

These minutes were approved at the October 13, 2010 meeting.

**DURHAM PLANNING BOARD
WEDNESDAY, AUGUST 11, 2010
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL
7:00 P.M.
MINUTES**

MEMBERS PRESENT: Vice Chair Susan Fuller; Secretary Stephen Roberts; Richard Ozenich; Town Council representative Julian Smith; Town Council representative Bill Cote

MEMBERS ABSENT: Chair Lorne Parnell; Richard Kelley; Bill McGowan, alternate Wayne Lewis; alternate Peter Wolfe

I. Call to Order

Vice Chair Susan Fuller called the meeting to order at 7:03 pm, and served as Chair in Mr. Parnell's absence.

II. Approval of Agenda

Mr. Campbell suggested that Item IX regarding the Planning Board Budget be removed from the Agenda.

Steve Roberts MOVED to approve the Agenda as amended. Councilor Smith SECONDED the motion, and it PASSED unanimously 4-0.

III. Approval of Minutes –

June 2, 2010 Minutes

Page 1 should indicate Wayne Lewis was absent.

Line 16-17, should say "Susan Fuller served as Chair for the meeting in place of Chair Parnell, called the meeting to order at 7:02 pm, and appointed Mr. Wolfe to serve as a regular member of the meeting for the time being."

Remove line 18

Page 2, line 12, should read "Mr. Roberts asked if there was money in the..."

Line 21 should say A. New Business

Page 7, motion on line 16, as well as on line 40, should read "...abstaining because he was not at the meeting."

Page 9, line 4, should read "...as they were now."

Page 10, line 5, should read "...like the service line to be underground..."

Page 16, motion at the top of the page should read "...and build a new three-story, mixed use building."

Page 17, line 18, should read “Ms. Fuller also noted that as properties got older, conditions...”

Councilor Smith MOVED to adopt the July 2, 2010 Minutes as amended. Steve Roberts SECONDED the motion, and it PASSED unanimously 4-0.

June 9, 2010 Minutes

Page 1, line 37 should read “...the traffic light at the Route 108 intersection and the fact...”

Page 4, line 7, should read a road by the Community Church, and possibly...”

Line 31, should read “..getting an overall plan for the Town’s traffic flow management.”

Page 7, lines 3-8, should be consistent concerning the notation 4)i

Page 8, line 9, should read “...for 30% of the impervious area there, and for...”

Page 10, line 18, should read “Mr. Roberts suggested restriping the entry from Madbury Road North to emphasize a stop line prior to entry onto Pettee Brook Lane.

Page 13, line 27, should read “..were now leased to anyone.”

Page 15, line 33, should read “...hearing exposed issues that took time to work out...”

Page 17, line 10, should read “...provided to the NE Soils Scientists Soil based lot size report recommendations...”

Page 18, line 16 and line 22 should strike Allen Farm and replace it with “adjacent Falls Way and Constable Road”.

Page 19, line 20, should read “...the Board placed this into the Table of Uses...”

Steve Roberts MOVED to approve the June 9, 2010 Minutes as amended. Councilor Smith SECONDED the motion, and it PASSED unanimously 4-0.

IV. Report of the Planner

Mr. Campbell said he had met recently with University planner Doug Bencks for their monthly meeting, and said a memo on the meeting had been provided to Board members.

Mr. Campbell said the Traffic Safety Committee had met on Tuesday, and there was discussion on the proposed new Business School off of Garrison Avenue. He said the University brought three alternate traffic related plans, and said the first was no parking, with travel lanes and bike lanes; the second plan was parking out front that would require a curb cut into Garrison Ave, and a bike lane; and the third was 10 parking spaces out front with 14 ft lanes and “sharrows“, which were share the road arrows that allowed bikes and vehicles to share the road. He said they were becoming more popular around the country, and noted there were some in Portsmouth.

Mr. Campbell said the Committee also discussed the Pettee Brook Lane reconfiguration. He said the experiment continued, noting that some slight changes had been made, and that there would be more speed counts done.

Mr. Campbell said the Traffic Safety Committee also discussed a number of other traffic related issues:

- the idea of putting signage on Ross Road to indicate that a woman who was deaf lived on the road. He said the woman had requested this signage.
- a request for a turning lane onto Canney Road from Route 108, which he said probably would not happen.
- elimination of the cross walk on 108 by Mill Pond Road, which he said wouldn't happen
- A speed limit sign on Mill Road heading toward Oyster River Road, which he said would happen

Mr. Campbell said developers Matt Crape and Perry Bryant would hopefully be getting temporary certificates of occupancy for their new buildings this week. He also said Mr. Johnson was working with Tom Christie to get temporary certification for his new building on Jenkins Court.

