

This set of minutes was approved at the June 10, 2009 Planning Board meeting

**Durham Planning Board
Wednesday April 29, 2009
Durham Town Hall - Council Chambers
MINUTES**

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

ALTERNATES PRESENT: Wayne Lewis; Kevin Gardner

MEMBERS ABSENT:

I. Call to Order

Chair McGowan called the meeting to order at 7:03 pm.

II. Approval of Agenda

Richard Kelley MOVED to approve the Agenda as submitted. Richard Ozenich SECONDED the motion.

Ms. Fuller asked that there be reports on EDC and Town Council meetings at the meeting, which would help the Board in its efforts to have greater cohesion with these other entities. There was discussion.

The motion PASSED unanimously 7-0.

Mr. Gardner arrived at the meeting at approximately 7:05 pm.

III. Report of the Planner

Mr. Campbell said he had added a memo on unfinished business to his Planner's Report, including some possible zoning changes. He noted that he had added various issues to the Board's Zoning list as they had come up. He said if Board members wanted to add or change anything to what he had included in the memo, they could let him know by email.

Mr. Campbell said he had met with University planner Doug Bencks, and had provided a memo on this.

He noted that the Council had appointed Neil Niman as the alternate Council representative to the Planning Board.

Mr. Campbell said the EDC had recently met, and had continued its discussion on a

strategic plan. He said there had also been an update from the Energy Committee, and also said there was an update from the UNH marketing class on its project for the Town.

Ms. Fuller noted that a task force would be formed for the Durham Business Park. She said she had been asked to be on this committee, and had agreed to be on it.

She also noted that Attorney Malcolm McNeill had provided some constructive criticism on the Zoning Ordinance at the recent EDC meeting, and as part of this had said there wasn't the infrastructure to develop those areas in Town that had been zoned for development. She said he had also noted that about 50% of the uses allowed in the ORLI District were allowed by conditional use. She said she thought these comments had been provided because the Planning Board would be reviewing the Master Plan.

Mr. Campbell said there was still an opening on the EDC for an alternate.

He said information had been received from the University regarding a planned wind tunnel project, and said there would be a public hearing on this project at the May 13th Planning Board meeting.

Mr. Campbell said there would be a special Planning Board meeting on May 6th to continue discussion on the RFP for the Master Plan update. He said the RFP regarding the CBD Zoning had been sent out, and noted that Board members had gotten copies of this. He said a good response from consultants was expected.

Councilor Smith said he would not be at the May 6th meeting because he would be away on a trip.

IV. Public Hearing on an Application for Subdivision submitted by Milton T. Martin Jr. & Edda 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, and is in the Residence A Zoning District.

Mr. Martin provided details on the proposed subdivision. He explained that according to the Zoning Ordinance, there were several buildings on the existing property that violated the setbacks, and said they would be removed, and a new building would be constructed in the center of the right hand lot that would be created as a result of the subdivision. He noted that he'd been before the ZBA, and also said there had been a site walk with Planning Board members.

Councilor Smith MOVED to open the Public Hearing. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

There were no members of the public who wished to speak for or against the application.

Councilor Smith MOVED to close the Public Hearing. Richard Ozenich SECONDED

the motion, and it PASSED unanimously 7-0.

The draft Findings of Fact and Conditions of Approval were reviewed. Mr. Campbell also listed out loud the waiver requests:

Submission Requirements

- 7.01 Phase I - Preliminary Conceptual Consultation submission
- 7.02 Phase II - Preliminary Design Review submission
- 7.03F Phase 3 - formal Application submission
- 7.06 - Verification of Soils Data

Design Standards

- 9.06 - Design standards - Stormwater Drainage
- 9.08 - Design standards - Subdivision Layout and Design
- 9.09 - Ownership and Stewardship of Common Open Space

Mr. Campbell said that regarding #3 under Conditions to be met prior to Signature, an email from Code Administrator Tom Johnson had said that the construction plan should also include the driveway location and surface parking areas, along with the proposed building location and property setbacks for the RA Zoning District.

It was determined that Mr. Martin hadn't yet received the email, and would be provided with this information so the construction plan could be updated to include the requested information. Mr. Martin said Public Works Director Mike Lynch had noted that the applicant needed to coordinate with the Public Works Department regarding the utility work so it would coincide with the re-paving of Madbury Road.

Mr. Campbell read a condition of approval that reflected this.

Findings of Fact

1. The applicant submitted an Application for Subdivision of Land with supporting documents on March 3, 2009.
2. The applicant submitted a Subdivision Plan on March 3, 2009 entitled "Existing/Proposed Plat Plan Milton T. & Edda M. Martin, 81 Madbury Road, Durham, New Hampshire" prepared by Findeisen Survey & Design LLC, Windham, New Hampshire, and dated September 25, 2007.
3. The applicant submitted a letter of intent on March 3, 2009.
4. The applicant submitted a copy of the Deed for the property on March 3, 2009.
5. The applicant submitted a copy of the Zoning Board of Adjustment's variance approval of October 9, 2007.
6. The applicant submitted a waiver request on March 20, 2009.
7. James B. Campbell, Director of Planning and Community Development, granted exemption of this application from Conservation Subdivision Regulations on March 18, 2009.
8. A Site Walk of the property was held on April 18, 2009.

