

*These minutes were approved at the August 11, 2010 meeting.*

**Durham Planning Board Agenda**  
**Wednesday June 9, 2010**  
**Durham Town Hall - Council Chambers**  
**MINUTES**  
**7:00 P.M.**

**MEMBERS PRESENT:** Chair Lorne Parnell; Vice Chair Susan Fuller; Secretary Stephen Roberts; Richard Ozenich; Bill McGowan; Councilor Julian Smith; Wayne Lewis; Councilor Bill Cote

**MEMBERS ABSENT:** Richard Kelley; Kevin Gardner; Peter Wolfe

**I. Call to Order**

Chair Parnell called the meeting to order at 7:05 pm.

**II. Approval of Agenda**

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

**III. Durham/UNH Traffic Model** - Presentation of the traffic model based on the conceptual design for the redevelopment of the Mill Plaza prepared by the Mill Plaza Study Committee.

Robert Chamberlin from RSG Inc., spoke before the Board about the use of the traffic model to do some “what if” scenarios concerning the redevelopment of Mill Plaza and how this would affect traffic.

He first provided some background information on the model itself, and then presented a slide show on the findings when applying it to the redevelopment of the Plaza. Among other things, he noted that peak am data was used in the model, and also explained that 91 different zones were differentiated in the model.

Mr. Roberts asked how the model had taken into account the traffic light at the Route 108 intersection and the fact that traffic backed into Main Street in the afternoon.

Mr. Chamberlin said the model didn’t account for this, and explained that what would be needed for this was a series of traffic counts at that time, and then a calibration of the model for this. He said there had been discussions about doing a pm peak hour model, which reflected the fact that traffic patterns were very different then. But he said his company had not been charged with doing this yet.

Mr. Campbell said this was a funding issue, and said the Town and UNH were working toward doing it.

Councilor Cote asked how the 91 zones were developed, and Mr. Chamberlin said they had first looked at the main arterials leading into Town from outside. He said they then identified collections of land uses that were finite, which data could be collected from, and which could be related to the road network in an understandable way. He provided some examples of this.

He noted that the Mill Plaza design workshop had been going on while the traffic model was being developed. He said from a transportation standpoint, the key element that came out of this process was the connector road south of the site, heading north to a new intersection at Main Street and Madbury Road, where traffic would be controlled with a roundabout.

Mr. Chamberlin spoke about new traffic patterns that could result from new land uses at the Plaza based on the preferred design scheme, and said they were primarily interested in looking at how development would impact the intersections and beyond. He said the land uses included an increase in the size of the grocery store and the pharmacy, more commercial retail, more office space, an expansion of the library, and also some housing. He noted that a hotel was included in the design at one point but got phased out. He also said parking was imagined on the site.

He said it was determined that there would be about 300 vehicle trips in and out of the site in the morning from one intersection, as compared to 160 trips now. He spoke about the concept of vehicle miles traveled (VMT), and said it was a good indicator of the additional traffic there would be when a land use change was made. He also noted that this concept could be used as a possible basis for collecting taxes to support transportation improvements. He said the VMT in the am peak hour in Durham now was 16,665 miles, and said with a build-out of the Plaza, it would be an additional 378 miles.

Mr. Chamberlin said they had looked at how a new access to the Plaza and a roundabout would impact traffic flows and the intersections. He noted that this was a network type model, where vehicles had some options for getting from point A to point B. He explained that when a vehicle decided to take a different route, this created impacts on other trip choices, and said the model helped them figure this all out. He noted that with a typical traffic study, they were only looking at isolated intersections

He said the findings of running the model were that there was adequate capacity, especially with a new road and roundabout, to support the preferred re-development design at Mill Plaza, and that there would not be adverse traffic impacts, at least in the morning. He said a new access road would provide a new routing alternative, and represented new capacity, so would be a positive benefit.

Mr. Chamberlin said a critical issue, if the Town were ever at the point of evaluating a site plan for Mill Plaza that included a new access road, would be how to provide access to the parking area. He said it would be very important to minimize the number of curb cuts.

Concerning a roundabout design, Mr. Chamberlin said they had been proven to be quite safe, and were safer than traffic signals. He noted that currently if someone was coming down Main Street, traffic flowed freely and there was no delay. But he said if a roundabout was put in, cars would have to yield. He said he didn't think that would be a serious problem, and noted that the additional delay

because of this would cause some people not to use Main Street. He said this had been an interesting result of running the model.

He said if there was to be a roundabout, it should operate as a single lane roundabout, and said as part of this, the roads feeding into it could be narrowed down to one lane, and said perhaps the pavement not used could be reclaimed for additional parking, vegetation, bike lanes, etc. He provided details on this, and noted that a lot of urban areas and downtowns were finding ways to keep capacity while also using their travel lane areas in more creative ways. He noted the planned experiment with Pettee Brook Lane, and said this would work well with a single roundabout design.

