham concerning trash and noise.

Concerning the parking issue, he said there was suitable parking for the needs of tenants, and also some additional parking spaces that were rented to others. He also said the Durham Master Plan encouraged increase density in certain areas of Town, including this district.

Ms. Harris determined that parking for the property was separately managed and controlled. She noted that the existing parking for the applicant's property was grandfathered, but said the Master Plan indicated that parking areas should no longer be built right up to road, and that there should be buffering. She said that dropping one of the parking spaces on this property would provide some buffering, and would enhance the property, while also screening some of the problem areas. She said this was a very open area.

Ms. Fuller asked if the lease addressed anything to do with noise levels, and Attorney Wyskiel noted that the Town had regulations concerning this. He also said if residents were too rowdy, they could be expelled. He said the rules were elaborate, and also said that private security addressed these issues. .

Ms. Fuller asked if there were occupancy limits in the lease, which included parties. Attorney Wyskiel and Mr. Arthur provided a detailed explanation of the rules, and penalties concerning this.

Mr. Greene asked Mr. Hawthorne if he had noticed any changes in behavior since the applicant had bought the property.

Asked whether the noise was coming from this particular building or the general area, Ms. Hawthorne said the property management didn't seem to have changed appreciably, noting that she had been there for 14 years. She questioned the level of enforcement that was taking place on the property.

Susan Fuller MOVED to close the public hearing. Lorne Parnell SECONDED the motion, and it PASSED unanimously 7-0.

- V. Public Hearing 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.

Mr. Roberts recused himself, noting that he was a member of the Church across the street from this property.

Attorney Wyskiel said the applicant was requesting an adaptive reuse of the property,

which was located within the Professional Office District. He explained that the former owner of the property had used the office space on the first floor as an office to manage rental operations, but said Varity Durham didn't need it for this purpose. He said it therefore seemed appropriate to make it into a three bedroom student apartment.

He reviewed the conditional use criteria and how they were met. Among other things, he said there would be suitable parking on the property, and said there would be no external impacts other than an emergency access that would be provided through the back porch area. He said the character of the neighborhood would remain essentially the same, and noted that without the rental office there, there would actually be somewhat less traffic on the property.

Attorney Wyskiel said it had been difficult to determine the definitive permitting for the property from Town files. He said the records said it was a fraternity, and he said the density, based on the square footage of apartments that had been approved, could be 72 people. He said there were currently 56 residents in the apartments in the building, and said bringing in 3 more residents would be appropriate. He said this would be a good condition to attach to approval of this application.

Mr. McGowan asked how the occupancy would be enforced, and Attorney Wyskiel provided details on this, noting among other things that if there was a material breach in the lease concerning this, the resident would be evicted. In answer to a question from Ms. Harris, he said the apartments were rented unfurnished.

Chair McGowan appointed Mr. Greene as a voting member in place of Mr. Roberts.

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

Chair McGowan asked if there were any members of the public who wished to speak in favor of or against the application.

Tom Hawthorne, 17 Woodman Road, said the comments he had made for the previous application applied to this application as well, and he provided details on this.

Susan Hawthorne, 17 Woodman Road, said that while the applicant might try hard, enforcement was difficult. She also said there was quite a lot of trash, and discarded furniture in front of the apartment building at the end of the year.

Attorney Wyskiel noted that it was their privilege to dispose of the furniture, etc., and said it was part of the job of the property managers to remove these things from the property.

Councilor Julian Smith MOVED to close the public hearing. Annmarie Harris SECONDED the motion, and it PASSED unanimously 6-0.

The Board agreed to deliberate first on the 37 Madbury Road property, and Mr.

Roberts came back to the table as a voting member.

The Board reviewed in detail the Conditional Use checklist.

Concerning 6 c, Absence of environmental constraints, Mr. Ozenich asked whether there might be an issue with lead paint, since this was an old building.

Mr. Campbell said Mr. Johnson could look into that.

There was detailed discussion about 7. b. and e. External impacts - noise or vibration and inappropriate hours of operation, and whether impacts from the proposed use would create greater impact on surrounding properties than the other existing uses in the Zone.