9. A Public Hearing was held on April 29, 2009, and no members of the public commented on the application.

Conditions of Approval to be met prior to signature of Subdivision Plan.

1. The applicant shall submit a "Subdivision Plan" instead of an existing and proposed plot plan. The plan shall also include a signature block for the Planning Board Chair's signature. In addition a note shall be added to the plan that all utilities will be underground. Finally, the impervious surface ratio shall be shown on the plan. The applicant shall supply two mylar copies of the plan and one paper copy for signature by the Planning Board Chair.
2. A certificate of monumentation shall be provided to the Planning and Community Development Department.
3. The applicant shall submit to the Director of Planning and Community Development a construction plan that includes sewer, water and gas utilities, driveway location, and surface parking areas along with the proposed building location and property setbacks for the Residence A Zoning District.
4. The applicant shall coordinate with the Durham Public Works Department on the utility work to coincide with the repaving of Madbury Road. No utility work will be allowed once the roadwork is complete without the consent of the Director of the Public Works Department.

Conditions to be Met Subsequent to Signature of Approval on the Subdivision Plan:

1. The referenced Subdivision Plan and these Findings of Fact and Conditions of Approval shall be recorded with the Strafford County Registry of Deeds, at the applicant's expense, within seven (7) days of the Chair's signature on the Plan.

Richard Kelley MOVED to approve the Application for Subdivision submitted by Milton T. Martin Jr. & Edda M. Martin, Durham, New Hampshire to subdivide one lot into two lots, at the property shown on Tax Map 2, Lot 1-2, located at 81 Madbury Road in the Residence A Zoning District. Councilor Smith SECONDED the motion, and it PASSED unanimously 7-0.

- V. **Public Hearing on 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 three-story, mixed used building. The property involved is shown on Tax Map 4, Lot 8-0, is located at 6 Jenkins Court, and is in the Central Business Zoning District. Roger Roy of MJS Engineering spoke before the Board. He noted that architect Jennifer Ramsey and Mr. Crape were present, along with Mike Sievert of MJS Engineering. He said the project represented an effort that had included the DPW and the Building and Planning departments early in the design process, before the application was submitted.

He briefly reviewed what was proposed for his property. (See March 25, 2009 Minutes

for details). He said the proposal complied with the Zoning Ordinance and Site Plan Review Regulations, with the exception of three waiver requests. He said there would be 10 parking spaces provided, in the same location where they currently were, and explained that the building would be extended over some of these spaces. He said there would be two spaces in the alley way, and also said the three parking spaces on Jenkins Court would remain and would be improved.

Mr. Roy said the project provided several benefits, including better stormwater management. He explained that water from the roof would be collected in gutters and directed into a closed drainage system. He said this would eliminate the existing sheet flow across paved areas into Pettee Brook.

He said the overhead utilities servicing the applicant's property and three others would be put underground. He also said a clear pedestrian way from Store 24 to Jenkins Court would be provided through a sidewalk incorporated into the parking area. In addition, he said the project would not decrease, and would slightly increase the green space on the site. He said building utilities would be hid on the roof, and summarized that a number of Master Plan goals would be met with the project.

Mr. Roy spoke next in response to comments made by the Board at the acceptance hearing. He first said that updated elevations had been submitted. He also said an elevator had been incorporated into the building, and said this had caused a slight adjustment in the bump-out on the residential floors in order to make up for the space lost because of the elevator, so that the habitable floor calculations would work.

He said the lease agreement and management plan had now been provided and would be discussed by Mr. Crape. He also said architect Jennifer Ramsey would discuss some of the federal style building cues that had been incorporated into the building design. He said information on construction staging, etc. would be provided by Mr. Crape at the meeting.

Mr. Roy said that concerning the sewer placement issue, the plan was to run it through the building because this was found to be the best fit for everyone, after discussion with the Department of Public Works. He said the department had preliminarily approved the sewer design subject to NHDES approval.

He noted a comment as to whether the applicant needed to cross over the Store 24 lot to get access to the site,. He explained that an important goal of the project was that if Jenkins Court ever became a pedestrian way, the site parking area could become an outdoor seating area. But he said the applicant would be ok without the Store 24 lot access.

Mr. Roy noted a concern about windows, and said there would be windows around the entire perimeter of the building, as part of keeping the walls less than 3 feet of the property lines in all areas.

He noted a concern about accessibility to and from the units, and said the elevator had been added to address this. He also said two points of egress would be provided for each floor with the two stairwells.

Mr. Roy thanked Board members for the site walk, and said he didn't take anything from it that hadn't already been mentioned at the acceptance hearing.

He said the applicant was asking that the Board allow a building height greater than 30 ft, and said what was proposed was 46- 48 ft for the average roof height (calculated based on the Town's definition of average roof height). He said the applicant was also asking that 10 spaces be allowed instead of the 74 spaces that were required, noting that the Zoning Ordinance spoke about how the Board could allow this.

He said one waiver was being requested, and said this was from the public school impact fee requirement. He said the apartments would be geared to UNH tenants, who wouldn't have an impact on the school system.

Mr. Roy said he hoped the Board would find that the applicant had responded to the comments made so far, and that conditional approval of the project was appropriate.

Mr. Crape provided details on the management plan he had provided to the Board, stating that it was rooted in techniques used by the Durham Landlord Association. He said he had looked at ways to enhance property management, and as part of this had spoken with Michael Saputo, UNH Assistant Director of Student Housing, who was in charge of the Gables and other apartment complexes, some of which included 6-8 people in each apartment.

