

These minutes were approved at the June 25, 2008 meeting.

**DURHAM PLANNING BOARD  
WEDNESDAY, MAY 14, 2008  
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL  
7:00 P.M.  
MINUTES**

**REGULAR MEMBERS PRESENT:** Chair Bill McGowan (arrived late); Secretary Susan Fuller; Steve Roberts; Richard Kelley; Councilor Julian Smith; Councilor Gerald Needell

**ALTERNATES PRESENT:** Kevin Gardner

**MEMBERS ABSENT:** Vice Chair Lorne Parnell; Richard Ozenich; Wayne Lewis; Doug Greene

**I. Call to Order**

Planning Board Secretary Susan Fuller said she would be filling in as Chair until Mr. McGowan arrived. She also said alternate Kevin Gardner would fill in for Richard Ozenich.

**II. Approval of Agenda**

*Councilor Julian Smith MOVED to approve the Agenda as presented. Steve Roberts SECONDED the motion, and it PASSED 6-0.*

**III. Report of the Planner**

Mr. Campbell said the EDC was working on possible Zoning changes concerning habitable floor area, etc. and said when the draft language was ready, this would be forwarded to the Town Council. He said at their recent meeting, they got an update on what the Town would need to do, in terms of surveys, space needs analysis, etc, in order to move forward with the purchase of the Durham Evangelical Church.

He said the EDC also received information on RSA 79-E, the Community Revitalization Tax Relief statute, and the possibility of Durham adopting it. He said there was discussion that this might be used to provide tax relief for developers wanting to renovate downtown properties. He said he expected that there would be a lot of discussion on this concept by the EDC, the Planning Board and the Town Council.

Mr. Campbell said the map with the proposed Zoning district changes was on the wall, and said before scheduling the public hearing on these proposed changes, he wanted to see if the Planning Board first wanted to have a discussion on them. He said the Board would have sixty days to send the Council a recommendations on the proposed changes, and said if the public hearing didn't happen at the May 28<sup>th</sup> meeting, it couldn't happen until the end of June, and would be the Board's last chance to get recommendations to the Council. He said that was why he was recommending that the hearing be on May 28<sup>th</sup>.

He said there had been a joint meeting of the EDC and the Conservation Commission, to discuss the areas within Durham that had the potential for development, as well as the areas in the Town that had the potential for conservation. He explained that this issue was a spin-off of discussion on the concept of transfer of development rights, and said he assumed that there would be additional meetings on it.

Mr. Campbell said the final traffic counts had been completed, and he thanked Councilor Julian Smith and Mr. Roberts for their help in completing them.

He said the Mill Plaza Study Committee had recently presented their final report and recommendations to the Town Council. He thanked the Committee, AIA NH and the public for all of their hard work in developing this plan. He said it was a good plan, and said the hope was that there would be redevelopment of the Plaza. He also noted that he had nominated the plan for Plan of the Year through the New Hampshire Planners Association.

He said he had recently met with University planner Doug Bencks, and said they had discussed the issue of trying to find a location for a proposed wind tunnel. He also said he had given Mr. Bencks an update on student housing proposals in Durham, as well as the recently completed traffic model.

Mr. Kelley noted that he had passed out to Planning Board members a booklet entitled “Explore the Lamprey River”, which had been put out by the Lamprey River Advisory Committee.

#### **IV. Election of Officers**

Mr. Campbell said Bill McGowan had agreed to serve as Planning Board Chair for another year if he was nominated, and that Lorne Parnell had agreed to continue as Vice Chair.

Ms. Fuller agreed to continue as Secretary of the Planning Board.

***Richard Kelley MOVED to nominate Bill McGowan for another term as Planning Board Chair, Lorne Parnell for another term as Planning Board Vice Chair, and Susan Fuller for another term as Planning Board Secretary. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 6-0.***

#### **V. Appointment of One Member to the Historic District Commission and One Member to the Conservation Commission**

Mr. Roberts said he would be happy to continue as Planning Board representative to the Conservation Commission, and said he was also interested in architectural consult for the Durham Business Park.

The Board agreed to wait to appoint a Planning Board member to the HDC until a meeting when there were more Board members at the table.

***Richard Kelley MOVED to appoint Steve Roberts to represent the Planning Board on the Conservation Commission. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 6-0.***

There was discussion on Planning Board representation on the Traffic and Safety Advisory Committee. It was noted that former Planning Board member Annmarie Harris had served on that committee, and that there was now an opening. It was also noted that there were two openings on the Strafford Regional Planning Commission. There was discussion that this should be discussed under New Business.

Mr. Campbell also said he was no longer on the Transportation Advisory Committee, so there was a vacancy on that committee as well.

- VI. **Continued Public Hearing on a Conservation Subdivision Application** submitted by Joseph Caldarola, Portsmouth, New Hampshire for subdivision of one lot into 9 lots. The property involved is shown on Tax Map 10, Lot 7-0, is located at the corner of Bagdad Road and Canney Road and is in the Residential B Zoning District. (The applicant has requested that this application be postponed until May 28, 2008.)

Mr. Campbell said Dr. Roseen of the UNH Stormwater Center would be available on May 28<sup>th</sup>, which was why the applicant had requested a postponement until that date.

***Richard Kelley MOVED to postpone until May 28, 2008, at the request of the applicant, the Public Hearing on a Conservation Subdivision Application submitted by Joseph Caldarola, Portsmouth, New Hampshire for subdivision of one lot into 9 lots, at the property located at the corner of Bagdad Road and Canney Road, in the Residential B Zoning District. Steve Roberts SECONDED the motion, and it PASSED 6-0.***

- VII. **Continued Public Hearing on amendments to Article XXI, Off-Street Parking and Loading and Article XXIII, Signs and Utility Structures of the Durham Zoning Ordinance.**

Mr. Campbell said the Board had been working on these proposed amendments for quite some time, and said the last time they had reviewed the parking regulations was at the March 28<sup>th</sup> meeting. He noted that he had provided a brief memo on highlights of the changes. He said the public hearing had been opened at the last meeting, but said he had then wanted to provide another chance to get the document out for people to respond to, so the hearing had been continued.