Mr. Campbell said this would be an easier situation to consider if it were a new building going up. He said the question was whether these additional 3 students would have a negative external impact on properties in the neighborhood, in general. There was discussion that the neighborhood was impacted already.

Mr. Greene noted that the Master Plan called for greater density in this area, and said the applicant was using an existing structure. He said the external impacts issue came down to better management of all properties.

Mr. Campbell said if Varsity Durham were to decide to put a fraternity in here, it could put more people than this in.

Mr. Roberts noted that there had been testimony from an abutter that there had been noise problems, including after the ownership of the property had changed. He said conditional use was designed to protect abutters, and said the Board needed to have someone provide some evidence concerning the noise issue. He suggested that there could be a clause that said should incidences of excessive noise and trash occur, conditional approval could be withdrawn.

Mr. Campbell noted the condition of approval concerning property management. He noted that this only applied to the applicant's building.

There was detailed discussion by the Board about whether external impacts of the proposed use on abutting properties and the neighborhood were greater than the impacts of adjacent existing uses.

Councilor Julian Smith said this use represented a small drop, compared to the flood of noise from the existing adjacent uses. Ms. Fuller said this was an underutilized building, and agreed that the answer to this question was no. Board members other than Mr. Roberts agreed that the answer was no.

Mr. Roberts said there needed to be testimony to counterbalance the only other testimony the Board had heard, that there was excessive noise problem.

Mr. Parnell said the condition of approval concerning a property and security management plan had been approved by the Police Department. He said this in effect was saying that this was the way to do things.

Mr. Roberts said he would like to see a letter that specifically said this regarding this application.

Ms. Harris said it would be nice if one less parking space could be included, and if that space could contain some screening to block the parking area. She asked whether as part of the conditional use process, this could be required.

Mr. Roberts said yes, but said the Board would have to balance whether adding 3 people justified adding the buffering, and if the surrounding community was such that buffering should in fact be required.

Councilor Julian Smith said that adding three people wouldn't necessarily add more cars.

Ms. Harris noted that the house was within walking distance of the University.

Mr. Greene said it would not be unreasonable to ask for buffering, as a condition of approval for enhanced the utility of the space.

There was further discussion on the idea of providing some buffering adjacent to the street by eliminating a parking space on the applicant's property. Ms. Harris noted that this was a Master Plan goal.

Ms. Fuller disagreed with the idea of including the buffer.

Annmarie Harris MOVED to add a condition that a buffer be provided adjacent to the street by eliminating a parking space. Susan Fuller SECONDED the motion, and it FAILED 2-4-1, with Annmarie Harris and Councilor Julian Smith voting in favor of it, and Steve Roberts abstaining.

The Board agreed that the Conditions of Approval to be met prior to the issuance of a Conditional Use Permit were as follows:

1. If needed, the applicant must secure any new water and sewer permits.
2. A Property and Security Management Plan shall be submitted to include, but not limited to, the following: Rules and regulations of the Apartments 24 hour/7 day a week primary contact person to resolve security , or other issues, in a timely and appropriate manner; a secondary contact person shall be identified in case primary contact person is not available; all contact information shall be updated with the Police Department, Fire Department, and Code Enforcement Department on an as needed basis; night time security will be used for the site; if problems persists on the property, as determined by the Police Chief, full time security will be needed 7 days a week from 8 PM to 6 AM until problems are rectified; the plan shall be

approved by the Town Planner with the advice and consultation with the Police, Fire, and Code Enforcement Departments and can be reviewed, modified, and updated by the owner with the approval of the above departments.

The Board agreed that the Conditions to be met subsequent to the issuance of a Conditional Use Permit were as follows:

1. These Findings of Fact and Conditions of Approval shall be recorded with the Strafford County Registry of Deeds, at the applicant's expense, within seven (7) days of the Chair's signature.
2. Building permits shall be obtained for all work being performed, and the building shall meet all building, fire and life safety codes.
3. The existing 7 apartments shall not have more than 19 occupants. The eighth apartment shall have no more than 3 occupants. There shall be no more than a total of 22 occupants in the building.