He said Mr. Saputo had said that continuous presence of staff, as well as a rights, rules and responsibilities document were two key property management approaches. He said his management plan reflected the continuous presence idea, as well as a monitoring system, where grad students would monitor the property at all hours of the evening. He noted that this had been very helpful with his other properties.

Mr. Crape said he wanted to select the best qualified tenants, and to incentivize them to make him aware of violations of the lease. He noted that there would be a reward of \$400 for tenants who let him know about occupancy violations.

He said he had included rights, rules and responsibilities in the lease agreement he had provided to the Board, and said this was the kind of document that UNH and some other landlords in Town used. He provided details on this.

Mr. Crape said other property management techniques he used included screening tenants several times. He also explained a program he would use where in exchange for doing community service, tenants would get gift certificates to local businesses.

He said the build-out was designed to inhibit common space for congregation of

residents. He also said move-in day would be the time to go over all the rules and regulations.

Mr. Crape noted a concern about where contractors working on the project would park, and said Jess Gangwer had offered some parking spaces behind the Pettee Brook parking lot for this. He also said there were other spots in the area that would be rented, noting that Mr. Young had agreed to provide some parking spaces along the property line. Mr. Crape said he would offer Mr. Young some alternative spots in exchange for this. He said this had really helped him out.

He said the abutters had been notified of any preconstruction meetings, and also said he had listened to their concerns over the past few weeks. He said he would avoid any encroachment on Mr. Christie's property. He said Public Works Department concerns would be addressed, and said there would be a construction schedule.

Mr. Crape said the project reflected the Master Plan in several ways. He quoted the CBD land use objectives "...to promote mixed use development, to encourage infill and density, and heighten the building environment." He also noted a goal of the CBD chapter was to modify the Zoning regulations to encourage dense buildings in the district. He noted recent Zoning changes to increase density, including zero setbacks and a decrease in the building height limitations.

He next noted Chapter 8 of the Master Plan on Tax Stabilization, and read from this chapter. He said Town Assessor Rob Dix had estimated that he would pay \$85,000 per year in taxes for the new building, which would be a 650% increase over his 2008 taxes. He said the project would not impact the school system, and would have a high impact on the property's taxability.

Mr. Crape said the project addressed Chapter 7 of the Master Plan because it introduced sidewalks, and future use of the parking area to provide access from the Store 24 lot to Jenkins Court, as well as potential outdoor seating if there was some kind of public parking structure available.

He said the project reflected Chapter 4 of the Master Plan regarding stormwater runoff. He said drain water would be collected, which would avoid sheet flow into Pettee Brook. He also noted that the overhang for parking would eliminate the need for salt and sanding of the parking in that area.

He said the style of the building would include New England elements, and he provided details on this. He said he personally wanted to be proud of the building. He said dormers were expensive, but said he thought they added character to the building, and wouldn't want to see the building without them.

He noted ongoing discussion about additional development downtown, and said having attic space in his building would allow him the flexibility to convert it to residential space, which would mean that he could provide commercial space on the second floor

instead of residential space.

Mr. Crape said he wanted to be a part of the community, and had talked with business owners downtown. He read a letter of support that had been signed by some of the downtown business owners, and provided a copy to the Board.

Jennifer Ramsey of Soma Studios provided details on the architectural design for the building. She said they had tried to be very respectful to the downtown, and said details that were considered more historic had been used to derive modern versions of them for the building.

She noted that some Board members had asked that more federal style aspects of the downtown be included in the building. She showed how this could be done, with railings, a widows walk on the roof, more luxurious detailing of the eave line, sill details around windows, shutters, and an architectural entry that reflected the dormer arch.

She said they had also added additional grills to the windows, and had provided rusticated brick masonry for first floor and then more traditional materials on the upper floors. She said there would be a wider exposure to minimize the buildings overall mass. She also said chimney pot detail would be included, and showed some coloring that could perhaps be used.

Ms. Ramsey noted that this would not be a Main Street building, and instead was somewhat of a background building, so perhaps could be more toned down in terms of details.

Councilor Smith noted the colored portion of the diagram, and asked if there were shutters proposed on the building.

Ms. Ramsey said shutters were proposed on the second and third floors, and said they would look like they operated, but in reality would not. She also noted that shutters could be considered an extra detail, given the economy and ecological issues.

Mr. Roberts said he was impressed with how the Durham Business Association had been brought into the process.

Councilor Smith said the proposal to have assistant managers, in the form of anonymous snitches, seemed an invitation to disaster. He said there would be 60 students, and 4 would be encouraged to report on the others.

Mr. Crape said the University used this approach, but said if it didn't work, he wouldn't use it. He said he continually refined the property management approaches he used, and also noted that the assistant managers would be known to the residents. In answer to Councilor Smith, he said he lived in Dover, and noted two other property owners in Durham who lived in Dover.

Mr. Parnell asked if there would be closed circuit TV's in the building, and Mr. Crape said yes. He explained that the videos would be reviewed when there was an incident.

He noted that he used Paul Berton's monitoring system on one of his properties. He said it was a service shared by some of the landlords, and would be a part of the management of the building. He also said site management of his other properties included emails every night from his managers, including after the bars closed especially on Friday and Saturday nights. He said the grad students had really helped with this.