***Richard Kelley MOVED to continue the Public Hearing on amendments to Article XXI, Off-Street Parking and Loading of the Durham Zoning Ordinance, and Article XXIII, Signs and Utility Structures of the Durham Zoning Ordinance. Steve Roberts SECONDED the motion, and it PASSED unanimously 6-0.***

There were no comments from members of the public.

***Richard Kelley MOVED to close the Public Hearing. Steve Roberts SECONDED the motion, and it PASSED unanimously 6-0.***

In reference to Section 175-111 G 6, Mr. Roberts noted that the Board had discussed the idea of allowing parking in the front yard by conditional use, when sideyards on a property were inaccessible, or when there was more of an issue with abutters. He said this kind of thing would be an exception. He said there had been discussion about whether the Board should always send

someone to the ZBA for this kind of situation, or instead should have something in the Town's regulations to address it.

Mr. Campbell said he remembered the Board talking about allowing this in certain circumstances, for example for the Cumberland Farms site, through conditional use.

Councilor Needell said the question was whether the situation would be better served through a variance or a conditional use permit.

Mr. Roberts said in a situation like this, the Planning Board could do more comprehensive planning and look at the area, whereas the ZBA was not empowered to look at this. He said if the Board didn't grant the conditional use permit, it would then go to the ZBA. He said this issue kept coming up, and said that although the Board generally tried to get parking placed in the back of a property, every situation was different. He said the Cumberland Farms site was an example of where this issue had turned businesses off from utilizing the site.

Mr. Campbell said he remembered the discussion the Board had had on this issue, and said he didn't think it had come to a conclusion on it.

Councilor Needell said Mr. Roberts had brought up a good point. He said the spirit of the Zoning Ordinance was clearly that parking should not be put in front, and he said the variance process was a pretty high threshold. He said the question was whether the Board wanted to provide more flexibility, for some situations, like the Cumberland Farms site.

Mr. Campbell noted that 4-5 of the Zoning districts restricted frontyard parking. He said if the Board made a change regarding this, perhaps it could show that the spirit and intent of the Ordinance was to allow some flexibility.

There was discussion that the word "should" should not be in used in Section 175-111 G 6.

Councilor Smith noted the paragraph toward the bottom of page 3, "...existing parking spaces shall not be eliminated by any proposed addition; unless..." He asked if this meant that nothing could be built, where there were already parking spaces, or something else.

It was suggested that a better way to word this was "The required number of parking spaces shall not be reduced by any proposed addition; unless..."

Councilor Needell said if the existing amount of parking was above the required amount, there was no reason not to allow a developer to reduce it. He said he agreed the wording in the most recent draft should be changed.

Councilor Smith suggested that the exemptions in 175-112 A could be eliminated. There was discussion on this. He also said that in thinking about Mill Plaza, he didn't think the developer would have fewer parking spaces than he believed was needed. He noted that the Plaza didn't have as many paved parking spaces as was required when the second building was built on the site in the mid 1970's, and that the developer got a waiver for this. But he said the lot now had more parking spaces than it needed.

There was discussion on the wording of the exemptions under 175-112, concerning parking in the Central Business District, and what its intent was.

Mr. Gardner asked if the wording of the second exemption would have the desired effect, noting that any development would have to be approved by the Planning Board anyway.

Mr. Kelley asked if the wording “proposed addition” should be there. He asked what the process would be if a developer who had enough, or even too much parking could remove some parking and perhaps put in some landscaping. There was discussion on this.

Mr. Roberts asked if the second exemption was common language in Town ordinances, and Mr. Campbell said he didn’t think so. There was discussion.

Mr. Kelley said it seemed that the second exemption under 175-112 A had some merit, in order to preserve parking, but he said at the same time, the Master Plan had said that infill development of the core downtown areas was important.

Mr. Gardner agreed that it was important, but he suggested that it could be reworded, perhaps to say “Existing parking spaces shall not be eliminated unless approved with a property development plan...”

Mr. Campbell suggested the following wording: “The existing number of required parking spaces shall not be reduced by any proposed addition without a property development plan.

There was detailed discussion by the Board on what the appropriate wording should be.

Mr. Campbell said he liked the following wording: “The existing number of required parking spaces shall not be reduced by any proposed development unless approved as part of a property development plan.”

Ms. Fuller asked what the Board wanted to do concerning G 6.

Mr. Campbell said it should say “Buildings shall be sited...” He also suggested, based on Mr. Roberts’ comments, that additional wording be included “However, an applicant can apply for a Conditional Use permit to have the parking in front of the building.” He said this would be for all zones.

Mr. Kelley said he liked the ZBA approach better, where it would be a hardship issue, and a property owner could seek relief. There was discussion on this.

Mr. Roberts said every site was different, and said the regulations required buffering. He said there were times parking should be located in the front.

There was discussion on the Dover business district, where there was no parking in front of buildings. Mr. Roberts said it was the transition zones he was thinking of, where parking in front might be appropriate.

Councilor Needell said Cumberland Farms was a fairly unique situation, and said he agreed

these situations should be handled through the variance process. He said there was language in the Zoning Ordinance that clearly said parking should not be located in the front, and said if the change Mr. Roberts suggested was made, there would be a conflict in the Ordinance.

Mr. Roberts noted how the proper location of parking had come up as part of the Hotel application, and said the buffer had made the situation acceptable.

Councilor Smith asked how they were to interpret these provisions in relation to Mill Plaza, and there was discussion.

Councilor Needell restated that in order to make the change recommended by Mr. Roberts, the development standards for several zones would have to be changed.

Mr. Roberts agreed this could be deferred as a Zoning Rewrite issue. But he said they kept bumping into this issue.

Mr. Campbell noted that most businesses wanted to have parking in the front. He said summarized that the only change made to G 6 right now to make the “should” a “shall”.

Mr. Kelley received confirmation from Councilor Needell that the other parts of the Zoning Ordinance he had referred to said “shall” as well.

***Steve Roberts MOVED that the Planning Board refer the amendments to Article XXI, Off-Street Parking and Loading of the Durham Zoning Ordinance, as amended, to the Town Council. Councilor Smith SECONDED the motion, and it PASSED unanimously 6-0.***

THIS MOTION WAS ALREADY MOVED AS PART OF THE FIRST MOTION.