Mr. Campbell said at the Council meeting on Monday, there would be the first reading on the proposed change to the Zoning Ordinance to remove Section 175-55 (E) "Minimum Contiguous Lot Area". He said he would be present at the meeting.

He said there would be two new applications for the August 25th Planning Board meeting, one of which was a conceptual consultation for an 8 lot conservation subdivision at 110 Mill Road, in the RB District. He said the second application was an amendment to a previously approved application from Matt Crape for his development on 6 Jenkins Court, to convert an unfinished attic to finished commercial space.

- V. **Public Hearing on an Application for Subdivision** submitted by Peter Andersen, Durham, New Hampshire on behalf of the Elizabeth C. Smith Trust, Durham, New Hampshire to subdivide one lot into three lots. The property involved is shown on Tax Map 16, Lot 19-0, is located at 260 Durham Point Road, and is in the Rural and Residence C Zoning Districts.

Mr. Andersen said the existing property had a house and barn. He explained that he had changed his application from a 3 lot pork chop subdivision to a standard 2 lot subdivision. He said with the original subdivision proposal, the houses had ended up quite close together. He said he had asked for variances to allow a reduction in the sideyard setbacks, but the abutters didn't like this idea. He said the variances were denied.

Mr. Andersen noted that with the previously proposed 3 lot subdivision, there would have been a lot that was less than 5 acres, so State subdivision approval was also required. He said now, the 2 lots would both be over 5 acres, so State subdivision approval was no longer required.

Mr. Andersen said there were valid test pits and a new innovative septic design for the existing property. He said the existing septic system on the property was put in the 1960's, so was not a design that was on file anywhere. He said test pits had been done to verify that the location proposed for the new system was a good one.

Mr. Andersen explained that there were ledge issues with what would be the second lot, Lot 16-19-1, and said a special exception was received the previous evening to allow an

innovative septic system on the lot. He said State approval hadn't been received yet, so approval by the Planning Board would be subject to getting State approval.

He noted that there would be lot line adjustment in the future, which would go with the newly created lot, and said he would provide an amended plan at that time.

Mr. Andersen said he had walked the property with the Town Engineer some weeks back, who felt that there were two locations on Durham Point Road with suitable sight distances, aside from the existing driveway. He said one was diagonally across from Colony Cove Road, which put it in a wetland, and the other was at the crest of the hill where there was an existing farm access to get to the hay fields.

He said there had been discussion at the ZBA site walk about the fact that the Town Engineer had talked about the second access as being the best location. But he said he thought it might be better to move it so it was directly across from the abutter's driveway, for ease of plowing. He said he had felt that it was still at the crest of the hill.

Mr. Andersen said the abutters had said they didn't want it to be directly across the street from them because of concern about car lights in their windows. He said he was therefore staying with the existing driveway. He said he had tried to provide language to indicate that this driveway would be tastefully done, and as close to the proposed lot line as possible. But he said that there was some ledge there.

He noted that he didn't have the engineered and approved access from the Town Engineer yet, and said this would seem to be something that would happen at the construction phase. He said he would follow the Town regulations, and would work with the Town Engineer to minimize ice issues and make sure there was a safe environment there.

Mr. Andersen said the access way was about 15 ft wide right now, and said when it was re-graded, he might need to take out a few feet of stone wall on the left side. He said he didn't want the abutter to prevail with any language that would preclude responsible engineering there. He read the language he had provided: "The driveway access to lot 16-19-1 will meet all local width and pitch requirements required by the Town Engineer, and will be located in the same location as the field access as is practical, holding as reasonably close as possible from an engineering standpoint to the lot line with lot 16-19."

Mr. Andersen spoke further about the fact that the replacement septic system designed for the existing house would also be an innovative system. He said while this system would be a bit more expensive, he had made a commitment early on to doing this, and noted that the property wasn't that far from the Bay.

Councilor Smith suggested that to avoid confusion later, the piece of land that would become part of lot 16-19-1 in the future as part of a lot line adjustment should be referred to as the "reserve" land.

Chair Fuller asked Mr. Andersen how soon he would have a revised plan that would

accurately reflect the lot lines, and Mr. Andersen said this could be done very soon.