Mr. Roberts asked if anything else was being done required concerning noise.

Mr. Campbell referred to wording in the applicant's property management plan, and

Mr. Roberts asked if this assumed that there would be enforcement concerning noise.

Mr. Campbell noted that the noise might be coming from someplace else, and said this simply wasn't known.

Councilor Julian Smith MOVED to approve the Findings of Fact and Conditions of Approval 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, at the property located at 37 Madbury Road in the Professional Office Zoning District. Susan Fuller SECONDED the motion, and it PASSED unanimously 6-1, with Steve Roberts voting against it.

It was decided that deliberation on the 22 Madbury Road application would occur later on at the meeting.

VI. Public Hearing 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 for this application, Mr. Parnell took over as Chair, and said Mr. Greene would be a voting member in place of Mr. McGowan.

Public Works Director Mike Lynch presented details on the plans that had been developed for Jackson's Landing, and noted that these plans had been approved the Town Council, the Conservation Commission and the Parks and Recreation Committee.

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

Bill Hall, Smith Park Lane, said he was concerned about the fact that the plan eliminated some parking at the boat launch. He said the previous owner of the property, Herb Jackson, had intended that this property provide access to the water for people who didn't live on the water. He provided details on the past use of the property by boaters, and then handed out a picture of canoes blocking the launch ramp in recent years.

He noted that a previous Planning Board and Board of Selectmen in Durham had spoken about the importance of the site not becoming a public nuisance, and the importance of maintaining the boat launching and parking capacity. He said he had been at the site that week, and said the canoes had been in the way for a few hours. He explained that he had no problem with the rowing program per se, if it was run responsibly. He explained that in the 1990s, the problems at the site became more manageable, because parking was enforced.

He provided further details on parking conflicts, and said he wanted to see enough parking for the different uses, providing details on this. He said the project had been mis-engineered, and said the removal of the parking spaces near the water would cause parking problems all the time, not just when there were rowing events. He provided details on this.

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

Ms. Harris said her daughter had been a rower in Durham. She said she thought it would be nice to enhance a portion of the lower level of the landing for a couple of picnic tables and grass, but said she questioned the elimination of a large amount of the parking available there. She said some of her reasons for saying this were selfish, noting that she had often parking her car there and enjoyed the view of the river. She said this was a lovely plan, but said she wasn't sure it was realistic.

Mr. Parnell noted that a letter had been received from an abutter, Arnett Taylor, which had raised some issues. He read the letter out loud.

Mr. Lynch said he would meet with Mr. Taylor, concerning the boundary line issue he spoke about in the letter, and said the boundary survey would be taken care of as a condition of approval. Concerning the dock system, he said the plan was to reconfigure the system to conform with State law. He also provided details on the fact that he didn't anticipate that there would be drainage issues involving the Taylor property.

There was discussion on current and potential conflicts regarding the use of the site, as the result of this plan being implemented.

Ms. Harris asked whether so large a grassy area needed to be included.

Mr. Lynch said the Jackson's Landing Committee had said there should be a more formal, park area for people to enjoy, something that didn't exist there now. He noted that currently, it was a massive gravel area. He said there were some compromises in the plan, and said it wasn't perfect. But he said those involved with the Jackson Landing project had endorsed it, and he said it served the interests of the entire Town.

Mr. Hall complained about the format of the Jackson's Landing Committee meetings, and said he was not allowed to speak at some of these meetings. He said the people he knew who used this site, including Councilors, were dismayed that this plan would eliminate the parking.

Councilor Julian Smith said Mr. Hall had spoken very cogently about what happened down at the landing regarding boat launching and parking, and had significant experience with these matters. But he said although Mr. Hall had frequently said that parking would be eliminated with this plan, there would still be some parking, down by the ramp.

He read Herb Jackson's memorandum of understanding with the Town, which said there would be a public boat landing and launching site for small boats, for the benefit of the people of Durham. Councilor Smith said with this current plan, the Town would continue to provide boat launching opportunities at the landing, although they wouldn't be as convenient, and there wouldn't be as much parking available, unless the plan changed substantially. But he said the plan would benefit the people of Durham, some of whom went to the University, and he said cooperation with the University was important.