***Richard Kelley MOVED to continue the Public Hearing on amendments to Article XXIII, Signs and Utility Structures of the Durham Zoning Ordinance. Kevin Gardner SECONDED the motion, and it PASSED unanimously 6-0.***

No members of the public spoke at the public hearing.

***Richard Kelley MOVED to close the Public Hearing. Kevin Gardner SECONDED the motion, and it PASSED unanimously 6-0.***

Mr. Campbell asked Board members if the wording on page 5, under Section 175-133 K concerning Window Signs was acceptable. There was discussion by the Board on the reason for having this new provision in the sign ordinance, and that the idea was to prevent a business from covering the windows of a building entirely with signage.

Councilor Smith noted Section 175- 129 B concerning sandwich boards, and the language: “.. within one foot of the curb line.” He asked what this meant, and said it seemed that it meant the board would be parallel to the curb line. He said he saw a lot of sandwich boards that were perpendicular to the curb line.

After discussion on this, it was agreed by the Board that the wording should be “..and no closer than 1 ft from the curb line.” Mr. Campbell noted that the wording Councilor Smith had

referred to was existing language.

Councilor Smith also questioned the wording in Section 175-129 B: "...shall maintain a minimum of a 4 foot travel lane..."

Mr. Kelley suggested that the wording "accessible path" should be used instead of "travel lane" in that second sentence.

It was agreed that the second sentence in B should read as follows: "The sandwich board placement shall be within 10 feet of the primary entrance of the establishment, shall not obscure or impede pedestrian travel, and shall allow a minimum of a 4 foot accessible path along the side walk."

Mr. Campbell asked if the Board was comfortable with the wording in Section 175-133 L regarding entrance signs for multi-tenant developments, which said the entrance sign "...shall be allowed with a maximum of 100 square feet of sign area, and a maximum height of 20 feet."

There was discussion on this.

Mr. Roberts said he would be comfortable handling this kind of situation the way the Board handled building height in the Zoning Ordinance. He suggested the following wording: "...allow up to 100 ft, with Planning Board approval.."

Councilor Needell received clarification that this provision would apply to something like the Henderson property, as well as a development like a redeveloped Mill Plaza or Stone Quarry Drive.

There was detailed discussion on this issue.

Mr. Kelley said he thought the square footage allowed should depend on what district the development was in, what the speed limit was, etc.

Mr. Campbell provided details on things that needed to be considered regarding this kind of signage. There was detailed discussion on this issue, including the importance of weighing the need for a business to be visible, with the issue of protecting the character of the Town.

Mr. Kelley said perhaps this was an area where there should be language to allow conditional use, or opened the door for the ZBA to evaluate the signage.

Mr. Roberts noted that a developer currently had to justify to the Board the need for a building height higher than 40 ft, and he recommended a similar approach for these entrance signs. He said this allowed a discussion of planning elements.

Mr. Gardner said he liked Mr. Roberts' suggestion.

Mr. Roberts stated specifically that a 60 ft sign should be allowed, and an 80 ft or a 100 ft sign should be allowed by Planning Board approval.

There was discussion as to whether this should apply to existing as well as new development.

Mr. Campbell suggested that for existing multi-tenant developments that had to submit a signage master plan to the Code Enforcement Officer, the maximum signage should be 60 sf. He said the provision should also say “However, a maximum of 100 sf shall be allowed with Planning Board approval.”

Councilor Needell asked if the Planning Board would also be looking at aesthetic issues, when these provisions were also asking the Code Officer to do this.

Mr. Roberts noted that architectural standards were included in the Portsmouth Zoning Ordinance, but that Durham had stayed away from that.

Councilor Needell said his question was what the Planning Board would do with the signage master plan. There was discussion.

***Councilor Smith MOVED that the Planning Board refer the amendments to Article XXIII, Signs and Utility Structures of the Durham Zoning Ordinance, as amended, to the Town Council. Kevin Gardner SECONDED the motion, and it PASSED unanimously 6-0.***

**VIII. Public Hearing on an amendment to Article II, Definitions, Section 175-7 of the Durham Zoning Ordinance to change the definition of “wholesale sales.”**

***Councilor Smith MOVED to open the Public Hearing on an amendment to Article II, Definitions, Section 175-7 of the Durham Zoning Ordinance to change the definition of “wholesale sales.” Richard Kelley SECONDED the motion, and it PASSED unanimously 6-0.***

**Beth Olshansky, Packers Falls Road**, spoke in support of this proposed change to the Zoning Ordinance. She noted that the Town Attorney had said that if this Zoning change was not undertaken, the Town would be open to big box stores.

***Richard Kelley MOVED to close the Public Hearing. Councilor Smith SECONDED the motion, and it PASSED unanimously 6-0.***

Councilor Smith said this was an excellent addition to the Zoning Ordinance, and said the Planning Board should recommend its passage.

***Richard Kelley MOVED that the Planning Board recommend that Article II, Definitions, Section 175-7 of the Durham Zoning Ordinance, be revised as proposed. Councilor Smith SECONDED the motion, and it PASSED unanimously 6-0.***

**IX. Public Hearing on an amendment to Article III, Administration and Enforcement, Section 175-9 (A)(13) of the Durham Zoning Ordinance to change the enforcement duties of the Zoning Administrator.**

***Richard Kelley MOVED to open the Public Hearing on an amendment to Article III, Administration and Enforcement, Section 175-9 (A)(13) of the Durham Zoning Ordinance to***



***change the enforcement duties of the Zoning Administrator. Steve Roberts SECONDED the motion, and it PASSED unanimously 6-0.***

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

***Steve Roberts MOVED to close the Public Hearing. Richard Kelley SECONDED the motion, and it PASSED unanimously 6-0.***

Chair McGowan arrived at the meeting at 8:34 pm.

Mr. Campbell said he and Code Administrator Tom Johnson had had a discussion on this proposed Ordinance change with Attorney Mitchell, and said the email provided to Board members was a write-up on their discussion. He said the bottom line was that there was no legal problem with eliminating the provision, and said he didn't see that there would be a lot of instances when there would be a problem.