Councilor Smith MOVED to open the Public Hearing on an application for Subdivision submitted by Peter Andersen, Durham, New Hampshire on behalf of the Elizabeth C. Smith Trust, Durham, New Hampshire to subdivide one lot into three lots. The property involved is shown on Tax Map 16, Lot 19-0, is located at 260 Durham Point Road, and is in the Rural and Residence C Zoning Districts. Richard Ozenich SECONDED the motion, and it PASSED unanimously 4-0.

Chair Fuller asked if there were any members of the public who wished to speak in favor of the application. There was no response, and she then asked if there were any members of the public who had concerns about the application, or wished to speak against it.

Attorney Christopher Bolt represented the Brickner Woods, abutters who lived at the corner of Colony Cove Road, immediately across from the property in question. He noted that his clients had been adamantly against the 3 lot subdivision that was originally proposed, and were much more supportive of a 2 lot subdivision. But he said they still had some concerns, which were listed in their letter, dated August 11, 2010.

He said at the ZBA meeting the previous evening, there were conditions attached to the ZBA's approval of Mr. Andersen's variance application, and said he assumed the Planning Board would impose some conditions as well. He next reviewed the letter of August 11, 2010 he had written, which included conditions his clients would like the Board to consider and adopt with any potential approval of the subdivision application.

Attorney Bolt first asked that the conditions of approval of both the ZBA and Planning Board be noted on the plans prior to signature. He also asked that no further subdivision of the existing lots occur, except for the lot line adjustment involving the reserve area.

He then explained that his clients had some concerns about the proposed driveway, and asked that there be a written report from the Town Engineer regarding what the applicant proposed in terms of the location, width, pitch, etc of the proposed driveway, before approving this. He said the Planning Board was charged with making sure there was appropriate and safe access for the lots being created.

Attorney Bolt asked that the driveway for Lot 16-19-1 be in the exact location, angle and width as the existing farm access. He said farm equipment was able to get in and out of that access, so the construction equipment would be able to get in and out of the approximate 15 ft gap in the stone walls. He noted that Durham Point Road was a scenic road, and said these stone walls shouldn't be treated lightly. He said they should not be removed.

Attorney Bolt also asked that there be no cutting of the existing tree/vegetation cover along either side of the stone wall and/or within the front setback area shown on the plan. He said it acted as a screen, and noted that a very large house would be built there.

Mr. Roberts asked Attorney Bolt if he was saying there should be no cutting on the north side of the driveway as well. He said if it was his driveway, he would want to trim some

of the trees on the north side.

Attorney Bolt said trimming of trees wasn't the issue, but said tree removal was the concern. He said the Town Engineer's report might say tree trimming was necessary, and asked that his clients know this in advance.

He said his clients' final request was the condition in the ZBA's approval of the special exception, which was that the residences and septic systems for the lots shown on the plans be limited to single family residences as defined by the Zoning Ordinance, so the his clients would know, going in, what was going to be there.

Councilor Smith said he thought Attorney Bolt had raised an objection to Mr. Andersen's statement that he might need to lower some of the hump where the driveway came up, for safety reasons.

Attorney Bolt said the lowering of the hump wasn't a problem as long as a trench wasn't created, but he said the concern was the location, width and angle of the driveway. He said what was there now pointed at a clump of woods, and said his clients asked that this remain.

Councilor Smith asked if the request from the abutters that the stone wall not be removed meant that there could not be the removal of any stones for a foot or so on either side of the existing farm drive, even if the Town Engineer thought this was appropriate in order to widen the opening.

Attorney Bolt said he would reserve his answer until he saw the Town Engineer's report. He said the existing width was as large as most driveways that were required.

Mr. Roberts noted that the scenic road provisions of the Zoning Ordinance said a separate public hearing was required for issues involving scenic roads.

Mr. Campbell said he didn't think that provision had stayed in the Ordinance.

Councilor Smith said the Zoning Ordinance permitted elderly duplex and multiunit housing in the RC district, and asked whether the condition proposed by the abutters meant that a future owner of this property would not be allowed these uses.

Attorney Bolt said the presentation from the applicant had been that there would be a high end home that would possibly have a mother in law apartment. He asked that this be what was approved.

Councilor Smith asked if this meant that an elderly duplex would be precluded, and Attorney Bolt said he hadn't looked at that issue, and would confer with his clients on this.

Stacy Brooks, 255 Durham Point Road, said she lived across the street from the applicant's property, and was concerned about the driveway issue as well as about possible multi-family use of the property. She also asked whether the existing house

should be allowed to have multi-family use. She noted that there was some possibility that the barn would be used in the future, and said she was voicing her concern now about using it in this way.