Mr. Ozenich said he had been at the Landing on Monday, and had observed the kind of situation Mr. Hall had described. He said that even with minor usage of the area, the situation was sort of chaotic. He said that on the other hand, he had gone to the site that evening, and it was very peaceful there. He said he felt the Board should do a site walk in order to really understand the situation. He noted that he had been a representative to the Conservation Commission when there was a focus on the erosion issues at the landing, and said the plan concerning this had morphed into the current plan.

Bill McGowan, Packers Falls Road, said he had coached for Great Bay Rowing for many years, and said when he had been at the Landing the rowers were always respectful. He said the plan would change how the Landing operated, and said this would make things easier for some people and harder for others. He noted that presently with the gravel area, there was no erosion control. He also said designating specific spaces for boat trailers might make things easier for them. He acknowledged that there would be times when there would be conflicts, but said this plan could work.

Bob Highland. 11 Spruce Wood Lane, said it sounded like this was meant to be a boat launch. He said there should be more parking there, not less, in order to provide convenience for boaters. He said there were parks further up the river.

Ted McNitt, Durham Point Road, said he had launched a lot of boats over the years, much of this in the Midwest, where launching boats from trailers was especially common. He said there had been problems with launching boats at Jackson's Landing, but said that with the open gravel parking area, they had all managed to get by. He said when this was taken away, the boaters would be giving up the launching area for all practical purposes.

Bill Hall said everyone he talked to who used the launching ramp asked why this was going to be done.

Susan Fuller MOVED to continue the public hearing to April 23, 2008. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 7-0.

The Board agreed that there would be a site walk on April 19th at 9 am.

VII. Acceptance Consideration on a Site Plan Application submitted by Henderson Properties, Durham, New Hampshire to build a mixed-use structure with 14 apartments on the upper two floors and office/retail space on the first floor. The property involved is shown on Tax Map 4, Lot 1-0, is located at 1 Madbury Road and is in the Central Business Zoning District.

Mr. Henderson made note of the building elevations that had been provided for Board members.

He said this project would expand upon an existing mixed use office and residential building, and would include the demolition of a shed addition on the Joshua Ballard Building, although the building itself would be preserved. He said the new building would be built around the Ballard Building with frontage on Main Street as well as on Madbury Road.

He said the new building would be a 3-story 25,560 sf mixed use structure with 14 apartments on the upper two floors, and he provided details on the apartment units. He said the entire lot would hold 15 total units. He said the goal was to convert two one bedroom apartment units in the Ballard building into one unit, and to build 14 new apartments. He said there would be 2 four bedroom units on each floor, and 5 three bedroom units on each floor.

He said there would be 8,325 sf of commercial space on the first floor, and said this space might be occupied by office, retail, restaurant, or other uses allowed in the district, and said this would depend upon market demand. He said the project would also include lower level enclosed parking.

There was discussion with Mr. Henderson on the parking that would be available, and about who would use it. There was also discussion about parking security issues.

Mr. Campbell said there was one waiver request, concerning the requirement that utilities be underground.

Roger Roy of MJS Engineering said this had been discussed with PSNH. He said the only real option was to put in a pole to carry the line from the existing pole, and to then take it underground from there forward.

Chair McGowan asked if the applicant had other options if PSNH said no to this.

Mr Roy said they had met with PSNH early in the process to see what the options were, and the company had set the rule as to what could be done.

Chair McGowan asked if the application was complete.

Mr. Campbell said yes, and also said he didn't see a problem with the waiver request.

Susan Fuller MOVED to grant the waiver request for the underground utilities to go from the new pole that needs to be installed. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.

Susan Fuller moved to accept the Site Plan Application submitted by Henderson Properties, Durham, New Hampshire to build a mixed-use structure with 14 apartments on the upper two floors and office/retail space on the first floor, at the property located at 1 Madbury Road, in the Central Business Zoning District. Councilor Julian Smith SECONDED the motion.