He said when there were two sections in the Ordinance that said different things, the State statute required the Planning Board to use the most restrictive provision. He also said when an Ordinance provision was clear, Mr. Johnson enforced what it said. But he said with the proposed change, in situations where there were two ways to interpret a provision, Mr. Johnson would take the common sense approach rather than the most restrictive, conservative approach. He provided further details on this.

Mr. Kelley received clarification that Attorney Mitchell's comments were a response to the proposal to strike Section 175-9 13 altogether.

Councilor Smith Julian provided some history on this issue. He noted that at the meeting before the Town Council had voted on this matter, he had made the point that given the first subparagraph, Section 175-9 A 1, which said the Zoning Administrator shall "...enforce any and all provisions of this Chapter, Section 175-9 13 was unnecessary. He said he had therefore suggested to the Council that it be eliminated from the Ordinance. He said several weeks later, the Council had voted to do this.

But he said the Council had first discussed an idea proposed by Administrator Selig to take out the wording "most restrictive", while leaving "conservative approach" and adding the following wording "...when an ambiguity exists.." He said he had thought this was a terrible idea, in suggesting that there could be any ambiguity. He said that after lengthy discussion by the Council on this idea over several meetings, the decision was made to take Section 175-9 13 out.

***Richard Kelley MOVED to recommend to the Town Council that Article III Administration and Enforcement, Section 175-9 (A)(13) of the Durham Zoning Ordinance be revised, as proposed by the Town Council. Councilor Julian Smith SECONDED the motion.***

Councilor Needell said when the Council had first had a discussion on this issue, it had discussed the idea of revising the wording of the provision. He said at that time, he was more comfortable with the idea of eliminating it than revising it. But he said after further discussion, he had voted against this. He said he didn't think eliminating it would have a significant effect, other than in a very few instances that were fringe cases. He provided details on this. He said his

concern was the message being delivered by taking this action. He said there was a long history to this provision, and taking it out was clearly a statement of a change of direction, reflecting the idea of being more accommodating in the Zoning Ordinance. He said he didn't object to the idea, but said he felt that when there were problems in the Ordinance, they should be fixed.

He said he didn't want to go in the direction of the Code Officer having the sense that it was his/her responsibility to interpret the Ordinance. He said this didn't do that, and said the Town Attorney's letter on this was good. But he said he would prefer to leave the provision alone, and said he thought the action was unnecessary.

Councilor Julian Smith asked whether Councilor Needell was saying it would do no harm to take the provision out.

Councilor Needell said the harm was poking a finger in the eye of the reasons why it was there, and in waving a flag that didn't need to be waved.

***The motion PASSED unanimously 6-0.***

Recess from 8:44 to 8:54 pm

- X. **Continued 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.

Developer Jack Farrell, representing JLB Partners, introduced the project team members. He then reviewed the details of the properties involved, as well as the potential land swap that he had described at the April 23<sup>rd</sup> meeting. He then updated the Board on what had happened since the last meeting.

He first noted that the Town Council had voted to recommended to the Planning Board a change of the Zoning district to include the property that would be involved in the land swap. He noted that the Planning Board would be having a public hearing on this proposed change.

He said the environmental impact study of the site had been done, noting that although it wasn't a requirement, the Conservation Commission had suggested that such a study be done. He said copies were available for the Board as well as to the Commission. He explained that the purpose of the study was to make sure that the assumptions that had been made were correct, concerning conservation values on the site.

He said the report concurred with the developers' assumptions. He also noted that the Master Plan recommended that there be a 250 ft corridor along the Oyster River, and the study results complied with that concept. He said the consultant was available to make a presentation to the Conservation Commission, and perhaps also to the Planning Board.

Mr. Farrell said that since the last meeting, the issue of how usable area had been calculated had

been further refined, and he said Mr. Weinrieb would review new plans that had been developed, which reflected this. He said they also now had the results of the traffic study to present to the Board. He said he would therefore like to get on to the next level of review, which was also non-binding, since a lot of headway had been made. He said he would like the Board to consider this that evening.

Eric Weinrieb of Altus Engineering provided details on the most recent plans that had been developed. He said site constraints and opportunities had now been provided on the access parcel (Garland parcel). He said they had tried to stay as much as possible to stay within the site opportunity areas. He explained that with the access road from Mill Road, they would propose impacting one wetland to the west of it in order to provide more of a buffer to the more sensitive wetland area to the east of it.

He said the second plan showed the density calculations for the various parcels, which now included somewhat poorly drained soils. He noted that these had been missed in the initial density calculations. He said the wetland, floodplain and slope areas were the same as in the previous calculations. He also noted that there were no restrictive easements or right of ways that needed to be taken into consideration.

He said the density calculations determined that there could be 303 units, which translated to 1200 beds, and only 700 beds were proposed.

Councilor Needell received clarification that the layout would be for apartments, not dorms.

Mr. Farrell said there would be a mix of 3 and 4 bedroom apartments, but said this hadn't been laid out yet.

Mr. Roberts said the information he had requested had been provided, and said it was very complete, and looked like a great layout.

Mr. Farrell noted that based on revised calculations on usable/unusable area, they were down to 303 units, from the original 311 units that had been calculated.

Traffic consultant Steve Pernaw next spoke before the Board. He provided an overview of the traffic study he had done, explaining that he had first documented existing traffic conditions. He said he had then calculated estimated trips based on the development itself, and had then come up with post development traffic numbers. He said based on this, he had done a technical analysis of whether things like traffic signals, road widening, etc. were needed.

He said traffic counts indicated that there were approximately 2500 vehicles per day on Mill Road, with peaks in the morning and evening, during peak hours. He said manual traffic counts were done during these peak hours, and it was determined that most of the 170 cars were traveling east on Mill Road in the AM, and most of the 214 cars in the PM were going west. He said these figures were also projected out in time, to 2010 and 2020.

He said estimated trips in and out of the proposed development site were done by doing a count of the Gables, because it was a similar site, and because there was no land use category for student housing like this in the ITE manual. He said the traffic counts were conducted at the

Gables all day long, and said all modes of traffic were recorded. He said it was found that most of the traffic occurred at the PM peak hour. He said the trip rate per bed was calculated for the Gables, and then scaled down for the proposed development based on the ratio of 1206 beds for the Gables compared to 700 beds for the proposed development.