Mr. Chamberlin said there was more detail on the traffic model in the memo he had provided to the Board.

Chair Parnell said the traffic model assumed that if new roads were presented, people would change their route over time to look for the fastest way to get around.

Mr. Chamberlin spoke in detail on how the traffic model took this into account, explaining that there was an algorithm in the model that was able to distribute traffic to the fastest routes. He said the model assumed that people had knowledge about the fastest routes in making their decisions.

Mr. Ozenich asked how large the roundabout would be, and presented a possible scenario where a 16 wheeler was coming to Mill Plaza from Route 108.

Mr. Chamberlin said the roundabout would need to be designed to fit that. He said he believed there was a way to design it for a size that would accommodate truck traffic.

Councilor Cote noted that a roundabout would allow trucks to drive up on the inside of it.

Mr. Chamberlin said he didn't know if the B. Dennis charrette had looked at this issue, but said it was a good question, and would have to be answered if a roundabout was being considered.

Mr. Roberts noted two-lane roundabouts he had seen in Colorado, which could accommodate bursts of traffic that would overwhelm a one lane roundabout. He asked if this could be used in Durham. Mr. Chamberlin said a two-lane roundabout was designed for over 2000 vehicles per hour, and said the numbers in Durham were well below that amount.

Mr. Roberts said the model run hadn't take into account through traffic, and asked if traffic from a redeveloped Plaza would result in more interference for these cars than there was now.

Mr. Chamberlin asked for specifics on which traffic Mr. Roberts was referring to, and Mr. Roberts said he was thinking about rush hour traffic leaving the UNH campus.

Mr. Chamberlin noted again that the roundabout would insert some delay at the intersection so would cause trips to be longer, but only by a couple of seconds.

Mr. Roberts said the B. Dennis charrette had considered opening several other road systems as

traffic networks and for parking. He asked if there was a plan to look at this as part of later discussion.

Mr. Campbell noted that the model Mr. Chamberlin was discussing was run before the charrette was held.

Mr. Roberts noted the plan for a road by the Community Church, and possibly opening Chesley Drive to low volume traffic.

Mr. Campbell said there had been discussion about going forward with that next step. He said there would probably be some traffic runs based on this later.

Chair Parnell asked who owned the model, and Mr. Chamberlin said there was data in it that the company considered the Town's and the University's. But he said they would need to purchase it in order to run the model themselves.

University Transportation Planner Steve Pesci said a reason UNH had decided to invest in the model was the ability to test various scenarios, regarding Mill Plaza, the B. Dennis charrette proposals, and University proposals for housing and roads. He said the Town and the University now had a shared, objective tool, with a third party running it and evaluating it. He said it was a great step forward to have this state of the art, objective tool. He said they could each request model runs, but really needed Mr. Chamberlin's firm to do the model runs.

Mr. Pesci said it was understood that the pm model was the next step, and said some decisions needed to be made about possible resources to get it done. He said it had been a pleasure working constructively with the Town on the model, and said it had really moved things down the road in terms of traffic planning, as well as looking at things like air quality impacts, using the VMT variable.

Mr. Roberts noted that in his work, he had analyzed flow management in factories. He spoke in some detail on this, and said there seemed to be a problem getting an overall plan for the Town's traffic flow management under control. He said he had been looking for the model to get at this.

**IV. Stormwater Management** - Final Discussions on amending the Site Plan Review Regulations and Subdivision Regulations regarding stormwater management and setting a public hearing date on the amendments.

Mr. Campbell noted that he had provided a copy of the draft that tracked the changes so far, along with a clean copy.

Chair Parnell asked if there were any outstanding issues.

Mr. Campbell said he had spoken with Mr. Cedarholm about most of the changes the Board had made, and said he agreed they were good.

He noted that the Board had had some questions regarding 4) d on page 6: "All areas that receive

rainfall runoff must be designed to drain within a maximum of 72 hours for vector control”.

Mr. Cedarholm said the reason it was written this way was to address mosquitoes.

Mr. Roberts asked how this issue related to rain gardens, and Mr. Cedarholm said it would be important to design a rain garden so it drained and didn't puddle. He said if the water did puddle, it would turn into a wetland, and said it would then be hard to maintain the area without having to have a dredge and fill permit. He said if the wetland was wanted, that was one thing, but said if the goal was filtrating water from the parking lot or infiltrating water, this wouldn't happen if the water tended to puddle.

Mr. Roberts noted the rain garden proposals that had been coming before the Planning Board as part of applications, and said they hadn't held up the applications.

Mr. Cedarholm said there was a rain garden at the Episcopal Church that had an under drain. He said he had been asking engineers to provide under drains with their rain garden proposals, and he noted that the Caldarola subdivision rain garden would have under drains so filtration would occur. He said there would be 3 ft of sand under the top soil and then the under drain.