Chair McGowan asked if there would be an independent review of the traffic report.

Mr. Campbell said this was something that could be discussed later. He said the assessment was fairly accurate, but said it would be fine if the Board wanted someone to look this over.

Mr. Ozenich said he was more concerned with how the construction would be handled.

Mr. Campbell said the Police Department had concerns about this as well.

Mr. Henderson provided details on some traffic counts he had recently done, and said he thought a net benefit of the project was that there would be a reduction in traffic coming to and leaving the site.

The motion PASSED unanimously 7-0.

The Board agreed that there would be a site walk on the property on Friday, April 18th at 9 am.

Mr. Roberts said he had been quite critical of the design for the project when it was first proposed, but said the Ballard Building was much better integrated into the

project now. He said he appreciated the progress on this.

Mr. Henderson said comments from the Board had caused the design team to pull the buildings apart a bit, and to let the Ballard Building stand out more from the new building.

Richard Ozenich MOVED to continue the meeting until 10:30 pm. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

VIII. Conceptual Consultation on a Subdivision and Site Plan Review Application
submitted by JLB Partners, Irving, Texas, on behalf of Louise Tecce Rev Trust, Durham, New Hampshire to subdivide a lot into two lots, with the possibility of more lots being included, and to build a multi-family housing development consisting of approximately 210 units. The property involved is shown on Tax Map 13, Lot 6-3, is located at 236-240 Mast Road and is in the Office and Research & Light Industry Zoning District.

Jack Farrell said he represented JLB Partners, and said he was also a trustee of the adjoining property, which might be involved in the project eventually. He introduced the project partners, and explained that the proposal was to develop a 47.49 acre wooded portion of the Tecce farm that was located south of the Oyster River. He noted that it was presently not a separate lot, and also said it didn't contain prime farmland soils.

He said what was proposed was a multifamily housing development, which was a permitted conditional use in the ORLI zone. He said adjoining parcels might be included in the project, and he provided details on this.

He said after calculating the amount of usable area on the Tecce property, under the conservation subdivision regulations, it was determined that 28.6 acres of usable area was available. He said 310 units could potentially be built on this, and said 210 units were proposed. He noted that there would be both a conservation subdivision application as well as a site plan/conditional use application for the project.

Mr. Farrell said they were currently at the pre-conceptual phase, which was required under conservation subdivision. He noted that 50% of the good land on the site would need to be set aside as open space. And said they would present some different ideas on how the applicant could develop the site while also providing the best locations for open space protection. He said there would then be a conversation with the community on these different ideas.

Mr. Farrell said Angie Rawley, National Student Housing Partner for of JLB Partnership, would talk about the company's experience in creating student housing, and about some of the company's goals in creating a student housing development in Durham that would be good for the Town.

Ms. Rawley provided background information on the company and how they developed student housing. She said the principles on which the company was based

had resulted in over 75,000 units of multifamily housing around the country. She said they had done 16 projects, of various kinds, and had spent a lot of time considering not only how to house students, but how to provide lifestyle components as well.

She said the proposed project in Durham would do something a little different than other student housing options in Town. She said there would be a mix of 1, 2, 3, and 4 bedroom units, to meet different needs, including the needs of graduate students. She said the units would be high quality, state of the art residences, and would be fully furnished.

She said there would be a number of amenities on the property, including recreational facilities, a community center, meeting rooms where students could interact with the University, a controlled environment for parties, etc.

She said there would be on site management of the property, and provided details on this. She said there would be controlled access, using electronic cards, for the apartments, recreation areas, computer areas, etc., and said a police officer would live on the site.

Ms. Fuller asked if there would be 210 beds, and Ms. Rawley said no, stating that there was an average of 3.3 beds per unit. She noted that there was a bathroom for each bedroom.

Mr. Roberts asked if JLB Partners had constructed any developments in the frost belt, and Ms. Rawley said there was a development the company had done in Peabody, MA. Mr. Roberts asked why UNH or local developers couldn't offer these kinds of amenities for students.