He said every mode of travel was recorded at the Gables, and it was determined that the most common means of transportation was walking (about 50% of trips), while cars comprised 33% of trips, with other means of transportation making up the rest of the trips. He said the data was used to come up with trip estimates for the site.

He said an assumption was that there wouldn't be a hike/bike trail, and said the trip estimate was 106 trips during the peak hour period in the evening, with 45 in and 61 out. He said if there was a bike/hike trail, the numbers would be reduced, but he said the most conservative numbers were used for design purposes. Mr. Pernaw noted that most traffic would travel toward downtown. He said based on this data, the level of service was B or higher at all times of day, which meant there would not be congestion and backups of traffic as a result of this development, at all hours of day, through the year 2020.

He said an analysis had also been done of the driveway to see if Mill Road would need to be widened in order to allow a left turn in. He said the analysis said this wasn't needed, and that a single east bound lane on Mill Road was sufficient for turns into the site. He said the question was also asked if Mill Road needed to be widened to provide a right turning lane. He said the conclusion was no, and said it was determined that a simple corner radius was sufficient. He said in 2020, things would almost be to the point where a right turn taper would need to be considered. He noted that if this driveway was designed properly today to accommodate the shuttle buses, it would include such a taper.

He said sight distance was excellent in either direction, with measurements that exceeded 500 ft, so this was not a safety issue.. He said with a posted speed limit of 35 mph, 250 ft was required.

Mr. Pernaw said UNH's shuttle bus service was a key component of the transportation system for this fairly remote development. He noted that the Gables had bus service going in and out all day, so this development should be no different. He said there should be a stop sign at the exit from the site, and said no traffic lights would be needed. He said the analysis indicated that if the developer provided a hike/bike trail, this would reduce trips somewhat. He said it wouldn't change the findings or recommendations, but was a good thing to have from an overall transportation standpoint.

Mr. Kelley noted that there was a scoping session done in February, and he read from its conclusions, which among other things said that traffic increases wouldn't impact the Level of Service at nearby intersections. He asked if the scoping area included College Road and Main Street,

Mr. Pernaw said they were not included, but said his opinion was that the increase from this development would not change the Level of Service at these intersections a full grade, based on his experience, although not based on actual data.

There was discussion on this, and Mr. Kelley clarified that he was thinking of the McDaniel Drive intersection.

Mr. Pernaw said he didn't feel that the additional trips would affect the Level of Service a full letter grade at McDaniel Drive. He also said that regarding Main Street, the impacts on this intersection would be less than the variation that would be seen on a daily basis.

Councilor Julian Smith asked if there was any idea whether students would use their cars during rush hour or later, and if traffic from the Gables coincided with normal traffic peaks on Mill Road.

Mr. Pernaw demonstrated on a graph that car traffic picked up gradually throughout the day.

There was discussion that the Gables was within a mile of campus, while the proposed development would be about 1.3 miles from campus.

Councilor Julian Smith said he wondered how many students would leave the site to look for hard to find spaces on campus, and said he hoped the pedestrian trail and the shuttle would take care of a large portion of those students.

Mr. Pernaw said the graph demonstrated what Councilor Smith was saying, that only 1/3 of the trips from the Gables was from autos. He said part of this had to do with the parking supply, and said it was expected that most students would keep their cars on site at the proposed development, and would use the shuttle.

Councilor Needell said the increase from 3:00 pm on was from cars that were going other places than the University, and he said this traffic would not change as a result of the shuttle. He then said this was a relatively rural road, and said the development would result in a 38% increase in traffic. He said that would be a significant increase over existing conditions. He said a question was what the aesthetic perception would be for people living on Mill Road and other residents, in terms of whether it would be harder to cross the street, etc.

Mr. Pernaw said with a low volume road, there were often these large percentage increases. But he said to put this in concrete terms, during the peak PM hour right now, a car went by an average of once every 13 seconds, and with this development, a car would go by every 10 seconds.

Councilor Needell said that was a good point. He said another issue of concern was the shuttle buses. He said to be useful, the bus would have to travel that road every 15 minutes or so.

Developer Doug Garvey said that from his discussions with the University, there would be 3 shuttle buses per hour.

Mr. Pernaw noted that his projections were based on what happened at the Gables.

Mr. Garvey said that as the demand grew, the shuttle would be provided with a greater frequency.

McGowan asked what safety precautions there were on Mill Road, for pedestrians and bikers, if there was no trail.

Mr. Farrell provided details on a route that could be provided for pedestrians and bikes, with or without UNH concurrence. He said there were currently discussions with UNH on this issue.

There was discussion on the size of the buses that would be used, and that the smaller buses would be used right now. Mr. Garvey said at some point larger buses would be used out there if there was enough demand.

Mr. Kelley noted that the number of trips was based on the trip rate at the Gables. He then asked about parking spaces that the Gables provided for 1200 beds, and Mr. Garvey said there was a half space per resident. Mr. Kelley determined that one space per resident was proposed for this development, and asked if this was taken into account in the traffic analysis.

Mr. Pernaw said not specifically. He noted that a lot of cars at the Gables were not used during the day. He agreed that fewer cars could potentially leave the Gables as compared to the proposed development, but noted the issue of limiting parking spaces on campus.

Mr. Kelley said when the day was over, people at the Gables with cars, who either parked there or at the West Edge lot, probably got on the highway, as opposed to coming down Main Street. He also noted that Mr. Pernaw had said that the number of peak hour vehicle trips was predicated on shuttle bus service. He asked whether, if the buses weren't servicing the site, the level of service predicted at off site intersections would still hold true.

Mr. Pernaw said he couldn't answer that, and said a revised analysis would need to be done to determine this.

Mr. Kelley said his concern was that during the peak PM hour, kids weren't going to UNH, and were leaving the area, so weren't using the shuttle bus.

Mr. Gardner said he questioned some of the assumptions of the traffic analysis. He agreed the level of service on Mill Road wouldn't change with this development, but he questioned whether this was really the right question to ask. He said he was concerned that Mill Road was a pretty dangerous road, given the cars, runners, pedestrians, bikes etc. He noted that there were some pretty sharp turns on this road, with no shoulder.