He said without this, if the soils in the rain garden weren't quite right, or if over time they clogged, it would become a wetland over time. He noted that there was a provision under the design standards section concerning under drains. He said a perk test would need to be done, and said if the soil drained nicely over 72 hours, an under drain probably wouldn't be needed. He said with clay soils, a rain garden could be done if an under drain was put in.

Councilor Smith asked where under drains drained to, and Mr. Cedarholm said there needed to be a location down slope so there was a place for the water to daylight. He noted that there was a wetland where water from the Episcopal Church's rain garden went to. He said these things had to be determined on a site specific basis.

Councilor Smith noted that much of the low land in Durham was wetlands, and Mr. Cedarholm said it wasn't a problem to daylight to a wetland. But he repeated that these things would need to be considered on a site specific basis for each application.

Mr. Campbell noted that on page 8, 4) r said: “Whenever practical, all subsurface filtration BMPs shall include perforated under drains...”, and asked if there would be instances where it wouldn't be practical.

Mr. Cedarholm explained that there could be an infiltration basin that also filtered water, and said in a situation where the subsoils had a lot of clay and didn't infiltrate well, a filtration structure with an under drain could be put in. He said if there were A or B soils, a filtration structure could be build without an under drain. But he said this would be something that needed to be examined on a site by site basis.

He suggested that both 4) q and r should say “wherever practicable”, which meant wherever possible. He said if there was a subsoil with a very low perc rate, and it wouldn't drain in 72

hours, the rain garden was no longer an infiltration structure, and would turn into a wetland.

Mr. Campbell noted the change that had been made to the definition of water quality volume on page 3. He also pointed out that under General Requirements in 9.03 A, the wording regarding Alteration of Terrain permits had been added. He said applicants getting a permit wouldn't need to do a stormwater management plan, but would still have to provide an operation and maintenance report as part of the Town requirements.

Mr. Cedarholm suggested saying "the Town stormwater management plan required in part B of this section" instead of saying "Town plan". He also said this section should say "operation and maintenance plan".

Mr. Campbell said on page 5, under C 3), it now said: ".....the most current New Hampshire Stormwater Manual, and also said under 9.03.1 A 2), it should say "current revision". He also said that 9.03.1 A 30 b. now said "New Hampshire Department of Environmental Services".

He said under 4) a, on page 6, the wording said: "Stormwater and erosion and sediment control BMPs shall be located outside the specified buffer unless otherwise approved by the Planning Board.

Mr. Cedarholm said this provided some much needed flexibility.

Mr. Campbell noted wording in 4) h on page 7: Infiltration structures shall be in locations with the highest permeability on the site, and Mr. Cedarholm said this was great.

Mr. Campbell said there had been questions by the Board about 4) i on page 7, in terms of enforceability, how costly it could be to meet the requirement, and whether it was even needed if 4) h was set up properly. He said it was the off site channel erosion and how one would be able to pinpoint where came from, which the Board had questioned in terms of enforceability. He said the Board hadn't removed i, but had said this should be discussed.

Mr. Cedarholm said this was basically stock language in almost all stormwater regulations. He noted that there was language in the current regulations that required an easement if downstream, off site discharge of stormwater was predicted. But he said the point was well taken that if the applicant would be doing what was required in h and controlled the peak runoff rate and volume, then they might consider taking out 4) i.

Chair Parnell said he would recommend that.

Ms. Fuller agreed, and said the wording was vague in terms of what measures would be taken, and where to stop.

Councilor Smith suggested the wording "all practicable measures" be used.

Mr. Ozenich said 4) i specifically addressed erosion.

Mr. Cedarholm suggested including part of i in h.

There was further detailed discussion on how these provisions could perhaps be changed, including the idea of eliminating 4) i as a separate provision, and adding a sentence to 4) h.

Mr. Roberts referred to wording on page 14 of the current site plan regulations regarding this issue, and Mr. Cedarholm said that was the intent of h, although it didn't specifically speak to the issue of downstream impacts. He said he thought 4) i could be taken out.

There was further discussion.

Mr. Cedarholm explained that 4) i was left over from the days when a small increase in rate and volume was allowed. He said that was what they were trying to prevent in h, with the wording "...does not exceed pre-development runoff...", and with infiltration to groundwater based on soil type, even though it didn't specifically speak to on as well as off site impacts. He said if post development peak rate and volume were truly controlled, this should be managing off site downstream flows. He said that was certainly the intent of h.

He said it would be up to the system designer to come up with the BMPs to achieve this. He also said he agreed with Mr. Roberts that they would cover themselves if they retained the wording from the existing regulations.

After further discussion, Mr. Campbell summarized that 4) i would be deleted, and a sentence would be added to 4) h that said "measures shall be taken to protect against the on and off site peak flow to prevent the overloading of existing downstream facilities".

Mr. Roberts noted that for the layman, adding that wording from the existing regulations would make things clearer.

There was next discussion on 4) m on page 7. Mr. Campbell said Mr. Kelley had asked what the quantity of disturbed area should be, and if it should say 15 days instead of 30 days.

