

**This set of minutes was approved at the April 29, 2009 Planning Board meeting**

**Durham Planning Board  
Wednesday March 25, 2009  
Durham Town Hall - Council Chambers  
MINUTES**

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

**ALTERNATES PRESENT:**

**MEMBERS ABSENT:** Kevin Gardner; Wayne Lewis

**I. Call to Order**

The meeting came to order at 7:01 pm.

**II. Approval of Agenda**

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

**III. Report of the Planner**

- Mr. Campbell reviewed materials the Planning Board had received at the meeting: an email from Public Works Director Mike Lynch regarding the 81 Madbury Road application; a memo on the Jenkins Court application; a letter from Tom Christie, an abutter to 6 Jenkins Court; a write-up on the criteria for the Conditional Use permit application for the Henderson property; and a memo regarding the Van Rich property.
- Mr. Campbell noted that the Town Council had re-appointed Councilor Julian Smith as a regular member of the Planning Board, but had not yet appointed an alternate. Councilor Smith said there would be discussion on this at the April 6<sup>th</sup> TC meeting, and said he believed there was a volunteer for the position.
- Mr. Campbell said the Town Council had appointed Chuck Cressy as an alternate to the Economic Development Committee, noting that he was a business owner who was familiar with Mill Plaza and knew Mill Plaza owner John Pinto.
- Mr. Campbell said the next Planning Board meeting, scheduled for April 15<sup>th</sup>, was a quarterly planning meeting, and said the next regularly scheduled meeting would be on April 29<sup>th</sup>.

There was discussion that the terms of Susan Fuller, Bill McGowan and Steve Roberts were up, and it was noted that Ms. Fuller had perhaps not gotten her application in yet. Mr. Campbell said to the best of his knowledge, no one else had put in an application.

**IV. Acceptance Consideration of an Application for Subdivision** submitted by Milton T. Martin and Etta M. Martin, Durham, New Hampshire, to subdivide one lot into two lots. The property involved is shown on Tax map 2, Lot 1-2, is located at 81 Madbury Road, in the Residence A Zoning District.

Mr. Martin spoke before the Board. He said there was presently one lot of 24,000 sf, and said he wanted to divide it in half. He noted that there had always been two road cuts on the property. He explained that according to the Zoning Ordinance, there were several buildings on the property that were in the wrong place, and said they would be moved in order to meet the Ordinance. He said he had gone over these matters with Mr. Johnson, and had also gone before the ZBA.

He said there were plans to build a 3-4 bedroom single family home on one of the lots, after the subdivision occurred. He also noted that the existing 3 bedroom house on the other lot could be added onto, and said he also would be able to take down the existing single car garage and put in a two car garage. He explained that currently, a drive went all around the existing house, and said the back section of this drive would be cut off.

Mr. Roberts received clarification that this was a minor subdivision, and was therefore exempt from the conservation subdivision provisions.

Mr. Kelley noted that Public Works Director Mr. Lynch had indicated that the Town was doing work on Madbury Road in July, and asked Mr. Martin how this fit with his schedule.

Mr. Martin said the work on the property would take place in the fall.

Mr. Campbell explained that after the Town did the work on Madbury Road, it could then not be cut into for two years. He said Mr. Lynch was therefore suggesting that the Martins make sure that any utility work that took place in the roadway would be completed before June 30<sup>th</sup>.

Mr. Martin said that was important to know. He said he believed that some excavation would have to take place in the street regarding catch basins, connection with the sewer line, etc. He provided some details on issues with the catch basin.

It was agreed that the waiver requests would be looked at that evening.

Mr. Kelley asked if the application was complete, and Mr. Campbell said yes, although noting that if some of the waivers were not approved, additional information would have to be provided by the applicant.

**Waiver Requests.**

- 7.01 - Phase I of subdivision requirements (preliminary conceptual consultation)
- 7.02 - Phase II of subdivision requirements (design review).
- 7.03 F - Common open space and stewardship plan
- 7.06 - Verification of soils data
- 9.08 - Subdivision layout and design
- 9.09 - Ownership and stewardship of open space

Mr. Campbell said since this was not a conservation subdivision, he saw no problem with granting waivers for these provisions of the Subdivision Regulations.

9.06 Engineered stormwater analysis

***Richard Kelley MOVED to accept the Application for Subdivision submitted by Milton T. Martin and Etta M. Martin, Durham, New Hampshire, to subdivide one lot into two lots. The property involved is shown on Tax Map 2, Lot 1-2, and is located at 81 Madbury Road, in the Residence A Zoning District. In addition, at the applicant's request, the Board grants waivers from 7.01, 7.02, 7.03 F, 7.06, 9.06, 9.08, and 9.09 of the Subdivision Regulations. Councilor Smith SECONDED the motion, and it PASSED unanimously 7-0.***

There was discussion that the Public Hearing would be held on April 29<sup>th</sup>, and the site walk would be held on April 18<sup>th</sup>, at 8:30 am.