Ms. Fuller provided some details on the property management services Mr. Berton's company provided.

Mr. Crape said these kinds of issues and solutions had come out of the Durham Landlords Association meetings.

Councilor Smith noted the first page of the Management Plan referred to common space, while the second page talked about security cameras in common areas.

Mr. Crape explained that there would not be cameras in the apartments themselves, but said they would be located in the hallways, and the entrance way. He repeated that videos would be reviewed if there was an incident, to see what had happened and who had been involved.

Mr. Gardner said that regarding the stormwater plan, he had an issue with the characterization that what was proposed was a big improvement. He said avoiding sheet flow and connecting directly to the downspout had been a common approach in the past, and noted that if everyone did this, the streams would be in a lot worse shape than they currently were. He said this didn't seem like the kind of more sustainable approaches that he had anticipated for the project.

Mr. Roy said if the stormwater approach that was proposed was misstated, he apologized for this. He said about 90% of the property currently drained to the Store 24 lot. He noted that the original proposal was not to include the gutters, but said they had chosen to use the closed drainage approach.

Mr. Gardner noted that he thought it was a great project in general. But he encouraged that the kinds of better building practices he had in mind occur in the future.

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

Chair McGowan noted two letters that had been received from members of the public concerning the application.

Tom Christie, an abutter, said he was in favor of the Master Plan concept of infill, keeping in character with the downtown, site appropriateness, and concern about abutting

property owner values. He said re-developing the Houghton Hardware property was a good thing, and said how this was done, and the scope of the project was his concern.

He said when he had proposed gutters for his new building, the Public Works Department had said this could be a problem when they iced up, in areas where people were walking. Mr. Christie also said this was a good time to have better storm water management practices, and said if stormwater retention was the direction the Town was going in, something he had done with the project on his property, now was the time to implement that, not some time in the future.

Mr. Christie said an element associated with this was his concerns that the parking was being changed from a parking lot to interior structured parking. He said he didn't see anything about containing dripping oil, etc. and filtering before it went to Pettee Brook.

He said the proposed parking meant that cars leaving the parking structure would turn right onto Jenkins Court, and noted that this was exactly where people leaving his apartment came out. He said the sight distance there seemed to be a problem. He said because it was new parking, he thought the driveway, looking to the left, needed to meet the NHDOT sight distance standard of 400 ft.

Mr. Christie said there was the option to make sure this situation was safe, and said it would be important to look at it, given pillars, parked cars, and the island bump out that were proposed. He said the issue was how far a car entering Jenkins Court would have to go before it could safely see.

Mr. Christie said there was a loading zone on Jenkins Court on the Wings your Way side of the street. He said it was somewhat inadequate, and provided details on this. He said he didn't understand why the bump-out island had been added, and noted he hadn't been contacted prior to any plans being done. He said this was something he would have discussed earlier on.

Mr. Christie spoke in further detail about his concerns that an ice up of proposed gutters on the Jenkins Court side would result in a cascade of water on the center of the sidewalk.

He said the Board had the responsibility to enforce the Zoning Ordinance and work off of the Master Plan. He said he didn't see the proposed sidewalk as a positive element of the project, stating that in terms of planning and long term flow, one would want people to walk on Pettee Brook Road and Main Street, as opposed to seeing masses of people traversing Jenkins Court. He noted that Jenkins Court was already a problem access area at times, and said he wanted to be sure that access issues wouldn't impact his building next door.

Mr. Christie noted that part of the Store 24 lot was proposed to be occupied by utilities, and said he didn't understand why the utilities couldn't be put within the applicant's property boundaries and why an easement couldn't be provided by the applicant instead of taking away from the possible usable area for the Town in the future.

He said a proposed concrete pad was shown on the plan, which perhaps was for trash, and said it seemed that this area was somewhat small.

He noted that the Public Works Department had said it was difficult to even grow grass between the two buildings. He said the plan showed a proposed landscape buffer, including bushes, etc that would shield the underground parking area over time. He said he had concerns that this kind of situation could impact his property. He said he thought fencing would provide better protection, and also said he didn't think the landscape buffer would function well in that area.

Mr. Christie noted that the height of the building was a discretionary item for the Board, but said if second story office space was desired, now was the time to propose that. He also said he didn't see a benefit to increasing the height to allow what was currently proposed, and also said he didn't see that going to a 4th floor for storage areas was a benefit.

He said the Board also had discretion regarding the sewer going under the building. He said he didn't see the gain to the Town from this, looking down the road, and he discussed possible problems that could occur in the future if the sewer remained under the building. He said this was the time to deal with the problem, and said the sewer could be re-routed.

Mr. Christie said this as well as other issues he had with the application would require that the building be scaled back somewhat.

Mr. Christie asked if there would be utility easement. He also spoke in some detail about the fact that he thought this was a time to look at the electrical utilities in the area in general, in order to better address the fact that currently, electricity came to Main Street businesses from the back, not the front. He noted that this didn't affect him personally, but said it was a good time for the Town to take a look at this.

He said there appeared to be a reduction in the number of parking spaces with the proposed project, and provided some details on this.