Ms. Brooks said her one remaining concern about the proposed new septic system for the existing house was that if it was placed to the right of the house driveway, it would be right near a culvert that was also located within inches of her well. She explained that everything flowed downhill from the property across the street.

Ms. Brooks also said there were safety issues on Durham Point Road. She said it was a very curvy road, and noted that there were only two signs for hidden driveways on that road. She said when one was coming from Durham, there was no sign for 260 Durham Point Road, and there was no sign that pointed out how sharp that curve was. She noted a recent accident at that location, and said some signage was needed there.

Mr. Andersen said he thought Ms. Brooks' suggestion that there be a sharp curve sign and perhaps a hidden drive sign was a really good idea. He said the sight distance for the driveway she was referring to wasn't good, but said the sight distance for the driveway he proposed to use was good. He said he would be concerned about not being able to trim back sight line shrubs so cars could pull out safely. He said everything outside of the stone wall on the Town's land was trimmed regularly, down to the roots. He said it would be unreasonable to have restrictions on this.

He said it was his intent to keep the large caliper trees as well as some smaller ones as much as possible. But he said it would be unreasonable to keep trees whose root base would largely be destroyed by construction activities. He said the intent was to keep the buffer, noting that it added value to the property. But he said to put language in that he couldn't trim his own trees was onerous.

Mr. Andersen said the request that no further subdivision be allowed ever on these 11 acre parcels was onerous, stating that it wasn't known where things would be in 100 years. He also said that perhaps someone would want to do an adaptive reuse of the barn, and asked why that shouldn't be allowed to come before the Board.

Councilor Smith asked whether, if there was adaptive reuse of the barn and it was turned into an accessory dwelling which was permitted in that zone, this would be a matter for the Planning Board.

Mr. Campbell said if it met the performance standards, it would go to the Code Enforcement Officer. There was discussion about the fact that accessory structures had to be smaller than the main structure on a property in the RC district.

Mr. Andersen said he had no objection that the ZBA conditions of approval and Planning Board conditions be noted on the plans. He also noted that the septic systems had design criteria for 4 bedrooms, with a 2 bedroom accessory apartment. He said this issue had therefore been addressed, and said he didn't think further action on this was required by the Planning Board.

Mr. Campbell noted that a condition of the special exception granted by the ZBA was that the residence be limited to a single family residence as defined by the Zoning Ordinance. It was noted again that this included the possibility of an accessory apartment.

Mr. Andersen asked whether the special exception only applied to 16-19-1, or to both lots. He said his understanding was that he had only gotten one for that first lot, and asked how the conditions of the ZBA approval could apply to both lots.

There was discussion about whether if the system on 16-19 failed, Mr. Andersen had to come back to the ZBA to replace it.

Mr. Andersen said the innovative system he proposed to use there wasn't actually required there.

Mr. Campbell said if the system failed, it would need to be replaced, and said if a system couldn't be designed that met the Town's septic regulations, a special exception would then be needed for the replacement.

Mr. Andersen said his question had been whether the two conditions of the ZBA approval that spoke about septic systems referred to just lot 16-19-1.

Attorney Bolt recommended that the Planning Board not determine this.

Chair Fuller suggested that there be more clarification provided concerning Mr. Andersen's question. She also said research was needed on the stone wall and scenic road issue, and said the Board therefore wouldn't be deliberating on the application that evening.

Councilor Smith noted Item 5 in Attorney Bolt's letter regarding cutting of the existing tree/vegetative cover along either side of the stone wall and/or within the front setback area. He said on one side of the stone wall was the Town right of way, and said the Planning Board didn't control the cutting there.

Councilor Smith MOVED to close the Public Hearing. Richard Ozenich SECONDED the motion, and it PASSED unanimously 4-0.

Mr. Campbell summarized that the Board wanted answers to the scenic road issue and the driveway permit issue. He noted that there was a letter from Mr. Cedarholm saying that the only access location he would approve was the existing location.

Mr. Roberts asked if additional information was needed from the DPW on the driveway issue.

Mr. Campbell explained how the permit would be handled by the DPW. He noted that the Ordinance allowed up to 22 ft within the front setback for a driveway.

Chair Fuller asked that Mr. Andersen provide updated and complete plans that were approval ready for the next meeting, with the appropriate notes.

Mr. Roberts asked if the plans should show removal of 2 to 4 ft of stone wall for the driveway cut. He noted that he didn't see any large, mature trees in that area.