- V. Acceptance Consideration of an Application for Site Plan Review** submitted by 10 Pettee Brook Lane LLC, Durham, New Hampshire, to demolish and redevelop a former hardware store into a new 3-story mixed use building. The property involved is shown on Tax Map 4, Lot 8-0, and is located at 6 Jenkins Court in the Central Business District.

Mike Sievert of MJS Engineering spoke before the Board, representing the applicant, Mathew Crape, who could not be present that evening. He noted that he had been before the Planning Board a month or so ago with a preliminary proposal for this project, and the said plans hadn't changed that much since that time.

He said the purpose of the project was to develop a mixed use building on the site, where the first floor would be commercial space, and the upper two floors would be student housing. He noted that the existing building on the site was the former Houghton's Hardware store.

He said there were currently 11 parking spaces, including 3 along Jenkins Court. He said the lot was serviced by sewer and water, and said the water came in from Jenkins Court, and the sewer line went across the lot to Pettee Brook Road. He said electric and phone utilities came up along the back of the lot.

Mr. Sievert said the building would be in essentially same location as the current building. He said at ground level, there would be about. 4300 sf, and said the building would run 55 ft along Jenkins Court, and would be 80 ft deep. He said the upper levels of

the building would extend over a parking area, and would measure be about 80 ft, with about 92 ft of frontage on Jenkins Court. He said there would be about 7400 sf per floor, and said there would be 5 residential units per floor, and 6 bedrooms in each unit.

Mr. Sievert noted that there were two sewer lines under the existing building, and he provided details on their location relative to the property and surrounding properties. He said the proposal was to collect all the sewer lines in the alley between the buildings and to create a new sewer easement. He said the sewer line would go under the slab portion of the building, but not under the basement portion of the building.

He said there had been meetings with the Department of Public Works and Fairpoint Communications regarding re-routing of utilities across Store 24, and to have easements to make things better than they were today. He provided details on this, and said a portion of the lines would be underground.

He provided details on minor changes to the building since the plan had last been before the Board, including a bump out area for some of the units. He discussed the habitable floor area for each of the units, as noted on the plan.

Chair McGowan asked what the total number of residents would be, and Mr. Sievert said there would be 60 residents.

Mr. Kelley asked why the proposed sewer couldn't run to the east, and instead had to go under the building.

Mr. Sievert said a main reason for this was that it would require the least number of easements, and he provided details on this. He said the other issue there was that there were propane tanks under the Young's building, which would otherwise have to be moved.

He also said it would be less expensive from a construction standpoint to have the sewer line run under the building, and would also be less injurious to other properties, and wouldn't take away future development options. He said the sewer line couldn't go to the west because it was all ledge, down Jenkins Court.

Mr. Parnell said it looked like one way traffic was proposed from the Lot 24 property through to Jenkins Court, and asked if easements were already lined up for this.

Mr. Sievert said there was currently no easement for this. He said it looked like UNH wouldn't require this, and said the ability to travel on it was already part of the agreement with the Town concerning the Store 24 lot.

He said there had been consideration of whether the roadway should remain a public way or should just be for tenants. But he noted that the parking was planned for patrons of the commercial space, and not for the residents, so this clouded the issue a bit.

Mr. Parnell asked if the applicant expected to get an easement from UNH or the Town for this, and Mr. Sievert said the plan was to continue the existing agreement for travel through that area. But he said if the Town or UNH said this had to change, there would be an easement.

Mr. Parnell noted that use of the Store 24 property could change in the future, and there was discussion that this would mean the access for the applicant's property could be cut off.

Mr. Sievert said if the Store 24 lot was no longer a parking lot, the applicant's parking area would become a pedestrian space and could possibly become usable commercial space. He provided details on this, and said it was not crucial that the car access to Jenkins Court remain.

Mr. Campbell asked if the DPW had signed off on the proposed sewer easement.

Mr. Sievert said there was an application and design that had been submitted to the State. He said the DPW had been critical to the development of this design, and had met with the various utilities. He also said everyone was in agreement with the layout for the transformer and underground power.

Mr. Campbell said all of the easements were noted in the plans that had been submitted.

Mr. Kelley noted that the architects had submitted new building elevations, and the north elevation had been left out. He asked if this was because there would be no windows on that elevation.

Mr. Sievert said no, and said there was apparently an error on the plans. He explained that the building would be 5 ft from the property line, so there therefore could be windows. He noted these windows on one of the plan views. He said there were bump-outs on the south side for some of the units because the walls for these units had been pulled in to meet the setback. He said there was enough room on the property to allow for the bump-outs, so these units could meet the sf per person requirements.

Mr. Campbell said he had that day requested that these elevations be provided

Mr. Kelley asked Mr. Sievert if he knew of any other projects that were planned for this area. He noted that the reason he had brought this up was because of the potential to coordinate the developments and share common walls.

Mr. Sievert said there was a plan for the Don Thompson building, off of Pettee Brook road, but said he said he didn't know of others in the vicinity of the applicant's building. Mr. Campbell noted that no elevator was planned, and said the issue had come up that there might therefore be some accessibility issues.