He said most of the water from the site currently came to his property. He said if there was a new drainage plan, he would want to know about it. He also noted Section 175-116, and said there was supposed to be a 20 ft tree canopy, in front of the building, and plantings around trees. He also said that landscaping between the building and the sidewalk, by shrinking the building somewhat, would allow responsible removal of snow while addressing the landscape elements of the Zoning Ordinance. He said he didn't believe the Board could waive this requirement.

Mr. Christie said he was concerned about the closeness of his building to the applicant's building, regarding windows. He said with infill development, it was important that abutting property owners work together to address these kinds of things and fit with the Master Plan. He provided details on this.

He asked if the lease management plan would be a part of the approval, and if it didn't work out, the Town would have the ability to shut the operation down. He spoke in detail on this. He also said having six residents per unit with an eight person limit in the apartment (two visitors) didn't seem realistic, and very difficult to monitor.

Mr. Christie said he had a somewhat different take on the Master Plan, and described this. He said he didn't envision the attic, the proposed height, the storm water management approach, the enclosed parking, the utility plan, the sewer plan, and the sight distance and other practical elements of the plan.

He said he thought all of these issues could be addressed with a somewhat smaller footprint; having the sewer go around the building; having the utilities contained on easements on the applicant's property; and having places where people could walk, with proper landscaping. He said this might not maximize the density, but said it was the job of the Board to look at this.

Bill Hall, Smith Park Lane, said the problem with having a sewer under the building was that it de-stabilized the building, especially if there were hydrologic issues, as there were in this area. He said the sewer line should come down the building and then exit the building, rather than being under it. He said having a sewer under a building was workable until there was a problem,

He said there were no four story buildings in Town, and said if this building was built, the Town would be locked into aerial trucks for firefighting. He said the Town Council hadn't been good at negotiating with the University regarding the Fire Department, and said this project would put the Town in an even worse position.

Mr. Hall said that regarding the management of students, if one built a ghetto, people would act like they were in one. He said a six unit apartments would create this kind of situation, speaking in some detail on this, and said it wasn't a good environment to manage or live in. He also said the idea of having a fourth floor with flexibility to develop it in the future was a joke, and said he resented the idea. He said the owner had good intentions, but said things might change for him in the future. He also said the people Paul Berton had managing properties didn't necessarily go into the buildings, and said this was more of a follow up issue than a preventive issue. He said the Board had some work to do.

Joe Michael, JEM Trust, said he owned two nearby buildings. He said he had written a letter in support of Mr. Crape, and had been included in meetings on the project. He said he did feel the Town was being absorbed by the University, and said he was concerned about the number of properties that had been sold downtown, and that would be developed as residential space primarily for University students. He said this made him wonder what the downtown would be.

He said he wasn't saying that someone shouldn't be allowed to do what he/she wanted with his/her environment, but said he would like to feel there was a better sense of what

the downtown was going to be. He said if the Town was suddenly looking to increase the population of students there, this would change the downtown, and said this really concerned him. He said they needed to look at how to create a place where people would really want to be. He said this had nothing to do with Mr. Crape.

Mr. Michael said the scale of the proposed building was out of proportion with what was in the downtown right now. He said it was fine if the Town wanted to increase the scale, although noting that this wasn't his desire personally, and said he wasn't planning to do that. He also noted that the Board wasn't fitting the bill on this, but the abutters were.

Mr. Kelley said he gathered that Mr. Michael's concern was the increase in the number of students there would be in the commercial core, and he asked for details on this.

Mr. Michaels said the Don Thompson building and Cutter building were proposed to be mixed use developments, which would include student housing. He said this might not be the best thing for the residents in Town, and he provided details on this.

Tom Christie said the Town wanted greater density, and said the Zoning Ordinance had been changed to allow this. But he said the landscaping, water elements, etc. shouldn't be ignored as part of this, and said this would make it a better project within the confines of the Ordinance. He also said this project would set a standard for other projects coming down the line.

Councilor Smith suggested that the Board leave the public hearing open and continue it.

Chair McGowan agreed, noting that some good points had been raised, and that the applicant would want time to respond to them.

***Councilor Smith MOVED to continue the Public Hearing to the May 13th meeting.
Lorne Parnell SECONDED the motion.***

Mr. Roberts said that at the site visit, the Board had not had time to cover all of the issues, through no fault of the applicant. He recommended having another site visit to address these things, and other Board members agreed.

The motion PASSED unanimously 7-0.

Mr. Roberts noted that the minutes of the first site walk indicated that there wasn't time to address storm water management, construction traffic, noise and safety, parking demand offsets, fire safety access, and on site behavior control issues.

Councilor Smith said that on the basis of the comments made, especially by Mr. Christie, the Board might want to discuss the sight line issue, icing of gutters, etc. with the owner. He said this would best be done on the site.

There was discussion with Mr. Roy as to whether a site walk was the proper place to

discuss the various issues that had come up. Mr. Kelley said he found it difficult to discuss these matters at a site walk, and said he would prefer having them addressed at the Planning Board meeting. He said discussing them at the site walk lent itself to having multiple conversations going on, and not a well run meeting.

Chair McGowan said he didn't need to revisit the site, and said bringing the additional information that was needed to the meeting made more sense.

Mr. Roy said to help improve the process, it might make sense to have an additional site walk. He suggested that there could be just one conversation at the site walk, which could take place in the vacant hardware store building.

Mr. Roberts said all the points hadn't been covered at the first site walk, and said the Board therefore needed to cover these issues.