He said some of the assumptions in the traffic analysis were optimistic, and also said there was a safety issue rather than a level of service issue. He said the Gables provided some good data, and he described some trip generation scenarios he expected at the proposed development site. He also said studies done for Durham showed a critical walk/bike distance, beyond which people would use cars. He said he would like to see a more conservative analysis that assumed that college students drove their friends to class, etc. He also said the Gables situation might or might not be applicable, and said the shuttle bus might or might not happen.

Mr. Farrell said it should be assumed that shuttle service would be available, and said he didn't think the plan worked without it. He said it was a part of the design for the project, and would be provided whether UNH provided it or not. He said it should be a condition of approving the

project. He said he had no reason to believe that UNH wouldn't provide the service.

Mr. Gardner said he wasn't sure what the right analysis was, given the variables involved on Mill Road, including the college kids going by, and not necessarily at 35 mph. He said he had real concerns about this. He said he realized there were tradeoffs, also noting that there would probably be wetland impacts for either access road. But he said that perhaps providing access to the development from across the river was better from a safety perspective, and would have less of an impact there than the impact on this low volume, rural road.

Councilor Smith said the Police Chief's evaluation was that traffic from the development should go to Town via Mast Road, which would require a wetland crossing. He said his reasoning was to put the traffic onto a faster moving road, where there was a higher speed limit. He said his own objection to going over the Oyster River with the access road was that this would make it more likely that students would use their cars to get to campus. He said they would head to the west side of campus, rather than traveling in a slower part of town.

He said Mill Road was therefore the better route. He said there would be more traffic, but this would tend to slow things down. He said he used to drive Mill Road when there was hardly any traffic on it, until Woodridge was built, when the traffic went up significantly, at least compared to what it had been before. He noted that UNH was expanding, and said he would prefer that students had a short trip rather than a long trip to campus.

Councilor Needell first said he was not sure there was a plan to expand the student body at UNH. He then said there could still be a pedestrian path, even if the access road was placed off of Mast Road. He said Mast Road was built to handle more traffic. He noted that he had missed the first two Planning Board discussions on this project. He said Mill Road would work in terms of moving vehicles, but said the question was whether, given the conditions of the road and the environment people wanted, going the other way would produce a better result.

Mr. Farrell said the developer needed guidance from the Board on this issue.

Ms. Fuller said the advantage of Mast Road was that it was straighter, and was graded better. But she said that while Mill Road was not an ideally constructed road to handle additional traffic, and she understood the concerns about speeding cars there, she did think Mill Road was preferable to crossing the river. She suggested that perhaps there could be traffic calming measures on Mill Road.

Mr. Roberts said he had lived on Mast Road, and had driven on Mill Road for years. He noted that there were no walkways on Mast Road so it was very intimidating to walk along it. He said the sidewalk on Mill Road as described for this project was an advantage, as a permanent walkway. He also said long term improvements to Mill Road might be in the best interest of the community, and he provided details on this.

Councilor Smith asked whether, if the developer had to put the access road off of Mast Road, there would still be access to Mill Road.

Mr. Farrell said the assumption was that the utility easement would be used for the trail access, and he provided details on this.

Mr. Campbell noted that the Town required 455 ft of site distance on a road with a speed limit of 35 miles per hour. He also noted that when first proposed, there were three possible accesses.

Mr. Farrell said this third access would only be considered as an emergency access. He then said the applicant was ready to go to design review. He said it was felt that there was consensus on where on the site the project should be built, and on what the conservation priorities were. He said he would like it if the Board could provide consensus on the access issue, and could then vote that the applicant could go on to the design review stage. He said the developers were anxious to make this project happen.

Mr. Kelley noted that the Town was creating a traffic model that the traffic numbers for this project could be plugged into, in order to see what would happen at the intersections of concern. He agreed that there were safety concerns on Mill Road. He said if the hike/bike path became a reality that would be great. But he said that to the east of this path, the developer should move beyond a capacity analysis to a roadway safety analysis, and should look at areas where due to alignment, site distances, etc., there might be safety issues.

Mr. Pernaw said that over the last 3 years, there had been an average of 11 accidents per year on Mill Road. He said 88% of them had resulted in only property damage, also noting there had been one fatality, which occurred on a summer day. He said only one crash had occurred close to the proposed access point, and happened at night during a snow storm, when the driver hit a tree. He said although roads could be made safer through various means, bad weather couldn't be engineered out of the equation. He noted that over 60% of the accidents on Mill Road had occurred during inclement weather.

Chair McGowan said the concern was that there would be conflicts between car traffic and pedestrians.

Mr. Pernaw said that the goal was to put in the bike trail, and Mr. Farrell repeated that this should be a condition of approval, noting this was a conditional use application. He said the trail was an important part of the project.

Councilor Needell said Mill Road was not a good road to put more cars on, and said if there was another possible access, it ought to be considered. He noted that he was very sensitive to the issue of doing an unnecessary wetland/river crossing. He said he would like to know what the impact of this would be. He also said a benefit of having the access on Mast Road was that cars leaving the site later in the day wouldn't have to come through the downtown. He said he didn't want to ignore this option yet.

Mr. Farrell said the science for Mill Road said this access was ok, and said what they were talking about were preferences and aesthetic concerns. He said he would prefer to see if there was a consensus of the Board before assigning more studies to look at the access issue.

Councilor Needell agreed that the numbers from further studies probably wouldn't be significantly different. But he said he would rather see cars going to Mast Road. He repeated



that he would like to know what the impacts would be of putting the access across the river.

Mr. Weinrieb noted that there social issues involved, for both access routes, and he provided details on this.

Chair McGowan said they probably were not going to solve the access issue that evening.

Mr. Farrell asked if an informal poll of Board members could be taken, noting that none of this would be binding. He said the developers thought they could make it work either way, and he said there were tradeoffs. But he said he didn't know what the Board's priorities there.

Mr. Roberts said the area where the river would be crossed was a prime vista on that property.

Ms. Fuller said any crossing of the river would cause an impact, and would take away from the pristine nature of the area. She said she was in favor of providing access from Mill Road, especially because there would be bus service.

Mr. Kelley said he was sensing some reluctance to look at the numbers a little differently, to expand the scope to include the other intersections, and to roll the information from this project into the Town's traffic model.