Ms. Rawley said it was important not just to provide shelter. She said this was JLB Partners' core business, and said they focused on amenities. Asked whether the University might steel their thunder, she said JLB didn't see anything comparable with what the company did.

She noted that they had reached out to UNH, and were interested in the public transit that was available as well as other sustainability aspects of the UNH campus. She also said the development would also offer private shuttles to students free of charge, after a night of drinking.

Ms. Fuller said this project sounded like it could change student life in Durham, given its scale. She asked Ms. Rawley to speak about energy issues concerning the project.

Ms. Rawley said the company was reaching out to the Town's Energy Committee, and had looked for architects and designers who were thinking about and had experience with sustainable building in New Hampshire.

Mr. Farrell said that Eric Weinrieb of Altus Engineering, the lead engineer for the project, had done the site engineering for the Spruce Wood development. He said he had asked him to look at the Tecce property and not be bound by property lines, and

to evaluate where the best land for development was and where the best land for conservation was.

Mr. Weinrieb described how a composite survey had been developed that allowed the various parcels involved to be looked at together. He said HISS mapping information of all the parcels had been included on the plan, and said that as the project proceeded, they would make sure that the data for the properties lined up and was exact.

He said they had first looked at the wetlands, shoreland and other constraints on the properties, and said they had found two upland pockets of land that provided development opportunities. He also said there was a watershed divide, noting that a large portion of the center of the Tecce property drained to the Oyster River. He said there was sufficient area to provide stormwater treatment before the drainage got to the river.

Mr. Weinrieb said when they had looked at potential access to a development on the site, they had found that an access point off of Mill Road through the Garland parcel and into the site could occur without resulting in wetland disturbance. He said it was an amazing opportunity to do a significant project like this that wouldn't involve wetland impacts.

He said they hadn't yet developed the exact treatment devices, but said low impact development features would be included in the design. He provided details on this, and among other things, spoke about his reluctance to use pervious pavement for parking areas.

He said the site opportunities, constraints and primary conservation areas were identified, and he demonstrated this on the map. He noted that one of the goals of the design was to provide protection for the 250 ft corridor along the Oyster River. He said the primary conservation area was the wetland in the center of the Tecce property, and said there were two development opportunity areas, one toward the east of the property, and the other to the west. He said as things became constrained in that western area, the conceptual design had moved out into the Spruce Wood parcel.

Mr. Farrell said these maps had indicated where they couldn't build, where they could build, and where they didn't want to build. He said that was where the conversation with the Board came in. He also noted that they would be meeting with the Conservation Commission the following evening to get their input on this.

He said it seemed to make sense to start with a 250 ft setback from the Oyster River, and also said they had removed the wetland areas. He said after this, it was more discretionary. He said they needed about 16 acres of disturbed area to support the development, and said there would be 11-12 smaller buildings, each with about 20 units. He said the design was somewhat spread out, so they did need much of this area.

He said there was enough developable area on the two site opportunity areas on the Tecce property to accommodate this. But he said it might make more sense, from a global perspective, to think about adding more acreage to College Woods, and to concentrate the development in the western site opportunity area instead of spreading it out on the eastern as well as the western part of the property.

Mr. Farrell said they were therefore suggesting that the development take place in the western corner of Tecce property as well as about 8 acres of the Spruce Wood property, and that this land be traded for some of the excess open space on the eastern portion of the Tecce property. He said if this was done, about 40 of the 47 ½ acres of the Tecce property would be conserved.

He said there were ongoing preliminary discussions concerning utilities, but said right now the developer wanted feedback as to whether the design that had been suggested was the right approach, so the design review could incorporate the preferences of Town boards and others who wished to comment.

There was discussion that the access from Mill Road would go through the wetland setback. Mr. Farrell noted that although there would be an impact to the wetland buffer, including some possible drainage facilities, the wetland itself would not be disturbed.

Mr. Farrell said an access area on the Spruce Wood property might make sense as an emergency egress, but not as a main access for the development. He also said the contract with the Tecce family allowed access across the Oyster River. He said from a conservation point of view, this seemed like a bad idea, but said from a traffic point of view, it might not be. He said this was something they were looking at with the traffic engineer, and said they would also look for input from the Town on this. He said there were lots of options in terms of emergency access.