Councilor Smith noted that the day of the first site walk, there had been site walks of two other properties.

After further discussion, the Board agreed that a site walk of the property would be done on Friday May 8th at 12:00 pm.

Mr. Parnell recommended that the applicant be prepared to provide an explanation of, or to discuss an alternative to the present plan to have the sewer under the building.

Mr. Kelley said he wanted to make sure the Board would have the plans the applicant intended that it respond to.

Mr. Roy said the March 4th plans hadn't changed other than adding the bump-out and dry pit basin structure.

VI. Public Hearing on an Application for Conditional Use Permit submitted by Van Rich Properties LC, Durham, New Hampshire to convert a single tenant office building into a multi-use building with three separate units. The property involved is shown on Tax Map 9, Lot 20-0, is located at 277 Mast Road, and is in the Multi-Unit Dwelling/Office Research Zoning District.

The applicant, Richard Gsottschneider, said what he was proposing was an allowed use. He said the footprint was not changing, and also said there would be no other site changes. He said the building would be on town sewer, and also said there was plenty of water, and plenty of parking on the site. He said Mr. Cedarholm had not had any issues with the sewer line.

He said what was proposed was a less intense use, and said there would be 8-10 people in the building instead of 12. He said the Fire Department and the Building Inspector had been through the building, and were in support of the proposed work on the building. He said the abutters were UNH, the Hoene family and the woods.

Councilor Smith MOVED to open the Public Hearing. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

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

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

Chair McGowan went through the Conditional Use Permit checklist, and there were no issues in terms of whether the application met the criteria. He then reviewed the Findings of Fact and Conditions of Approval.

Mr. Kelley noted that in the recent past, the Planning Board had been requiring property management plans. He said this was up to the Board, but said he felt a security and management plan should be required for this application as well, noting that it was a conditional use, and that it wasn't known what would happen with the property in the future. He also said he felt that what Mr. Gsottschneider had provided met this requirement.

Mr. Campbell noted the email from Town Engineer Dave Cedarholm saying the sewer permit would not be necessary.

Findings of Fact

1. The applicant submitted an Application for Conditional Use Permit with supporting documents on March 10, 2009.
2. The applicant submitted a Site Plan on March 10, 2009 entitled "Proposed Conditions Plan for Van Rich Properties, LLC, (Tax Map 9, Lot 20), Mast Road & Spinney Lane, Durham, New Hampshire."
3. The applicant submitted the deed for the property on March 10, 2009.
4. The applicant submitted a letter of intent on March 10, 2009.
5. The applicant submitted answers to the approval criteria of 175-23 on March 20, 2009.
6. A Site Walk of the property was performed on April 18, 2009.
7. The applicant submitted well data from Clear Water Artesian Well Co., Inc. on April 27, 2009.
8. The applicant submitted a Management Plan on April 27, 2009.
9. The applicant submitted a sample Lease Agreement and Deposit Receipt on April 27, 2009.
10. A Public Hearing was held on April 29, 2009 and no one from the public commented on the application.

Conditions to be met prior to issuance of Certificate of Occupancy

1. These Findings of Fact and Conditions of Approval shall be recorded with the Strafford County Registry of Deeds, at the applicant's expense.
2. A building permit shall be submitted to and approved by the Code Enforcement Officer for any new construction. All appropriate building codes shall be met.
3. The applicant shall meet with the Durham Fire Department to ensure that all fire and life safety codes are met.
4. The applicant shall submit a Management Plan to the Director of Planning and Community Development.

Susan Fuller MOVED to approve the Application for Conditional Use Permit submitted by Van Rich Properties LC, Durham, New Hampshire to convert a single tenant office building into a multi-use building with three separate units. The property involved is shown on Tax Map 9, Lot 20-0, is located at 277 Mast Road, and is in the Multi-Unit Dwelling/Office Research Zoning District. Councilor Smith SECONDED the motion, and it PASSED unanimously 7-0.

VII. Public Hearing on an Application for Site Plan Review submitted by Daniel Sheehan, Property Manager, Colonial Durham Associates, New York, New York, to build a multi-tenant, free-standing sign measuring 14' x 6' for a total of 84 square feet as per Article XXIII, Section 175-133(L)(1) of the Zoning Ordinance. The property involved is shown on Tax Map 5, Lots 1-1, is located at Mill Plaza, and is in the Central Business Zoning District.

Mr. Sheehan explained that there were currently 14 businesses located at Mill Plaza, but he said unless someone drove into the Plaza, he wouldn't know they were there.

Ms. Fuller received clarification that the proposed multi-tenant sign would go quite far up on Mill Road, so someone on Main Street would be able to see the directory. It was explained that the sign would be near the Bagelry sign, right behind the shrubs in that area.

Mr. Kelley determined that other than the former Movie Stop property, Mill Plaza was fully occupied. He then said he didn't remember getting this kind of sign application in the past.

Mr. Campbell said this was the first application the Planning Board had gotten under the revised sign regulations, noting that anything over 60 sf needed to be approved by the Board. He said Mr. Sheehan had said he was looking at having a sign of 100 sf.

Mr. Kelley asked if the sign would be out of the right of way, and Mr. Sheehan said it definitely would be. Mr. Kelley also asked if the sign would interfere with the Bagelry sign, and Mr. Sheehan said if it did, it could be shifted over.