Chair Fuller said stone walls were near and dear, and said she didn't think Mr. Andersen would take them down unless he absolutely had to. She said it was all right with her if he had to take some of it down, and said she believed he had said he would replace this.

VI. Public Hearing on an Amendment to Article XIX, Conservation Subdivision, Section 175-107(B), Applicability, of the Zoning Ordinance to add Office, Research & Light Industry and Multi-Unit Dwelling/Office Research Zoning Districts to the list of Zones permitted to be developed as Conservation Subdivisions.

Councilor Smith MOVED to open the Public Hearing on an Amendment to Article XIX, Conservation Subdivision, Section 175-107(B), Applicability, of the Zoning Ordinance to add Office, Research & Light Industry and Multi-Unit Dwelling/Office Research Zoning Districts to the list of Zones permitted to be developed as Conservation Subdivisions. Richard Ozenich SECONDED the motion, and it PASSED unanimously 4-0.

Councilor Jay Gooze, 9 Meadow Road, said he was speaking as a resident and as a member of the Council. He first noted that the Zoning change to allow single family residences and duplexes in ORLI, and single family residences in MUDOR had come forward because of a project that had been proposed. He said the way it was presented to the Council, the Zoning proposal had seemed straightforward.

But he said he had then received some calls that said if the Zoning change passed, there would be the possibility of cookie cutter subdivisions that would not be covered under the conservation subdivision regulations. He noted that these regulations that didn't actually permit anything, and pertained to a use in a district, so that if a single family subdivision went in, the conservation subdivision regulations added an extra layer of protection. He said he had felt that this would protect the interests of residents who had called him.

Councilor Gooze said he felt it was a minimal change, because it was one that didn't change the essence of what was sent to the Council. He said some might say this was too much protection, but said he thought that in allowing a mix of residential and nonresidential uses in these districts, these were unique zones, so it was appropriate to provide this kind of protection.

Beth Olshansky, Packers Falls Road, said when the Council approved the Zoning amendment to allow single family homes in the ORLI and MUDOR districts, it basically reinstated sprawl, because this Zoning change would allow by Conditional Use cookie cutter house lots for students or families on over 300 acres of undeveloped land. She said it was clear from the Master Plan that conservation subdivision had been chosen by the Town as the way to do residential land use planning.

She said when this issue came to the Council, the Planning Board hadn't recognized that conservation subdivision did not apply in these districts. She said this issue wasn't part of the Board's discussion, but said it then became the focus of the Council. She said several

Councilors who voted for the Zoning change did so with the understanding that the issue would go to Planning Board, and it would agree with the Council that single family residences should be developed under conserve subdivision regulations.

Ms. Olshansky said 8 Councilors had voted that evening, and the vote was 6-2, with 5 votes needed in order to approve the Zoning change. She said at least two people on the Council had only supported the motion in the hope that the Planning Board would then recommend the conservation subdivision Zoning amendment to the Council.

She said an issue the Board might come across as it considered adopting conservation subdivisions potentially for a single family student neighborhood like the Capstone development was that if they saw this type of development somewhere else in ORLI, it might not be a subdivision because it could be a single parcel of land with many single family homes on it that were intended to be rented to students. She said with this, the Board would have to consider putting conservation subdivision type regulations into the site plan regulations to accommodate this.

She noted another alternative, if the idea of conservation subdivision for ORLI and MUDOR became too cumbersome, was the option presented by Council Chair Diana Carroll to rezone MUDOR to extend it in the area of Capstone and adjacent lots, so it wouldn't be spot zoning, and adopt single family homes just in that area, so that 300 acres wouldn't be impacted. She passed out maps that demonstrated this possible Zoning change.

Judith Spang, 55 Wiswall Road, said she wished to speak both for and against the Zoning proposal. She noted her work on the Planning Board many years ago, as well as her work as an economic development planner. She said it was from this experience that she wished to speak about the idea of turning what had been zoned as the Town's potential economic engine into yet more residential uses in Town. She said ORLI provided the opportunity to set aside land for future growth in office/research, which had tremendous potential because of the University, and light industry.

She said it would be a big mistake for the long term economic vitality of the Town to take up valuable land that had already been determined to be ideal for economic uses, and use it for yet more residential development. She read from Chapter 8 of the Master Plan concerning this issue, and said it had been recognized at the time the Master Plan was done that the Town didn't want to encourage more single family homes. She said the Master Plan also talked about using conservation subdivision if necessary, as a way to increase density accord to the carrying capacity of the land.