He said safety concerns were a big item for him, and said he would like to see an inventory of Mill Road and its features, and what could incremental changes could be made to it, such as widened shoulders, a bike lane, etc. He said what occurred from the end of the proposed path into the UNH campus was a concern. He also noted that it would take quite a bit for him to say that access from Mast Road was preferable.

Mr. Farrell said there wasn't reluctance to do further study, but said he wasn't sure what additional data would be able to show.

Mr. Kelley said the data might show that offsite improvements could be made on Mill Road and at some of the intersections, to alleviate some of the impact of the development.

Mr. Farrell said they would look at this.

Chair McGowan said he was more comfortable with access from Mill Road. He noted some of the things that Mr. Farrell had said could be incorporated into the conditions of approval, and said he thought this was the way to proceed.

Mr. Roberts said when he first saw the plan, he was in favor of providing access to the development from Mast Road. But he said after the site walk, and studying the issue further, he had decided that access from Mill Road would be the lesser of two evils. He provided details on this.

Councilor Julian Smith said he thought they should go with access from Mill Road.

Councilor Needell said it would be one thing if this were the only parcel planned for development on Mill Road. But he said there were proposals for other developments on Mill

Road, and he noted the current rezoning of the Spruce Wood parcel. He said there was therefore a bigger picture to consider. He said this was what might make Mast Road appealing, and said this might be the better direction to look in.

Mr. Gardner said he disagreed with the science that said the access on Mill Road was safe. He said one could prove that the bike lane on Route 108 was safe, because there had been no accidents there, but he said no one would be crazy enough to ride a bike on that road. He said Mill Road was dangerous right now, so a 38% increase in traffic from college students was a big increase to him. He also noted that a more “conservative” analysis could increase these numbers, and make a bad situation worse. He said he therefore thought that the analysis Mr. Kelley had spoken about would be a good idea.

**Beth Olshansky** said no one had mentioned that the Spruce Wood development was adjacent to the property, and that there were therefore a number of seniors driving on Mill Road, with college students on their tail. She said another issue was that double beds increased the potential number of students at the development, so the traffic numbers were conservative.

She also said that before making a decision on the access issue, there should be an opportunity for public input. She said it was important to get this kind of input earlier in the process so the positives as well as the negatives could be considered.

Mr. Farrell noted that this was the third publicly noticed meeting on this project, and that there was a long abutters list.

Councilor Needell asked if the design review would make the assumption that the Zoning district would be changed.

Mr. Farrell said yes.

Mr. Garvey asked Mr. Kelley for more specifics on what additional information he would like to see. He asked if he was looking to see how Mill Road could be made a safer road than it was now.

Mr. Kelley said he would like the applicant to provide ideas on what incremental improvements could be made along Mill Road to address safety and congestion concerns.

Mr. Campbell said the vote had been 4 of 7 Board members who favored access on Mill Road, noting that this was non-binding. He noted that two regular Board members would perhaps be at the next meeting.

In response to comments from Mr. Campbell, Mr. Farrell said he didn't think there had to be a final decision on the access issue in order to go to the design review phase.

Chair McGowan said based on input heard that evening, the developers would be better able to answer questions as they came up as part of the design review process.

Mr. Kelley said the area to be developed, and the areas to be conserved seemed to be supported, and said it appeared that they could move on from this part of the plan.

There was discussion that it might make sense to have a special meeting for the design review process.

Annmarie Harris said she lived nearby the area in question, and noted that concern had been expressed that the public should have the chance to weigh in on whether the access road should be on Mill Road or Mast Road. She said the general public expected to have the opportunity to provide input, and she discouraged the Board from weighing in on one of the choices without this input.

Mr. Campbell reviewed the rules for design review, and said abutters were free to provide input as part of this process

It was agreed that the project would next be heard on June 18<sup>th</sup>.

**XI. Discussion on Amendment to Thomas Christie's Site Plan for 12 Jenkin's Court, Map 4, Lot 9**

Councilor Needell left the table during this discussion because he said he had not been present for previous discussions on this issue.

Mr. Christie provide additional details on the process he was going through in trying to resolve this issue, and expressed his frustration in trying to communicate with Town Engineer Dave Cedarholm concerning this.

He asked the Planning Board for a six month extension, in order to allow him to resolve the issue of meeting the conditions of his site plan application approval, and to move forward in a reasonable way with the drainage issues..

There was discussion by the Board, and Mr. Campbell recommended that the extension could be granted. He also said the Planning Board could request that Mr. Cedarholm answer the remaining questions concerning the drainage issue.

Mr. Christie said he would like to know specifically what Mr. Cedarholm wanted to see in the drainage analysis and plan. He spoke in detail about the confusion and finger pointing that had occurred concerning this.

***Richard Kelley MOVED to extend the time on the conditions of approval to met prior to the signature for six months. Susan Fuller SECONDED the motion, and it PASSED unanimously 5-0.***

Mr. Christie said anything the Board could do to make this process clearer in the future for other applicants would be appreciated.

***Kelley MOVED that Town Engineer provide explicit direction to Mr. Christie and the Planning Board as to what was required in order to meet Condition of Approval #2. Susan Fuller SECONDED the motion.***

Mr. Roberts asked whether there had been a response from Mr. Cedarholm to Mr. Christie's April 29<sup>th</sup> letter.

Mr. Christie said there were responses, but not specifically to the items in that letter.

Mr. Campbell said Mr. Cedarholm's May 5<sup>th</sup> letter was in response to issues voiced by Mr. Christie at the last Planning Board meeting, not the letter from Mr. Christie. He said the May 12<sup>th</sup> letter from Mr. Cedarholm was a record of his phone conversation with Mr. Christie's engineer.

Mr. Kelley said Mr. Cedarholm needed to provide specifics on what the study area was, what storm events needed to be looked at, etc. He said he could also indicate what had been provided so far that he could live with. He said there was a member of the public who wished to speak briefly to the Board.

Mr. Christie said an issue was what the catchment area included.

Mr. Kelley said unless the email from Mr. Christie's engineer disagreed with Mr. Cedarholm's memo, there were some advantages to looking at the whole site, and not just area of to be improved. He provided details on this. But he said Mr. Christie was right that the Town couldn't compel him to look at the two existing buildings on the site.

***The motion PASSED 5-1, with Councilor Smith voting against it.***

Councilor Needell returned to the table.