Mr. Sievert said there had been discussion on this recently, and said the architect/designer

had determined that an elevator wasn't necessary, given the layout and uses. But he said they would definitely address this question.

Mr. Roberts said that regarding the size and style of the building relative to surrounding structures, it would be important to know that what was proposed would fit with what was there now or with what might be there in the future. He said applicants' architects in recent years had done a wonderful job of accommodating abutters, and he asked if there had been any discussion with abutting property owners. He noted the email from Tom Christie.

Mr. Sievert said the elevation showed relative height and size from the other buildings on Jenkins Court, and said the scale wasn't that different.

Mr. Roberts noted that with the Henderson application, the board had challenged Mr. Henderson to fit his building with surrounding buildings, and said he had done a nice job with this. He said with this project, there were 4-5 different styles of buildings in the surrounding area, and asked if there was any way to weave in with them.

There was discussion. Mr. Roberts said the question was whether this building design was the keystone anchor that was being looked for, to start the redevelopment and infill of the downtown.

Mr. Sievert said he didn't know. He said he had presented the plan to the EDC, but hadn't gotten a lot of feedback on the architecture. He said the Planning Board was the starting point concerning this.

Ms. Fuller noted that the roof and the dormers were all attic space. She said adding the dormers into the roofline made the building more attractive, along with the differentiation of the brick and clapboards.

There was further discussion on the architecture of the building. Mr. Sievert said he believed Mr. Crape would be willing to hear comments on this, and to continue forward with possible changes.

Mr. Ozenich asked if the Fire Department had weighed in concerning the layout of the second and third floors.

Mr. Sievert said they had weighed in at the Technical Review meeting regarding fire connection locations, but not regarding details on access, etc. He said this would take place over the next month.

There was discussion, and Mr. Sievert noted that all of the units would have a common space, which would exit to a common hallway, where there were then two exits.

Mr. Kelley noted that Mr. Sievert had been before the Board with various projects in recent years. He said this one took the prize in terms of the footprint, and how tight the

building would be on the lot. He asked him if any thought had been given to having construction easements with abutters for the purpose of construction staging, etc.

Mr. Sievert said this had been considered, and said there would have to be a construction plan.

Mr. Kelley said he would like to hear more on this as the review developed.

Mr. Campbell said all the apartments with the common living area didn't have access to natural light. He noted that there had been discussion about trying to get this if possible.

Mr. Sievert said the mechanical contractors were looking at this issue, and were working at trying to incorporate more natural light.

Mr. Campbell said the application was complete.

Chair McGowan noted that there was a waiver request was concerning the height requirement, and could be dealt with later on.

Mr. Campbell noted another waiver request was regarding an exemption from the parking requirements.

***Richard Kelley MOVED to accept the for Site Plan Review Application submitted by 10 Pettee Brook Lane, LLC, Durham, New Hampshire to demolish and redevelop a former hardware store into a new 3-story mixed use building. The property involved is shown on Tax Map 4, lot 8-0, and is located at 6 Jenkins Court in the Central Business District. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.***

It was agreed that the site walk would be held on April 18<sup>th</sup>, at 9:15 pm.

Mr. Sievert and Mr. Roberts had brought up parking reduction study, for another application. He said in anticipation that this question would be brought up again, asked if could request a reduction in the parking fee, if could prove that the parking required for the development was less than the Zoning Ordinance required.

Mr. Roberts said this involved a plan for offsetting demand for parking, He noted that the Board had bended a bit on another application.

Mr. Campbell said applicant was looking at this, and said he would be happy to supply this to the Board.

Mr. Sievert said thought process was that this particular applicant was saying had to pay for parking spaces, and most of these spaces were residential. But he said this was a fee that went toward a possible future parking garage downtown, yet the Town didn't allow students to park there.

Agreed public hearing would be on April 29<sup>th</sup>.

**VI. Acceptance Consideration for an Application for a Conditional Use Permit**

submitted by Henderson Family Properties, LLC, Durham, New Hampshire to enclose four exterior porches to create interior living space. The property involved is shown on Tax Map 4, Lot 37-0, is located at 18 Woodman Road, and is in the Residence A Zoning District

Mark Henderson spoke before the Board. He said the building in question had been built in 1939, as a 6 unit apartment building, and was originally designed with the porches. He said no major renovations had been done to the interior or exterior layout of the building, and said there were 3 apartment units on each side of the house, with symmetrical, floor plans. He noted that the third floor didn't have any porches.

Mr. Henderson said the plan was to enclose the four porches on the building. He said the reason for doing this was the fact that the building was surrounded by residential properties. He said while the porches were a great amenity for tenants, they had become a problem for the neighborhood and himself, because there a lot of outdoor gatherings which caused a lot of noise, etc. He said the porches also seemed to be the place where old furniture, and garbage wound up.