Councilor Smith commented on the wording "an area remaining idle", and Mr. Cedarholm suggested using the word "un-vegetated" instead.

Councilor Smith said he thought this provision was referring to a site where development activity had ceased.

Mr. Cedarholm suggested the wording "un-stabilized". He also said he had no problem with 15 days, but said he thought 30 days was reasonable.

It was agreed that the following wording would be used for 4) m: "Disturbed areas shall be stabilized within 30 days."

Mr. Campbell next asked what was meant by "subwatershed" under 5) on page 8.

After discussion, Mr. Cedarholm suggested that the wording that could be used instead was “watershed within the Town of Durham”.

There was next discussion about 5) on page 8 concerning Redevelopment Project Requirements. Mr. Campbell noted that Mr. Kelley thought the provisions under redevelopment of sites with more than 40% existing impervious cover would be tough to implement.

Mr. Cedarholm said Mill Plaza was 100% impervious so to redevelop it, they would only need to provide stormwater management for 30% of the impervious area there, and for 50% of the new development. He said this was a reasonable approach, and said the idea was to encourage redevelopment to happen, but also do some real improvement in stormwater management.

He said Mill Plaza currently didn’t really do anything to address stormwater. He noted that with the recent site plan application for the Plaza, some designs were put together that provided some great opportunities to manage stormwater on the parking lot differently. He provided details on this, and said with these approaches, 100% of the runoff could be managed. He also said something could be done concerning roof runoff, and said he therefore thought the numbers in the draft regulations were reasonable.

Mr. Campbell noted the deletion of provisions in the draft concerning bonding as well as the submittal of as-built plans because they belonged in other parts of the Site Plan Regulations.

Mr. Cedarholm summarized that the Board had done some great work on the draft regulations since the last time he had met with them.

***Steve Roberts MOVED to send the draft Site Plan Review Regulations and Subdivision Regulations regarding stormwater management , as amended, to Public Hearing on July 14, 2010. Susan Fuller SECONDED the motion.***

Chair Parnell appointed Mr. Lewis as a voting member in place of Mr. Kelley.

***The motion PASSED unanimously 7-0.***

Mr. Campbell suggested that the Board discuss the Pettee Brook Lane design change at that point in the meeting rather than under Old Business, so Mr. Cedarholm could leave the meeting after that discussion.

## **VIII. Other Business**

### **A. Old Business - Pettee Brook Lane experiment**

Mr. Cedarholm said the idea with this temporary design change was to slow traffic down on Pettee Brook Lane and also provide some parking. He said 17 parking spaces would be provided on the left side of Pettee Brook Lane. He also said a yield sign would be put in for cars coming north onto Pettee Brook Lane from Main Street, instead of where it was currently placed for cars

traveling south on Madbury Road.

He said Pettee Brook Lane was a wide road right now, and said there would be a 6 ft bike lane created on it. He said the idea was not to make the bike lane so wide that it looked like a travel lane for cars, and he provided further details on the design that was proposed. He noted that if an emergency vehicle was coming down the road, cars would be able to pull into a bike lane so the vehicle could get by.

Ms. Fuller asked if notices would be put up in any direction about the new traffic pattern.

Mr. Cedarholm said a message board would be moved around to let people know about the experimental traffic pattern.

Mr. Roberts said what had killed two way traffic in the old days was what happened when people did parallel parking in front of the bank. He said this had really stopped traffic. He also noted possible problems with the bike lanes that were proposed, and there was discussion about the viability of bike lanes as part of the design.

Mr. Cedarholm said this would be a temporary experiment, and said it would be reviewed in mid July, to see if there were some things about the design that needed to be changed.. He also said it would also be evaluated half way through August.

Chair Parnell asked if there would be formal monitoring of the traffic on Pettee Brook Lane.

Mr. Cedarholm and Mr. Campbell said speed counts would be done before the design change, and then after the road was down to one lane. He said if the experiment was successful, speed counts would also be done when school was back in session in the fall.

Mr. McGowan asked if there were existing speed counts for Pettee Brook Lane, for when the students were in Town, and Mr. Campbell said no.

Mr. Ozenich said the roundabout should be built first, because it would mess that design up.

Councilor Cote said he was concerned about the pinch point at the Tedeschi lot, and said this would need to be monitored. He also questioned the idea of parallel parking on Pettee Brook Lane.

Mr. Cedarholm said if a problem was seen, some parking spaces there could be eliminated, to give cars more room to merge. He noted again that the design would be looked at after two weeks.

Councilor Smith said if people were given more room to merge, they would speed up. He then asked if the number of cars going north and turning left onto Pettee Brook Lane was greater than the number of cars going south on Madbury Road and turning right.

Mr. Cedarholm said it was greater, and said the ratio was probably 3-4 to 1.

Councilor Smith said it was therefore counter-intuitive shifting the yield sign to the other direction. He said it made more sense for people coming south onto Pettee Brook Lane to yield to people coming north.