Greg Summers spoke before the Board. He said he worked for the company that owned the fraternity at 28 Madbury Road, and said they had gotten their conditional use permit the day before. He thanked the Board for working with them, and said the code inspection would occur the following day. He said what had been done to the house was something everyone would be proud of. He said the outside would be done over the next few months.

Chair McGowan noted comments the Board had heard regarding noise for fraternities on Madbury Road, but noted that the police report indicated that the # of complaints had decreased over the last couple of years.

## **XII. Other Business**

A. Old Business:

B. New Business: **Appointment of Planning Board Representative to the Durham Business Park Design Guidelines Committee.**

Mr. Campbell provided details on this Committee, and said a Planning Board representative was needed. He noted that Mr. Roberts had expressed interest in this.

***Richard Kelley MOVED to appoint Steve Roberts as the Planning Board representative to the Durham Business Park Design Guidelines Committee. Susan Fuller SECONDED the***

***motion, and it PASSED unanimously 7-0.***

Councilor Julian Smith passed out the final reports of the Mill Plaza Study Committee. He said it looked like things would be going forward one way or the other with the redevelopment of the Plaza. He provided details on a group of investors, primarily from Boston, who wished to purchase the property from owner John Pinto. He said there were negotiations for Mr. Pinto wished to be a partner in this.

There was discussion that there should be more Board members present before deciding on Planning Board representation on the Traffic Advisory Committee.

Mr. Kelley asked if there was a formal appointment of someone to review the staging plan for the Henderson project. He said he would be interested in doing this.

There was discussion on this.

Mr. Campbell next spoke about the public hearing on the proposed Zoning map changes, and whether the Planning Board wanted to discuss these proposed changes first. He said there were timing issues involved. He provided details on the proposed changes.

Mr. Roberts noted the major concerns previously expressed to the Planning Board about Zoning district changes was regarding the Beech Hill. He said he would see what terms would be recommended by the Durham Conservation Commission.

Councilor Needell said these were not trivial changes, to him, and deserved a significant discussion by the Planning Board. He said he realized the time constraints, but said these proposed changes needed careful thought. He was hoping that the Board enlighten each other, and that the public hear this, before the public hearing.

Mr. Roberts agreed this in-depth discussion was needed first.

Mr. Kelley said perhaps a presentation on this was in order, - some history, conformance with the Master Plan, etc.

There was further discussion. Mr. Roberts said the direction from the Council was the wrong direction, stating there should be fact finding from the Planning Board.

Councilor Needell said the process had been an abbreviated one. He said the concerns raised by Mr. Roberts should definitely be brought back to the Council before the final decision was made.

There was further discussion about the time frame. Mr. Campbell said the Board had to be comfortable with discussing this with the public. He suggested the board discuss it on May 28<sup>th</sup>, and set the public hearing for June 25<sup>th</sup>, or the special meeting on June 18<sup>th</sup>.

Ms. Fuller said she would be comfortable with having the public hearing first, and said more conversation would come out of the public hearing. She also said it would otherwise be difficult to meet the 60 day time frame.

Mr. Campbell said he thought the Board should discuss this first.

Mr. Kelley said the Board could have their discussion on May 28<sup>th</sup>, could set the public hearing for June 18<sup>th</sup>, could continue the hearing to June 25<sup>th</sup> if necessary and could also deliberate at that meeting, so could meet the 60 day deadline. He agreed that the time should be spent on this.

C. Next meeting of the Board: **May 28, 2008**

**XIII. Approval of Minutes**

Mr. Gardner left the meeting at 11:17 pm

March 12, 2008

Page 3, 6<sup>th</sup> paragraph, first sentence should read “..was located in the shoreland protection overlay district, but said the area...” Last sentence should read “..in the shoreland protection overlay district.”

Page 7, first paragraph, second sentence, should read “He said the family had no....”

Page 9, 4<sup>th</sup> paragraph, should remove the “t” in that sentence.

Page 11, 2<sup>nd</sup> whole paragraph,  
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 resisted calling them conservation subdivisions. Some towns that had PUDs had a whole planning system that required well-designed developments with many different components. He said the key thing for a PUD development was good design, and how a development fit with the surrounding area. The Netherlands PUD he lived in was laid out in concentric circles each with different density requirements. The PUD started in the center with a light commercial core – then - high density apartments –then- duplex houses –then- single family houses and lastly, an outer buffer.

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

***Richard Kelley MOVED to approve the March 12, 2008 Minutes as amended. Susan Fuller SECONDED the motion, and it PASSED 4-0-1, with Councilor Smith abstaining because of his absence from the meeting.***

March 26, 2008

***Susan Fuller MOVED to approve the March 26, 2008 Minutes as presented. Richard Kelley***

***SECONDED the motion, and it PASSED 4-0-1, with Steve Roberts abstaining because of his absence from the meeting.***

April 9, 2008

Mr. Kelley left the meeting at 11:25 pm

Page 2, 2<sup>nd</sup> paragraph from bottom, should read “He went through each of these, and reviewed the criteria and how they were met....”

Page 3, Hawthorne should be spelled consistently “Hawthorne”

Page 6, 2<sup>nd</sup> paragraph from bottom, should read “..there was an excessive noise problem.”

Page 9, under 2<sup>nd</sup> full paragraph, should read “..Herb Jackson..”

Page 10, 2<sup>nd</sup> full paragraph, should read “..this site including Councilors were dismayed that this plan would eliminate the parking.”

Same page, bottom paragraph, should read “..said it sounded like this was meant to be..”

Page 15, 5<sup>th</sup> paragraph, should read “Tecce property...”

Page 16, 6<sup>th</sup> paragraph, should read “..there might be incompatibility with...”

Page 19, under Deliberation on 22 Mad bury Road Conditional Use Application, it should say that Mr. Roberts recused himself.

***Susan Fuller MOVED to approve the April 9, 2008 Minutes as amended. Steve Roberts SECONDED the motion, and it PASSED 4-0.***

#### **XIV. Adjournment**

***Susan Fuller MOVED to adjourn. Steve Roberts SECONDED the motion, and it PASSED unanimously 5-0.***

Adjournment at 11:30 pm

Victoria Parmele, Minutes taker