He also noted that there were insurance issues with exterior porches on student housing. He said he had realized that enclosing the porch would address this, and would also create some additional interior living space.

Mr. Henderson said he was requesting waiver from having to do a full site plan, noting that he had architectural drawings, but not a full site survey. He said the dimensions of the porches were approx 25 ft by 7.7 ft.

Mr. Kelley asked what the intended use was of the area that was when enclosed.

Mr. Henderson said he was still working on this. He said he was considering expansion of the bathrooms, kitchens, and living rooms, and said he wouldn't classify the new living space simply as bedroom space.

Ms. Fuller asked what the total sf of a unit would be once the porch was enclosed, and Mr. Henderson said it would be close to 900 sf. Ms. Fuller said right now, there were 2 bedrooms in each apartment, which were occupied by 3 students. She said by enclosing the porch, there would still be less than 900 sf so the occupancy couldn't be increased.

Mr. Henderson said he would meet the sf for 4 residents, but noted that there was the no more than 3 unrelated rule in effect in this district.

There was discussion that the enclosed porch area would be heated, and that the top floor wouldn't change at all.

Chair McGowan received clarification that because this was a legally non-conforming



use, and enclosing the porches meant that the nonconforming use was being expanded, a conditional use permit was therefore required.

There was discussion on the waiver request regarding section 7.02 D, Surveyed Site Plan.

Mr. Campbell said the application was complete, and said Mr. Henderson could come back with additional information if the waiver request wasn't granted.

***Richard Kelley MOVED to accept the Application for a Conditional Use Permit submitted by Henderson Family Properties, LLC, Durham, New Hampshire to enclose four exterior porches to create interior living space. The property involved is shown on Tax Map 4, Lot 37-0, is located at 18 Woodman Road, and is in the Residence A Zoning District, and at the request of the applicant, grants a waiver request from 7.02 D requiring a surveyed site plan. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.***

Mr. Henderson noted that the Planning Board had missed a meeting because of the way the quarterly planning meeting had been scheduled, and asked if there was any way to expedite the review process. He said if the public hearing didn't take place until the April 29<sup>th</sup> meeting, this could impact marketing of the units for the fall semester.

There was discussion about having the public hearing on April 15<sup>th</sup>, at the quarterly planning meeting. Mr. Campbell said the concern about doing this was that he didn't want to set a precedent. He suggested that there could be a brief regular meeting at 6:30 pm on April 15<sup>th</sup> in order to hold the public hearing, and the Board could then have the quarterly planning meeting at 7:00 pm that same evening.

Mr. Parnell noted that it had been a month since the Board's last meeting, and it would be a month before its next regular meeting was held.

Councilor Smith said given the cancellation of the previously scheduled quarterly planning meeting, it made sense to provide some flexibility on this.

After further discussion, the Board agreed to have the public hearing at 6:30 pm on April 15<sup>th</sup>. It was agreed that the site walk would be held at 6 pm that same evening.

**VII. Acceptance Consideration for an Application for Conditional Use** submitted by Van Rich Properties LLC, Durham, NH to convert a single tenant office building into a multi-use office building with three separate units. The property involved is shown on Map 9, Lot 20-0, and is located at 277 Mast road, in the MUDOR district.

The applicant, Dick Gsottschneider, spoke before the Board. He said the building was built in 1920 and was added onto twice. He said there were a number of code issues to deal with, and said one of the reasons for the application now was to address them. He said it was an allowable use, with plenty of parking, and was on town water and sewer.

Chair McGowan asked if the scenarios for the building had been narrowed down.

Mr. Gsottschneider said there was about 2000 sf on the first floor, and about 1500 on the second and third floors. He said first floor would be cut into two units, which would both be built to office and residential standards. He provided details on this, and said he wanted to have flexibility on this so he wouldn't have to come back to the Board again.

He said he had spoken with Mr. Campbell and Mr. Johnson, and both had concurred with the idea of getting simultaneous approval for three possible development options. He said this was why he had provided three scenarios for the Board.

He said there was more than enough parking. He also said that once the upstairs was converted, it would definitely be an apartment.

Mr. Kelley noted scenario 2, where there would be one residential unit, and two office units, and asked where the residential unit would be. He was told it would be on the second and third floor, as part of a 4 bedroom unit.

Mr. Kelley asked Mr. Campbell what he had in mind, concerning allowing flexibility for three possible designs. He said he hadn't seen this kind of thing before the Board before.

Mr. Campbell said nothing would happen to the outside of the building, in terms of additions, parking. He said with either of the scenarios, the top two floors would be a dwelling unit.

Mr. Gsottschneider said the interior layouts would be exactly the same, whether there was office or residential space. He said the only difference was that he would have to build a handicap accessible bathroom for an office unit,. He said the odds were pretty good that it would stay as office use, but said he didn't know this for certain at the moment. He provided details on this. He said his intent was to keep some office use on the site.

There was discussion about the residential duplex the applicant had previously received approval for, and whether a security and management plan had been required, as part of the conditional use permit that was granted.