Mr. Kelley asked what the sign would be made of, and Mr. Sheehan said it would be made of wood and high density plastic. He noted that it would be lit from the top down.

Councilor Smith noted that the lighting for the sign was not indicated on the sketch that had been provided.

Mr. Sheehan said it would be powered from above, and also said it would be able to be seen at night.

Mr. Kelley asked if Mr. Sheehan would need a building permit for the construction, and Mr. Campbell said yes.

Councilor Smith noted that there was about 60 sf of actual sign area proposed.

Mr. Campbell noted that Code Administrator Tom Johnson include the posts as part of the sign area.

Mr. Sheehan said the sign would look just like what was proposed in the sketch, or slightly shorter. He explained that there were some constraint issues because of the parking lot and the sidewalk, so it had been moved from the entrance to the Plaza up to the Bagelry.

Ms. Fuller asked if the sign would sit perpendicular to the road, and Mr. Sheehan said the sign would be parallel to the curb face.

Mr. Kelley asked if 4 ft legs were enough, and Mr. Sheehan said the sign wouldn't be any higher than this, but might be slightly wider. He also said selective pruning would be done when needed.

Mr. Kelley noted that there was a street light nearby.

Mr. Roberts said the only comment he had was that he saw the utility of the sign for walkers, but not for drivers. He said when cars turned down Mill Road from Main Street, there was one lane in each direction, and said it wouldn't be a very good idea to stop and read the sign.

Councilor Smith MOVED to open the Public Hearing. Richard Kelley SECONDED the motion, and it PASSED unanimously 7-0.

Bill Hall, Durham, said he was glad to see this proposed sign, and noted that there needed to be signage inside the Plaza as well.

Tom Christie, Dame Road, suggested that the Board could allow greater flexibility concerning the size of the sign, in order to make sure it would fit better with the shrubs. He also said a directional arrow was needed inside the Plaza.

Richard Kelley MOVED to close the Public Hearing. Councilor Smith SECONDED the motion, and it PASSED unanimously 7-0.

Richard Kelley MOVED to approve the Application for Site Plan Review submitted by Daniel Sheehan, Property Manager, Colonial Durham Associates, New York, New York, to build a multi-tenant, free-standing sign measuring 14' x 6' for a total of 84 square feet, but not to exceed 100 ft., as per Article XXIII, Section 175-133(L)(1) of the Zoning Ordinance, for the property shown on Tax Map 5, Lots 1-1 and located at Mill Plaza, in the Central Business Zoning District. Richard Ozenich SECONDED the motion.

Councilor Smith asked Mr. Sheehan if he would consider moving the sign if there were issues with it.

Mr. Sheehan said he would consider this. He noted that the reason he had wanted to make it larger was so there would be less chance of hazards.

Councilor Smith said the proposed sign was a great idea, and would remind people who did know how to get to Mill Plaza that all these businesses were located there. But he said he hoped that at some point, there would be some directional information inside the Plaza as well.

There was further discussion about the idea of providing signage within the Plaza.

Mr. Roberts noted signage he had seen in Europe, Boston, and elsewhere that included local directional finders so people could find local businesses and other buildings. He provided details on this.

Ms. Fuller said when she had first seen the proposed sign, she had asked why the 4 ft under the sign was included in the square footage of the sign.

Mr. Campbell said Mr. Johnson was the person to talk to about this.

The motion PASSED unanimously 7-0.

VIII. Acceptance Consideration on an Application for Site Plan Review submitted by Thomas Christie, Slania Enterprises, Durham, New Hampshire, to build an addition onto a commercial building to be used for mixed use commercial/residential. The proposed addition will be 14' x 72' or 1,008 square feet. The property involved is shown on Tax Map 4, Lot 9-0, is located at 12 Jenkins Court, and is in the Central Business Zoning District.

Mr. Christie spoke briefly to the Board about the application. He explained that there were currently 6 dwelling units in the building, and said he was looking to do some infill on the property, using the grassy area next to Houghton Hardware. He said this infill reflected the Master Plan.

He said when he was before the Board previously to do the middle building, at that stage the Ordinance hadn't changed, so he went for a variance, which only covered the building and not this space as well. He said the Zoning Ordinance now allowed for the increase in density. He noted that the density (number of residents) he was proposing was significantly less than what was allowed by the Ordinance

There was discussion that this application was separate from the site plan application Mr. Christie had previously brought before the Planning Board. .

Mr. Christie explained that if things worked out, he would do the work on this project and the work related to the previous site plan application concurrently.

Mr. Campbell said the application was complete and recommended that the Board accept it. He suggested that the site walk could be done around the same time as the site walk for the 6 Jenkins Court application.

Richard Kelley MOVED to accept an Application for Site Plan Review submitted by Thomas Christie, Slania Enterprises, Durham, New Hampshire, to build an addition onto a commercial building to be used for mixed use commercial/residential. The proposed addition will be 14' x 72' or 1,008 square feet, at the property shown on Tax Map 4, Lot 9-0, located at 12 Jenkins Court in the Central Business Zoning District. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

It was agreed that there would be a site walk on May 8th, at approximately 12:00 pm.