Ms. Fuller said putting a new yield sign in would slow people down.

Mr. Cedarholm said the proposed location of the yield sign would help with people coming in and out of the Tedeschi parking lot, and said if the people coming from Main Street realized they had to yield, it might calm them down.

Councilor Smith said it also might back cars up to Main Street.

Mr. Ozenich said if the traffic backed up there, it would slow cars down from getting out of the Post Office site.

Mr. Campbell said it might actually help people to get out of that site because cars would be slowing down there.

Mr. Roberts suggested re-striping the entry from Madbury Road North to emphasize a stop line prior to entry onto Pettee Brook Lane.

Mr. Cedarholm said that was a consideration. He said forcing cars coming from Main Street to yield should calm the traffic.

Mr. Ozenich said the problem on that road was people crossing from lane to lane, as well as people coming from the Tedeschi market. He said it was a harder turn from Madbury Road onto Pettee Brook Lane, so that people had to slow down, whereas people came in flying from Main Street.

Board members agreed that experimenting with the proposed traffic design was worth a shot.

**V. Discussion on leased parking** – Discussion on the Town Council's request that the Planning Board review the leasing of parking spaces within the Town of Durham.

It was noted that the Town Council Minutes that had been provided on this issue were in draft form.

Chair Parnell asked Board members how they wanted to address this issue. He said what had been suggested was that the Ordinance be changed to allow this to happen.

Councilor Smith suggested that there could be a definition of leased parking, and could then permit leased parking in some areas by right or by Conditional Use.

Mr. Campbell said right now, the Town allowed surface parking in a lot of different areas, and was approving this and not specifically leased parking.

Councilor Smith said at Mill Plaza, going from customer and employee parking to lease parking

would be a change of use.

Mr. Roberts said he thought Councilor Gooze had made some excellent points that if a property owner, regardless of area, had a certain number of allowed spaces, it should be within his right to lease some of those spaces, while the idea of setting up parking to be leased was a business, and should be addressed separately. Mr. Roberts explained how this would work in regard to Mill Plaza and its parking spaces.

He and Mr. Campbell agreed that something like this could be approved under a Conditional Use permit. Mr. Roberts said as a homeowner, he would be able to lease three spaces if he didn't need the space himself, and if he asked for any more than that, that would constitute a change of use. He said that approach seemed like it was going in the right direction.

Mr. Ozenich determined that there were people who were increasing their paved area in order to accommodate this.

There was discussion on how something like that could be regulated, and Mr. Campbell said it could be gotten at with a lot coverage requirement.

Councilor Smith noted that Councilor Niman had provided 3 suggestions at the Council meeting where this issue was discussed. He said he had asked why not have a 4<sup>th</sup>, which was to not regulate the leasing of spaces. He said a business wouldn't lease parking spaces at the risk of turning away customers.

He said there hadn't been real harm at Mill Plaza, even though leasing of spaces had occurred. He said customers and employees were able to find spaces there somewhere. But he said the option of doing nothing was not what the Council had decided and sent on to the Planning Board.

Mr. Ozenich asked how severe the problem was other than where student housing was involved, and Chair Parnell also asked where the problem was.

Mr. Roberts said Councilor Niman had said there was a problem because the Mill Plaza parking application was denied in part because of the leasing of spaces.

Chair Parnell asked where the regulations said this was illegal.

Mr. Campbell explained that the parking spaces needed to be accessory to the principle use. He said the parking spaces at the Plaza were required for those businesses, and said if they were leased to somebody else, the business owners, customers, etc. couldn't park there. He said this was therefore establishing a new use that had nothing to do with the principle use. He said those spaces in such a situation were not considered to be accessory to that use.

He said meters could be put in at the Plaza, but said they would have to be used by people using those businesses. He also said if spaces were leased out, there were no longer the required number of parking spaces for the uses there.

Chair Parnell said an issue with the attorney had been that some of the spaces were leased on this

parking lot where the rest of the spots were free.

Mr. Campbell said the issue was that by leasing parking spaces, this created a new use.

Mr. Roberts said Mill Plaza had started leasing spaces and then had used the income from this to pay a parking attendant, which had wound up saving other spaces for customers. But he said the outcome was used against them.

Mr. Campbell said if the Plaza applied for a Conditional Use permit to having parking spaces to lease out, and they still had plenty of parking for the uses already there, there wouldn't be a problem.

There was discussion about an outdated list of properties around Town that leased parking spaces. Mr. Campbell noted that the church rented spaces that it didn't need during the week.

Mr. Roberts said they met the test of providing parking for their use, and therefore be allowing to rent the surplus.

Mr. Campbell questioned whether this was actually a surplus because they needed a lot of spaces as a place of assembly, although they only met once or twice a week.

Councilor Cote said Mill Plaza was being penalized because they were busy 7 days a week, and said there needed to be some equitability if this concept was going to be applied.

Mr. Campbell said that was Mill Plaza's argument, that if the Town was going to enforce this for them, it needed to do this for others as well.