Mr. Gsottschneider said no.

Mr. Kelley noted that the Board required this of most landlords in Town now, as part of the conditional use permit, and said he would probably want to see it for this application. He said it addressed the concerns of the greater neighborhood.

Mr. Campbell asked if there were rules and regulations for tenants, and Mr. Gsottschneider, said yes. Mr. Campbell said he needed to put together a package that included this, along with contact persons, etc., which would become part of the Town's file for the application.

Mr. Kelley read what was to be included, and Mr. Gsottschneider said the only thing he didn't have was night-time security. He asked if this would be an absolute requirement.

Mr. Kelley said the Board could discuss this as they moved forward. He said he would push for the security and management plan.

Mr. Gsottschneider said in 25 years of operating properties, there had been only one police call to a property.

Mr. Parnell said based on the Board's experience with hearings, and questions and issues that came up, it seemed that it would be better if this was strictly residential project. He said if it turned out that the applicant wanted to use the residential space for offices later on, it would be a relatively for the Board to do this, as compared to having to looking at 3 different possible scenarios.

Mr. Gsottschneider said he thought doing things the way Mr. Parnell described made more work for the Board. He said it was a very simple project, and said what he was proposing was a downsizing of the intensity of the use of the property. He noted that he had 10 extra parking spaces, and only had one neighbor, for all practical purposes. He said he was in a rural area, looking out at a parking area and a field.

There was discussion that this was a conditional use application because of mixed use and multi-unit residential development in the MUDOR district.

Mr. Campbell asked other Board members how they felt about this issue.

Mr. Kelley said he could live with doing three scenarios, but said this could make it more complicated to go through the conditional use criteria. He asked whether, if the applicant was doing what Mr. Parnell suggested, and there was a change of use, a new application would be required.

Mr. Campbell said the Board could probably amend the approved conditional use permit.

Mr. Gsottschneider asked whether, if he were to pick the most likely scenario, one office and two residential units, having an onsite management office would satisfy the issue of night time security.

Mr. Kelley said he believed so, especially considering Mr. Gsottschneider's history of property management in Town. But he said he would have to give it some thought,

Mr. Campbell said the issue was what happened if Mr. Gsottschneider sold his property to someone who wasn't such a good landlord.

Mr. Gsottschneider said doing three scenarios seemed simpler, but said if he had to pick one scenario, it would be one office and two apartments (scenario 3).

Chair McGowan said to him, the worst case scenario was three residential units, and asked what the burden would be to the Board of having to look at two lesser scenarios.

There was discussion on why residential use was considered a worst case scenario.

Chair McGowan said he didn't see that there was that much difference in the three scenarios.

Ms. Fuller said she didn't have problem with looking at the three scenarios. But she said Mr. Kelley's point was valid regarding the security and management plan, given the fact that Mr. Gsottschneider might not manage the property in the future.

Mr. Gsottschneider said he respected the point, and said if he had a problem with managing the property, he should be forced to deal with it, and should be willing to sign something to that effect. But he said a security and management plan was another cost, and noted that his taxes had increased significantly recently.

Mr. Roberts said he supported the proposal to review the three scenarios, and also said he reluctantly supported Mr. Kelley's proposal, for consistency sake.

Mr. Gsottschneider noted that he was a long time resident of Durham, and understood what Board members were saying.

Mr. Ozenich said a builder should have this flexibility, as long as he was in contact with the Code Enforcement officer, and given the fact that there was a security and management plan.

Mr. Campbell said the application was complete, and said no waivers were required.

***Councilor Julian Smith MOVED to accept the Application for Conditional Use submitted by Van Rich Properties LLC, Durham, NH to convert a single tenant office building into a multi-use office building with three separate units. The property involved is shown on Map 9, Lot 20-0, is located at 277 Mast Road, in the MUDOR District. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.***

It was agreed that the hearing would be held on April 29<sup>th</sup>, and the site walk would be held on April 18<sup>th</sup> at 10:00 am.

Mr. Gsottschneider asked if the management plan needed to be provided by the time the public hearing was held.

Mr. Campbell said it could be a condition of approval before signing off on the plan. Mr. Gsottschneider also received clarification that the sewer could be signed off on after as well.

Recess from 8:36 - to 8:46 pm

**VIII. Conceptual consultation of a Site Plan** submitted by MJS Engineering Newmarket on behalf of Ionian Properties, LLC Dover NH, to demolish the existing building and construct a mixed use building. The property involved is shown on tax Map 2, lot 12-11 and is located at 10 Pettee Brook Lane in the CBD.

Mike Sievert, MJS Engineering, represented the applicants. He said the proposal was to demolish the Don Thompson building, which currently had about 2800 sf of office/retail space, 2400 sf of student rental space, and an accessory garage. He said all of the commercial parking spaces were accessed from the municipal lot, and also said there were some residential parking spaces out front.