Ms. Harris said her first question was traffic, given that there would be 700 beds. She said there might be incompatibility with Spruce Woods, and also said Mill Road was a residential road. She asked what alternative areas there were for access, including from Route 155 A.

Mr. Farrell said the developer did have the contractual rights to use that access.. He said it was recognized that traffic issues were probably the biggest issues they needed to deal with, with this project. He noted that some early steps had been taken to look at using public transportation, and to enhance trails so there could be pedestrian access and bike access to the campus. He said there was discussion with UNH about this, and also said it would be important to get Planning Board input and perhaps backing on this.

He also noted that if they used the site opportunity area at the east of the Tecce property, access to that area would require wetlands impacts. He said this was an additional reason why it was being suggested that this be a conservation area.

In answer to questions from Ms. Harris and Ms. Fuller, he provided details on what

would be involved in accessing the development from the other side of the Oyster River. He explained among other things that there would be wetland and shoreland impacts.

He said the design that had been suggested was something to start with. He said it was expected that there would be a lot of discussion on it with a variety of entities, to get as much feedback as possible. He noted that some people weren't used to bringing the public in, this early in the process, but he said this was how the Ordinance laid things out.

Mr. Parnell asked for further details on the land swap idea, and about the Spruce Wood property.

Mr. Farrell provided details on this, among other things noting that the Zoning District changed at the boundary of his property, going from ORLI to Residence B. He said the swap would make sense to the Spruce Wood Trust because the JLB project would result in the extension of water and sewer, which would benefit the Spruce Wood property. He provided details on potential water and sewer routes being evaluated by the Public Works Department.

Mr. Roberts received clarification that as part of the swap, Spruce Wood would retain the property near College Woods in order to have it available to use as open space, as part of any future development of the Spruce Wood property.

Mr. Farrell showed a preliminary layout of the housing units that resulted from step four of the conservation subdivision process.

There was discussion about the fact that the layout showed a lot of parking area.

Ms. Rawley said the reality was that a lot of kids brought their cars to college these days, and said JLB felt it was their responsibility to provide sufficient parking for this. She also said they were trying to not put any additional burden on the remote parking lots at UNH.

Mr. Campbell noted that the University would not give permits to students who lived within a mile of the campus.

Ms. Rawley said every bed would have a parking space, and a modest amount of parking for visitors. She said they also hoped to have public transit come onto the property, and would encourage students to use this, and to leave their cars on the site. She said a goal was to reduce traffic on the roads in general.

Councilor Julian Smith asked if they marketed to students who didn't have cars.

Ms. Rawley said they did, but she noted that this was a somewhat rural area, where the parking ratios would be higher than they would be in more urban areas.

There was discussion that the development would be located slightly more than a mile

from the UNH campus.

Ms. Harris noted that she was on the Traffic Safety Committee, and said the remote UNH parking lots was not overfilled at the moment. She said they had actually reduced the number of students coming on campus with cars, by charging them. She asked if JLB would separate the cost of rent from the cost of parking.

Ms Rawley said typically, parking was part of the rent, but she said more and more across the country, the burden was being put back on the resident, as an additional charge. She said they would be seeing a lot more of this, and also said the company looked at all kinds of possible strategies.

Ms. Fuller asked what the role of the porter was at the development, and then suggested that this person could perhaps help to maintain the trails on the property.

Ms. Rawley said this was a good idea.

Mr. Campbell asked if the design team wanted anything specific from the Board that evening.

Mr. Farrell said they were considering the idea of having double deck parking, which would make use of the topography. He said he wanted to be sure there wasn't an objection to this. There were no comments from Board members that this would be a problem, and Mr. Farrell said he took this to mean that this idea was not objectionable.

He asked whether the Board thought the design team was on the right track concerning the conservation plan, and said he would like to let the Conservation Commission know this, if possible.

Some Board members said they felt this design was on the right track.

Mr. Campbell noted the land swap idea that had been described, and said the numbers had to work in terms of the usable area.