Councilor Cote and Ms. Fuller agreed that this was a good argument.

Mr. Campbell said he had done a quick calculation and determined that there were about 186 spaces being leased, based on the list of properties he had. He said if the regulation was enforced now, a question was where the people who parked in these spaces would go.

There was further discussion, including discussion on how other towns and cities in NH handled this issue. There was also discussion on the idea of shared parking for adjacent facilities, and also the idea of parking credits.

Ms. Fuller determined that the Town currently had a wait and see attitude regarding leasing of parking spaces at the Plaza.

Chair Parnell asked if there was a simple, definitional thing the Board could do.

Mr. Roberts said by engineering a different system, the Plaza had made their parking more efficient. He provided details on this, and said he didn't know why the Town was punishing them.

Councilor Smith said the Town wasn't punishing them. He said the Town had not said they

needed to provide more parking. He said Councilor Niman had connected the denial of the application to the fact that there was leased parking. He said that was part but not all of the reason for the denial.

Mr. Campbell said even if the leasing issue hadn't come up, the Board would probably have denied that application.

There was discussion about Mr. Johnson's role in terms of this issue. Mr. Campbell said Mr. Johnson was reactive when he got a complaint about a property, but was not being proactive about it.

Councilor Smith said there were all kinds of good arguments that if parking was allowed in residential neighborhoods, especially near the University, some property owners would lease spaces, which would lead to more traffic and noise. He said he recognized that this would be annoying to some citizens, while others would get some advantage from it. He said Councilor Niman had spoken about rental of spaces to students, but noted that some of the leased spaces in Town were for UNH faculty and staff, and employees of local businesses.

He said Durham had an informal system which acknowledged that there was not enough parking for people at the University. But he said the new large buildings without parking might actually lead to a number of students not bringing cars to Durham.

Mr. Pesci said freshman were banned from having cars on the UNH campus. He also noted that there originally had been a mutual agreement between the Town and the University that this policy as applied to the use of the Depot Road parking lot would be honored.

But he said these spaces were now leased to anyone. He said while the University banned freshman from having cars on the campus, this ban needed to be across the board.

He said the situation right now was that the Town had a don't ask don't tell policy.

Mr. Pesci said the University didn't ask how many spaces the Town rented, but said for the past 9 years, the message to students had been that there was a free transportation system.

Councilor Smith asked if the University also encouraged students living off campus to come without a car.

Mr. Pesci said UNH encouraged all students to come without a car, and said this was why buses and trains were available to them.

Mr. Roberts said it was realized that students were under more and more pressure to have to work while going to school. He also said it would be nice not to punish the Plaza for policing the parking area.

Mr. Campbell asked where people were going to park if they were not parking there.

There was discussion on how the Plaza could proceed. Mr. Campbell said if the Plaza wanted to make the back part of the lot the location where they leased spaces, they could apply for surface parking as a Conditional Use.

He said also that under Section 175-113 of the Ordinance, they could ask for more than 10% additional parking under Conditional Use, saying to the Planning Board the leased spaces were needed in order to be able to provide the enforcement that allowed them to keep the other spaces open for customers and employees. He said this was a perfectly fine argument, and said what it came down to was that this had never happened. He said they had asked for the same amount of additional parking as the leased parking they already had.

Mr. Campbell said the Council had asked the Planning Board to do option #2, which was to allow property owners to rent legal parking spaces.

There was discussion about which property owners were being referred to in what the Council had sent to the Planning Board.

Mr. Campbell said the Board needed to decide if it wanted to do this, and if so, how.

Mr. McGowan asked if leased parking could be made a Conditional Use for everyone in Town, and Mr. Campbell said technically, the regulations said that already.

Councilor Cote said he had discussed with Mr. Johnson the fact that if he wanted to pave his front yard and provide parking there, there would be setback, lot coverage, and other issues to consider.

Mr. Ozenich said once the Planning Board put this out to the public, it would get a lot of input.

Mr. McGowan said he thought the Board could either leave things as they were, or say leasing of spaces was allowed, and said he didn't see any options in between.

Mr. Roberts said #2 sounded reasonable, but asked if it covered everything.

After further discussion, Mr. Campbell said he would develop some language and bring it back to the Board.

## **VI. Unfinished Business List – Review and update the Unfinished Business List.**

Chair Parnell noted that #3, the Central Business District Strategic Plan for the Community Core, was in the works.

There was discussion on #3, Update of the Master Plan, and Mr. Campbell said the Master Plan steering committee would be created soon, and would be working with the consultant, the Planning Board and members of the public on specific chapters that needed to be updated.

Mr. Roberts said the Planning Board had previously been at the top of the planning tree, and said the approach had been that a strategy was developed by the Board before being given to other entities. , but said he was concerned about the process now, where they heard about the B. Dennis process on Friday Updates. He said he wasn't sure that the Board's role in this was what the RSA intended it to be. He said he had no issues with the basic philosophy of new urbanism, but said the B. Dennis plan was a Planning Board document, yet it had been put together elsewhere.