He said the proposal was to demolish the existing building on the property and construct a new 15,000 sf building. He said the lower level would be a parking area under the building, which would be accessed from Pettee Brook Road, and said it would contain two rows of parking. He said the parking area would be at grade with the existing parking lot, and would probably have an open wall.

Mr. Sievert said the next level, the first floor, would be accessed from Rosemary Lane, and would have commercial space fronting on Pettee Brook Lane. He said what was proposed was that the front space would be commercial, and the back space would be residential, which would require a variance. He said the reason they were looking at this positively was that they could make the residential units fully accessible, with parking, which would be a benefit in the downtown area.

He showed the initial rendering of the building, done by the same architect who did the architectural design for the proposed development on Jenkins Court, and he provided details on this. He said what was proposed was a four story building, but noted that more than two thirds of the square footage of the building would be comprised of the lower levels.

He said the fourth floor would be habitable space, not an attic, and said the applicants were still looking at whether to have a full fourth floor, etc. He said the design was not perfected at this point, and explained that what would dictate a full fourth story was the need for more square footage.

He showed how the units would perhaps be laid out, and said right now 6-7 units were proposed, which would house 4 people per unit. He noted that because there was a 12,000 sf lot, there was some flexibility in terms of the number of units that could be included..

Mr. Sievert said with a four story building, the first two stories would have to contain commercial uses. He said structural parking on the lower level would meet the definition of commercial space, and said the commercial space on the second floor would also meet the Ordinance, except for the residential portion, which would require a variance. He said the four stories would be allowed because of the proposed layout for commercial use,

assuming the Planning Board agreed with this.

He said another Zoning issue was the 25 shoreland setback requirement because of Pettee Brook, which would require a variance, and the 75 ft wetland setback requirement, which would require a conditional use permit. He said a variance would perhaps also be needed for construction of a non-residential building within the 75 ft wetland setback, and he provided details on this.

Mr. Sievert also said the Zoning Ordinance didn't allow parking between the front building wall and the front street property line. He noted that this was a corner lot, and said a variance would be needed.

Mr. Roberts asked Mr. Sievert if he was confident that the current stormwater runoff situation wouldn't change from what it was now, as a result of the development.

Mr. Sievert said there was a balancing act, but said the stormwater requirements would be met. He said this would dictate the footprint and the layout as they went forward.

Mr. Kelley asked if the purpose of a possible purchase of the abutting 3500 sf of Town land was to allow greater density for the development

Mr. Sievert said the idea had come up before this project came along. He said it was being looked at now in terms of allowing possible greater density, and he provided details on this. He said there was a question of whether the Town needed that parcel. He said there was a sewer on the lot, so easements would be needed, and he also said the Town used the area for snow removal, noting that it was right next to the brook. He said perhaps that situation could be made better by combining stormwater management systems, and said discussion on this was currently underway.

He said if that purchase went forward, it might help reconfigure the lower level parking, and there could be an entrance only, off of Pettee Brook Lane, which could help traffic flow.

There was discussion on the shoreland and wetland setbacks as they related to the project. Mr. Sievert noted that the Town had recently delineated the wetlands on the municipal lot, as part of looking at the parking garage scenario. He also said he didn't believe the property was within the flood zone, but said the site survey wasn't yet complete, and would determine this.

Mr. Campbell asked if there would be 4 bedroom rather than 5 bedroom units.

Mr. Sievert said the accessible units would have 3 bedrooms, and said it was likely that most of the others would be 4 bedroom units.

Mr. Campbell asked what happened if the variance for allowing residential on the first floor wasn't granted, and Mr. Sievert said it would be commercial space. He said

everything else would pretty much stay the same.

Mr. Kelley noted that 106 parking spaces were required, and as currently proposed, 27 spaces would be provided. He said the fee for not having the other 99 spaces was about \$60,000. There was discussion on the parking issue with Mr. Sievert.

Mr. Kelley asked what would happen if structured parking was built on the adjacent property.

Mr. Sievert said this had been taken into consideration. He said the building was situated so that there could be 10-15 ft. of open space between the buildings, if there were a parking garage. He noted that this had helped determine the commercial frontage. He also said if the residential space on the lower level wasn't allowed, the commercial frontage there would be on Rosemary Lane, to avoid facing the parking garage.

He said if there was a parking garage, the land out back would become almost unusable, and would lend itself to be included in the development. He said access issues would also come into play, and would have to be worked out.

Mr. Campbell asked if the parking spaces would be for residential uses and not commercial uses, given the existence of the Pettee Brook parking lot.

Mr. Sievert said the parking spaces on the property would be leasable, for either the commercial or residential uses.

Mr. Roberts received clarification that there would not in fact be 85 bedrooms in the building, given the fact that there would not be 5 bedroom units.

Chair McGowan asked what the timeframe was likely to be.

Mr. Sievert said the plan was to do the variances, the lot line revision and the site plan review in 2009. He said building construction would occur in 2011, for a 2012 June occupancy. He said the site plan was being pushed forward because of everything else that was going on in the area concerning development.

There was discussion that the parking stalls along Rosemary Lane would be contained within the lot.