IX. Acceptance Consideration on a Conditional Use Permit Application submitted by Steven F. Kimball, Auburn, New Hampshire for the replacement of one existing, single-family home with another single-family home and for the renovation of a second, existing single-family home. The property involved is shown on Tax Map 2, Lot 6-0, is located at 20 Strafford Avenue and is in the Professional Office Zoning District.

Mr. Kimball first noted a correction that both buildings on his property had been constructed at about the same time. He said he had wanted to do something with the rear building for some time, and noted that while he had been before the Board with a much larger project within the past few years, the investment money needed for this project wasn't available. He said he was therefore looking to do something smaller.

He said the building in back needed repairs, and said instead of doing this, he would like to remove it and replace it. He spoke about the fact that the site was located in the Professional Office District, which did not allow single-family dwellings, but he said they were considered to be a legally grandfathered, non-conforming use.

He noted that the cabin he wished to replace had been added to over time, and also said building a new building within the existing footprint would be difficult and inconvenient. He said he would like to increase the square footage to accommodate the current design

standards, and said he was proposing a rectangular foundation that would measure 24 ft by 42 ft.

Mr. Kimball said a preliminary site plan had been provided, and said the key thing was the drawing that showed the wetland boundary. He noted that at a meeting with Town staff, concern had been expressed about this. He said he would adjust the siting of the building slightly so it didn't increase the incursion into the wetland buffer zone at all. He said if it looked like a reasonable site plan in general, he would have the final plans done by an engineer.

He said in the application, he had submitted the three elements he was proposing to do:

- Replace and expand the rear unit building
- Renovate the front building
- Adjust the driveway, parking area and garage

He said right now, he would like to talk about the first two elements, keeping the driveway access as it was for now, and then address it separately. He noted that the adjustment of the driveway, parking area and garage impacted the wetland buffer, and would require Conservation Commission review. He said the existing drive would work, but would not be very convenient for the back building.

He said an item that had come up was whether, if the size of the building increased, stormwater runoff would increase on the site. He spoke in detail on the results of the drainage analysis from the previous site plan application, and said the change he was now proposing, to add 300 square feet of roof area, would be inconsequential from an engineering perspective.

Mr. Campbell said the application was complete, and said the Board should schedule a Public Hearing for May 13th. He also recommended that the Board do a site walk.

Susan Fuller MOVED to accept the Conditional Use Permit Application submitted by Steven F. Kimball, Auburn, New Hampshire for the replacement of one existing, single-family home with another single-family home and for the renovation of a second, existing single-family home, at the property shown on Tax Map 2, Lot 6-0, located at 20 Strafford Avenue in the Professional Office Zoning District, and sets the Public Hearing for May 13, 2009. Councilor Smith SECONDED the motion, and it PASSED unanimously 7-0.

After discussion, it was agreed that a site walk of the property would be done on Friday, May 8th at 11:30 am.

X. Other Business

A. Old Business

B. New Business

Mr. Campbell said the Source Water Protection Committee as well the Durham Business Park Committee were being formed. He said a Planning Board representative was needed for each of these new committees.

Councilor Smith volunteered to be on the Durham Business Park Committee, and Mr. Kelley volunteered to be on the Source Water Protection Committee. Mr. Roberts said he would volunteer for the Source Water Protection Committee as well.

Request for Technical Review by Fitts Farm Condominium Association

Mr. Ozenich explained that Fitts Farm had an area that had grass but had concrete blocks underlaying in order to support Fire Department trucks when they had to turn around. He said the Association had maintained the grass and had also done snow plowing of this area.

He said some residents of Fitts Farm had complained about this. He said the Fire Department didn't even know the underlay existed, and also said it preferred to turn around on the driveway. He then explained that it was a condition of approval of the site plan approval that the Association had to do the maintenance of this grassy area.

He said the Association felt that since the Fire Department didn't use this area anyway, the requirement that the Association had to maintain it could be eliminated.

The Board briefly read through the Conditions of Approval for the Fitts Farm development as they related to this issue.

Richard Kelley MOVED to send this matter to the Technical Review Committee. Susan Fuller SECONDED the motion, and it PASSED 6-0-1, with Richard Ozenich abstaining.

XI. Approval of March 25, 2009 Minutes

Page 1, first motion, Susan Fuller should be capitalized.

Page 7, motion should say "Richard Kelley MOVED to accept..."

5th paragraph from bottom should read "It was agreed that..."

6th paragraph from bottom should read "Mr. Sievert said Mr. Roberts..." This paragraph should be separated from the one beneath it, which should read "He said in anticipation of....."

3rd paragraph from bottom should read "Mr. Roberts said this involved a plan for offsetting demand for parking. He noted that the Board had....."

Bottom paragraph should read "Mr. Sievert said the thought process was that this particular applicant was saying that he had to pay for the parking spaces, and that 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.

Page 9, motion should read "...Susan Fuller SECONDED the motion,...."

Page 11, 3rd paragraph, should read "Mr. Gsottschneider said in 25 years..."

Page 14, 2nd full paragraph, period needed at end of sentence.

Page 15, 5th paragraph from bottom, should read “..and the site plan review in 2009. He said building....”

Page 17, 3rd paragraph, should read “Mr. Roberts said a significant number of students went in and out of Durham....”

Richard Kelley MOVED to accept the March 25, 2009 Minutes as revised. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.

XII. Adjournment

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

Adjournment at 10:02 pm.

Victoria Parmele, Minutes taker