Mr. Campbell said that wasn't the case concerning the Master Plan. He said he envisioned this would be a process where the Master Plan Steering Committee would be working with the Planning Board and the public on visioning. He said the consultant could then take the ideas from the visioning sessions, develop a draft document, and then work on it with the Planning Board. He said that document in final form could then be put into the Master Plan. He said the Planning Board would play a crucial role in this process. He also noted that the B. Dennis process was set up to be different than the Master Plan process.

There was discussion on Issue #5 on the list, which was to investigate the idea of a possible minor site plan review/change of use process. Mr. Roberts noted that Hanover had regulations like this, which were an outgrowth of a planning board subcommittee. He said the operating procedures for this were set up by the planning board and the actual application itself would be voted on by the planning board. He said this process could in this way be an outgrowth of the planning board, and not Kaizenized out to another group. He said he thought the RSA said that this was the way it was supposed to happen.

Mr. Campbell said there were towns that handled changes of uses administratively. He said there some things that just didn't need to go to the Planning Board.

There was further discussion between Mr. Roberts and Mr. Campbell.

Mr. Roberts said his concern was that the reason that the review of an application was sometimes a drawn out process was the involvement of the public, and was not the fault of the Planning Board. He said the public hearing exposed issues that took time to work out, and said a question was whether that was good public policy.

Councilor Cote said perhaps in the process of streamlining, the option would always be for the Planning Board to schedule a public hearing..

Mr. Campbell said even if there were some applications that stayed with the staff, there could be wording in the regulations that said it could be appealed to the full Planning Board.

Mr. Roberts said his understanding was that the Hanover process wasn't a staff function, and was handled by something like a subcommittee of the planning board. He said it might also include staff members, and he provided further details on how the process itself could be refined as issues came up. He noted that he had voted against sending the picnic tables at the Gibbs station to Technical Review, and said he had since that time driven by and seen that it was located right

in front of the vent for the septic tank.

He asked Mr. Campbell to look at how Hanover and other towns handled minor site plan review/change of use.

Mr. Campbell said he had looked at some regulations, and wanted to find best practices that were being done.

Mr. Ozenich asked who would make the decision that it was a minor site plan review, and Mr. Roberts said that would be part of the decision process.

Mr. Campbell noted the current cumbersome process of handling changes of uses in Durham, and said it was crazy. But he said for some uses, it might be an appropriate process, and said that was what the Board needed to work out.

Mr. Roberts said at one time, it took about two weeks to get through an application process, but now it really took some time.

Mr. Campbell said he would further investigate how the process could perhaps be changed.

There was discussion about #4, -review and rewrite the Conditional Use checklist. Mr. Campbell said when he developed the changes in wording, he would then give them to Councilor Smith to review.

The Board next discussed possible Zoning amendments to work on. There was discussion that #4 under possible Zoning amendments, - review calculation of useable area (175-55(F) especially concerning somewhat poorly drained soils and 50% moderate depth to ledge was sent to the Conservation Commission and would be discussed by them in July.

There was also discussion that #2, the Lighting Ordinance, was a relatively low priority. Mr. McGowan noted that it had been on the list for quite awhile, and said it seemed that some of these things could be done quickly so the Board could move on.

There was discussion on #5, concerning the definition of active and substantial development or building, and substantial completion of improvements as shown on the subdivision plat or site plan. Mr. Campbell said if this was defined in the Ordinance, the developer had to meet the definition in order to get the 4 year exemption from any Zoning change. He said right now Durham's Ordinance didn't define it, so if a developer's project was approved, he automatically got the 4 year exemption.

Ms. Fuller asked what the best way to define this was, and also suggested tying it to a percentage of completion.

Mr. Campbell said some people tied it to a % of construction costs. He also explained how the second definition, concerning "substantial completion of the improvements...." came into play in terms of vesting of a plan, and thus exemption from any Zoning changes.

Concerning #6, concerning revision of the Aquifer Overlay District Ordinance, there was discussion that the subcommittee had provided a draft to Mr. Campbell. He said they had to get the Stormwater documents done first.

Chair Parnell asked if perhaps the Board should work through #4, get it off the list, and move on, and then do that with other items on the list, which had been on it for a long time.

Ms. Fuller noted that she was supposed to work on #4, concerning calculation of useable area.

Mr. Roberts noted the link he had provided to the NE Soils Scientists soils based lot size report recommendations, and Mr. Campbell said he had it.

There was discussion that the Board would wait to see what the Conservation Commission recommended concerning #4, and would then go from there. Concerning the minimum rectangular lot issue, Mr. Campbell said this language was being removed, and said there would be a public hearing on it in July.