Mr. Kelley asked where access to the commercial buildings would occur.

Mr. Sievert said this was under discussion. He noted the sidewalk going up to the corner of Rosemary Lane, and said that corner was where the access this could be. He said this area would be handicap accessible, and he provided details on the design being considered, including the handicap parking.

Ms. Fuller asked if the building would need to have an elevator.

Mr. Sievert said this was being looked at, and he spoke in some detail on this.

Mr. Sievert summarized that the concept for the development was locked in, but the look of the building was not. He said the current site plan was somewhat locked in, although the drainage aspect of it was not.

**IX. Discussion on the Summary Report: Review of Transportation Planning Documents, Town of Durham and University of New Hampshire, submitted by Norway Plains Associates, Inc.**

Mr. Roberts said he had re-read the report, the Town Master Plan and the UNH Master Plan concerning transportation issues. He said the Norway Plains report reviewed the various reports that had done previously, but he noted the discussion in the report on the Durham UNH Fast Track report done in 1993, and said this report didn't reflect the present traffic demand on Main Street or at the Route 108/Main Street intersection.

He also said it seemed like the Norway Plains report had partnered with the University's final conclusions regarding the northern and southern connector. Mr. Roberts said he didn't see anything in the report that addressed where Durham needed to go now with transportation planning.

Mr. Campbell provided details on the traffic counts that would be done every year.

Chair McGowan asked if the numbers for the traffic counts that had already been done could be obtained, and Mr. Campbell said the Strafford Regional Planning Commission could provide this data.

There was discussion on the proposed use of the traffic model that had been developed. Mr. Campbell said Mill Plaza would be studied, and also said the University would be looking at South Drive, a new road that it had built. He said special events would also be included in the model.

Mr. Kelley said he was curious as to how the am peak numbers in the model would be used to do the special event modeling. He said perhaps the issue of using am peak numbers needed to be looked at again.

Mr. Campbell said he was applying for special planning and research (SPR) grant money again, in order to look at the kinds of transportation planning issues Mr. Roberts was talking about. He noted that UNH had written a letter of support for such a study, which would look at Madbury Road traffic among other things.

Mr. Roberts said although traffic counts were being done, the question remained of what transportation goals the Town was trying to achieve. As an example, he said looking at the backup of cars on Main Street, he didn't see how traffic could be managed at peak times, if the residency of Mill Plaza was doubled.



There was discussion that a parking garage had been considered, as part of the design for the redevelopment of Mill Plaza. Mr. Campbell said a traffic model run would take such development into consideration.

There was discussion.

Mr. Roberts said a significant number of students went in and out of Durham every day. He asked whether possible student housing out in the western part of Town and elsewhere would help to relieve the theoretical pressure on the Town's infrastructure, and would allow for a more viable downtown for residents.

Mr. Kelley said the model was land use driven, and said there needed to be something in it that reflected that there was land use downtown that was residential and didn't have parking, so the trip generation wouldn't occur.

Mr. Roberts said he simply wanted a plan to look at these kinds of things.

Mr. Campbell noted that the University was expanding the number of students who would not be able to drive into campus. He said employees were treated separately.

Mr. Ozenich said there should be the kind of remote parking that existed at airports.

Mr. Campbell said there had been discussion on this. He noted that an agenda item for the quarterly planning meeting was a possible park and ride at Technology Drive, and perhaps a parking area at the Lee Traffic Circle, which could be serviced by University buses. He said they were looking at possible stimulus money to pay for this.

Mr. Roberts said there were some system problems, and said things like low value trips vs. high value trips needed to be considered, as part of destination studies.

Mr. Kelley said getting the data for these studies was relatively easy and inexpensive, and could be done with postcards and interviews. But he said the expense was incorporating this data into the model.

Mr. Roberts said the flow model analysis difficulty was the value of the destination. There was discussion. Mr. Roberts said traffic planners looked at this kind of thing all the time, and said they were needed now.

The Board reviewed the recommendations further.

Chair McGowan summarized that D couldn't be done until A, B and C were done. Mr. Roberts asked if it was thought to be a good idea to eliminate all traffic on Madbury Road.

There was discussion on what previous studies had indicated on this.

Mr. Kelley said Madbury Road was an arterial road. He said residents on both sides of it thought of it as their neighborhood road, but it was shared with a commuting public as well. He said this issue was something the Planning Board could play with, using the model, if there were SPR grant funds.

There was discussion on what the model was being used for now, how long the process took, and why Mill Plaza traffic had been chosen for study by the model.

Mr. Roberts asked how the Town was addressing the current utilization of the Route 108/Main Street intersection. He stated among other things that there had been a plan that showed a possible alternate bridge connecting with Jackson's Landing, also noting that he wasn't pushing for this.

Mr. Kelley said he would provide Mr. Campbell with a copy of his comments on the report. He noted Mr. Gardner's comments on the report as well.

Mr. Roberts said he would provide Mr. Campbell with a brief summary of his comments on the report.