Mr. Farrell said they understood this. He said there was an excess of usable area, but said they would show how this had been fleshed out.

Mr. Greene said it was great to be able to get this kind of global perspective, and to be able to consider the options.

Mr. Campbell said it would be a good idea to have one more conceptual consultation with the Board. He also noted the memo from the Police Department concerning traffic on Mill Road. He said the other access option was coming in from across the river, and said the environmental concerns regarding this access had to be weighed against the neighborhood/narrow road concerns pertaining to the Mill Road access.

Mr. Farrell said it would be good to have the traffic study results available for this discussion.

Mr. Campbell said the applicant was approaching things the right way, going to the Conservation Commission early in the process, meeting with the EDC, etc. He said the design team would then need to start to pin things down, and pointed out that a boundary line adjustment as well as a subdivision application might be needed.

There was discussion that if it was agreed that using the buildable area that spilled over into the Spruce Wood property was the way to go, a Zoning change would be needed.

Mr. Roberts said a concern he had was how traffic from the development would enter Durham. There was detailed discussion on this, with Mr. Farrell saying a lot of kids would probably choose to take the bus. Mr. Roberts asked how bus trips would be handled as well. There was discussion on bus service.

Mr. Farrell said they would do some more research on this issue. He then said it was important to remember that this project would increase the tax base, and would not result in students in the School district. He said the project was expected to have a value of more than \$25,000,000.

There was discussion on to what extent this development would result in lowering residents' taxes.

IX. Deliberation on an amendment to the Planning Board Rules of Procedure

Lorne Parnell MOVED to amend the Planning Board Rules of Procedure as indicated. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 7-0.

X. Other Business

- A. Old Business: Discussion on setting a Public Hearing date for the Sign and Parking Ordinance amendments.

Deliberation on 22 Madbury Road Conditional Use application.

Mr. Roberts recused himself from this discussion.

The Board went through the conditional use checklist. They then agreed on the following Conditions to be met prior to the issuance of a Conditional Use Permit:

1. If needed, the applicant must secure any new water and sewer permits.
2. A Property and Security Management Plan shall be submitted to include, but not limited to, the following: Rules and regulations of the Apartments 24 hour/7 day a week primary contact person to resolve security , or other issues, in a timely and appropriate manner; a secondary contact person shall be identified in case primary contact person is not available; all contact information shall be updated with the Police Department, Fire Department, and Code Enforcement Department on an as

needed basis; night time security will be used for the site; if problems persists on the property, as determined by the Police Chief, full time security will be needed 7 days a week from 8 PM to 6 AM until problems are rectified; the plan shall be approved by the Town Planner with the advice and consultation with the Police, Fire, and Code Enforcement Departments and can be reviewed, modified, and updated by the owner with the approval of the above departments.

3. The final layout shall be provided to the Code Enforcement Officer for approval.

The Board agreed on the Conditions to be met subsequent to the issuance of a Conditional Use Permit:

1. These Findings of Fact and Conditions of Approval shall be recorded with the Strafford County Registry of Deeds, at the applicant's expense, within seven (7) days of the Chair's signature.
2. Building permits shall be obtained for all work being performed, and the building shall meet all building, fire and life safety codes.
3. The existing eighteen apartments shall have no more than 56 occupants. The nineteenth apartment shall not have more than 3 occupants. There shall be no more than a total of 59 occupants in the building.

Susan Fuller MOVED to approve the Findings of Fact and Conditions of Approval for 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, for the property located at 22 Madbury Road, in the Professional Office Zoning District. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0. (Mr. Greene was a voting member for this motion.)

Mr. Campbell said the public hearing on the Parking and Sign regulations would take place at the April 23, 2008 meeting.

B. New Business:

Councilor Julian Smith explained that there was presently no alternate Council representative to the Planning Board, and said one would be appointed by the end of the month.

C. Next meeting of the Board: April 23, 2008

XI. Approval of Minutes – No minutes

XII. Adjournment

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

Adjournment at 11:00 pm.

Victoria Parmele, Minutes taker