Mr. Campbell noted the recent updates to the site plan regulations and subdivision regulations concerning stormwater management. He said there were also other updates needed for other provisions of the site plan regulations, and said a question was whether to work on specific issues that needed to be addressed. He gave as an example the fact that a provision was needed that addressed multi-tenant signs.

Chair Parnell said he thought the best approach would be to have a subcommittee look at updating the site plan regulations concerning the issues that had come up. He said this could be done once the stormwater regulations were approved.

Mr. Campbell said they should probably do the same thing with the road regulations, which hadn't been updated in a long time.

Mr. Roberts noted that 6-7 months ago, he had communicated with DPW Director Mike Lynch concerning the road regulations, and he had said he would take a look at them.

Mr. Campbell said DPW's big push was that no more private roads would be approved by the Planning Board. He said this was probably a good idea, but said a question was what the standards would be, and whether there would be different tiers of standards for different kinds of roads, and not simply something that was based on the width of snow plows and fire trucks.

There was discussion.

Mr. Campbell suggested that the Board start providing some estimated times of getting to these issues, and setting some agendas to address them.

Mr. Roberts said he would contact Mr. Lynch concerning the road regulations.

**VII. Planning Board Field Trip** – Discussion on selecting a date for the Planning Board to visit

developments that have been built in recent years.

Holiday Inn Express (formerly Hotel NH)  
Irving station  
Mixed uses Jenkins court  
Bryant development  
Rivers Edge  
Fitts Farm  
Allen Farm

Mr. Campbell noted that Allen Farm was approved right after he came to work in Durham. He said it was a cluster, then a Planned Unit Development (PUD), and eventually got approved as a PUD. He said it might or might not have turned out ok, and said it would be good to take a look at it, as well as other developments that had been approved over the past several years.

Mr. Roberts noted that he had walked by the adjacent Falls Way and Constable Road area frequently, and had found it to have a variety of housing types, often owner built. He said the properties were nicely landscaped and each lot was very individual, and noted that this was not a conservation subdivision.

He said one of the consequences of conservation subdivision could be houses that were pre built, often of similar shape and size, and with landscaping that was decided by someone else. He noted that the adjacent Falls Way and Constable Road development would not be legal under the current Zoning Ordinance. There was further discussion about Allen Farm.

There was discussion on when to do these site visits. Chair Parnell noted that the Board had to do site visits on the next two Saturdays, and could perhaps do some site visits then as well.

There was discussion that after doing the site walk of the Ionian property on Saturday, the Board could look at the Crape development as well as Tom Christie's new building. There was also discussion that the Board could do site visits of the Rivers Edge and Perry Bryant developments after attending the Kimball site walk the following Saturday.

## **VIII. Other Business**

### **A. Old Business:**

### **B. New Business:**

Mr. Campbell noted a request for Technical Review of an application to expand the Tecce Farm stand to include more bakery items, subs and prepared foods.

There was discussion that the applicants proposed to have a mobile kitchen. Mr. Campbell also noted that they would be selling items from outside the farm, and a question was whether that met the regulations in terms of being a farm stand.

Councilor Cote noted that there would be food service in addition to retail sales.

There was discussion that Emery Farms had food service. Mr. Roberts said that had been a part of their expansion.

Mr. Campbell noted that Tecce Farm was in the ORLI district, and that ORLI allowed the retail sale of farm products accessory to commercial agriculture or animal husbandry. He read the language from the Ordinance.

Councilor Cote said the Board needed to know more about what the mobile kitchen would do.

Mr. Roberts said he wanted to support them and not put obstacles in their way.

Mr. Ozenich asked whether this would be a seasonal, temporary use, when the farm stand was open. There was discussion.

Mr. Roberts noted from the Table of Uses that a restaurant or cafeteria accessory to a nonresidential use was allowed as a Conditional Use in the ORLI district. He said he believed the applicants qualified as that, and said this was how Emery Farm was going to have a takeout restaurant. He said if the application was pretty clear, the Board could get them in and out in a hurry. He noted that the Board placed this into the Table of Uses as a conditional use. Mr. Campbell agreed that the application needed to come to the Planning Board, because it was a Conditional Use.

Mr. Roberts asked Mr. Campbell to convey to the applicants that the Planning Board was supportive of their operations, and didn't see obstacles to the application.

C. Next meeting of the Board: **June 23, 2010**

## **IX. Adjournment**

***Richard Ozenich MOVED to adjourn the meeting. Susan Fuller SECONDED the motion.***

Bill Hall, Durham, said he rented two spaces in his driveway, and said more than two would be a problem. He noted that when the Kyreages property nearby started to require stickers, the trouble in the parking lot disappeared, and the trouble in the buildings also disappeared. He said controlling parking could be a key to solving problems, and he provided some examples of this.

He asked why direction the Board was going in concerning the leasing of parking spaces, and Chair Parnell said it was to allow what was happening now in effect to go on.

***The motion PASSED unanimously 7-0.***

Adjournment at 10:34 pm.

Victoria Parmele, Minutes taker

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Stephen Roberts, Secretary