**X. Old Business - Discussion on Main Street West Project**

There was discussion about possible concerns about having a roundabout near A lot.

Mr. Campbell said with the TEC grant, the roundabout hadn't qualified so was not funded. But he said with the stimulus package, 100% of the proposed Main Street West Project, including the roundabout, might get funded, through DOT. He noted among other things that bus pull-offs, bike lanes and a multi-use path were part of the design for the project.

Mr. Roberts asked about possible yield signs for the roundabout.

There was discussion about the roundabout itself, and whether cars might wind up driving right over it. There was discussion about whether vegetation would be planted.

There was discussion about how the roundabout would affect traffic flow after events.

Mr. Campbell stressed that the design for the project was almost done, so if Board members had comments, they needed to make them soon.

Mr. Roberts received clarification that the location of the proposed roundabout currently had an F service level, so definitely needed to be addressed.

Mr. Kelley asked if the South Drive leg would connect with the roundabout.

Mr. Campbell said yes, and there was discussion on the timing of this.

Chair McGowan noted that Board members should get any comments on the design to Mr. Campbell.

## **XI. New Business**

Mr. Campbell reviewed the agenda for the Board's upcoming quarterly planning meeting. He first noted that said Michele Gagne of UNH Cooperative Extension would be meeting with the Board concerning a strategy to update the Master Plan.

He also said Planning Board member Stephen Roberts would like the Board to discuss the creation of a "Continuous Improvement Plan" for the Planning Board. He said that in addition, Mr. Roberts would like to discuss the negotiation of a revised feedback procedure for special purpose committees formed by the Town Council, such as the Mill Plaza Committee and the EDC, both of which operated independently from the Planning Board.

Mr. Roberts said he thought the EDC should be asking the Planning Board for proposals to accomplish the goals it (the EDC) was trying to work toward. He said right now, they were independent of each other, noting that Mr. Campbell had assignments to carry out, but the Planning Board did not.

Mr. Campbell said that to becoming a member of the Town Council, Robin Mower had sent him a letter concerning research she had done on a possible Source Water Protection strategy for Durham, and possible amendments to the Zoning Ordinance. He said this issue would be looked at, at the quarterly planning meeting.

Mr. Campbell said Mr. Cedarholm wanted to talk to the Board about a possible park & ride and bus terminal in Durham. Mr. Campbell noted that Perry Bryant and his engineer from Appledore Engineering had put together some plans regarding this, and said he would get a copy of this to Board members.

Mr. Campbell said Robin Mower would like to talk with the Board about Design Guidelines, and also said Kevin Gardner would like the Board to discuss form based codes. He said he didn't know if there would be time to discuss all of this at the quarterly planning meeting.

Mr. Campbell said he wanted the Planning Board to review and discuss the draft RFP for the review of the Zoning for the Central Business District. He said people were more or less on the same page regarding the idea of having denser development downtown, but he said it was important to look at doing density in a way that people really wanted. He noted that he personally was uncomfortable with the idea of having 6 bedroom apartments downtown that had no natural lighting.

## **XII. Approval of Minutes**

February 11, 2009

Page 2, third bullet at top of page, should say “An update on assignments....”

Also first bullet, first letter should be capitalized

Page 4, third motion on the page, should say. Richard Ozenich **SECONDED** the motion.

Page 9, remove the R between the first and second paragraphs.

3<sup>rd</sup> paragraph from the bottom, should say “Mr. Kelley asked if this...”

Page 15, 3<sup>rd</sup> paragraph from bottom, should read “Ms. Fuller noted the Town Council’s recent discussion of 6 beds per unit, and there was discussion about the economic viability of this with Mr. Crape.”

Page 16, 4<sup>th</sup> full paragraph, should read “Mr. Kelley said a critical fault was that there hadn’t been an analysis...” Remove second period at the end of that sentence.

Page 18, middle of page, should read “Mr. Campbell explained that it was...”

***Richard Kelley MOVED to approve the February 11, 2009 Minutes as amended. Councilor Smith SECONDED the motion, and it PASSED 5-0-2, with Bill McGowan and Lorne Parnell abstaining because of their absence from the meeting.***

#### February 25, 2009

Page 1, 3<sup>rd</sup> paragraph, should read “Mr. Campbell said that on February 16<sup>th</sup>,...”

Page 2, 1<sup>st</sup> line, the words “would require Zoning change” should be removed.

Last bullet on page 2 should say “..from Cooperative Extension..”

Page 10, 4<sup>th</sup> full paragraph, should read “..what they thought the future would..” Page 11, 4<sup>th</sup> full paragraph, should read “..what the next step for the Planning Board..”

Page 12, 3<sup>rd</sup> paragraph from bottom, should read “..the Board needed to see an outline on this.”

***Susan Fuller MOVED to approve the February 25, 2009 Minutes as amended. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 7-0.***

### **XIII. Adjournment**

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

Adjournment at 10:25 pm

Victoria Parmele, Minutes taker