Ms. Spang said the land being discussed aside from the Capstone land was especially suitable for conservation subdivisions. She said there was prime agricultural soil of Statewide significance on Mast Road, and said these soils would allow the Town to grow the crops that it needed, in the future. She said it would be a waste to turn it into driveways and lawns, and said it should be protected for the future. She said if residential subdivision was to be allowed there at all, it should at least be conservation subdivision, given what this land was that they were talking about. She said it was the kind of open land that was being cherished by conservationists.

She said it would be argued that the land wouldn't be turned into residential uses because it wasn't the highest and best use. But she said demand for commercially beneficial uses was slow to be generated, and residential uses were the fallback use for developers. She noted that the land would be easy to develop and was on Town water and sewer, and said this residential development would come. She said they therefore had to provide the most rationale way for it to come, if they were set on doing this.

Ms. Spang said she didn't think it would be spot zoning to extend the MUDOR district as proposed, and leave the rest where it is. She said that was what she would actually suggest doing.

Malcolm McNeill, Colony Cove Road, said his wife owned 44 acres in the cherished Mast Road area Ms. Spang had referred to. He said this evening, the question was whether conservation subdivision should control in ORLI and MUDOR if there was a subdivision. He said he had spoken in favor of the original MUDOR and ORLI Zoning change, and said providing flexibility was the spirit of what was passed by the Planning Board and the Council.

He said if Capstone came to his wife's property today to put in a mixed use project that was not a subdivision, it would be a permitted use, under the CU provisions. He said if one did a subdivision on a per lot basis, the issue was whether conservation subdivision would apply. He said it wasn't simple to make a change like this, and spoke in detail about how other provisions of the Zoning Ordinance were related to it.

He also said if someone proposed a commercial subdivision, in no way should a conservation subdivision overlay come into play. He said he could assure the Board, as a land use lawyer, that if this happened, there would be no development.

Mr. McNeill said it was entirely reasonable to exclude conservation subdivisions from these zones. He also said the Town always had the protection of the Conditional Use permit for all of these uses, and noted the criteria applied for Conditional Use. He said the ORLI and MUDOR districts were unique in New Hampshire in that the majority of principal uses in these zones were only permitted by Conditional Use.

He said this overarching control, which was extensive, meant that every dimensional control and environmental control could be satisfied, and under the Conditional Use regulations, the Board could then turn down the project anyway. He said now that single family and duplexes were permitted in these zones, the Board still had Conditional Use control.

Attorney McNeill said there were 4 residential zones where conservation subdivision applied in Town, and noted that in all these zones, residential uses were permitted as a matter of right. He said there was a conservation subdivision overlay, but no Conditional Use overlay, so there was not double regulation in those zones.

He said the philosophy of ORLI and MUDOR was to stabilize taxes, provide flexibility and more options, and not to increase the level of control, which would be the upshot of what was proposed. He said he hoped the Board would continue to determine that multifamily

buildings and elderly housing did not come under conservation subdivision.

Attorney McNeill said it was uncertain what the open space requirements under conservation subdivision would be, with what was now proposed, in zones where conservation subdivision had never been contemplated.

He said the recent passage of the Zoning change to permit single family houses and duplexes in ORLI and MUDOR had been a matter of expediency, and not the product of comprehensive planning. He said a timetable was seemingly imposed, and said rather than doing master planning, drafting a Planned Unit Development Ordinance, or doing a mixed use development ordinance, the result was a very simplistic change to the Table of Uses.

He said now, a non subdivided piece of property in ORLI could have multi-units, single family or duplexes. He said it would be grossly unfair that just MUDOR should be extended as proposed. He said this would mean Capstone would build their project, and the rest of the ORLI zone would be unable to compete, and would not be able to be developed.

Attorney McNeill said the ultimate question for the Planning Board, in light of the expediency by which the original Zoning change was passed, was whether it was time to be expedient again, or time to figure out the best way to do this. He said if the change was made now, it had to be clear, consistent and reasonable. He said the open space requirements needed to be studied, and the impacts throughout the Zoning Ordinance needed to be studied.

He noted that the Master Plan process was coming forward shortly, and said a coordinated approach should be the goal. He said if that process went forward, nothing less than the following should happen. He said commercial subdivisions and multifamily units should continue to be excluded from any conservation subdivision.

He also said more work should be done to examine the full extent of the change to all relevant sections of the Zoning Ordinance. He said when the Council had struggled with how to address the Capstone situation, two members of the Council had tried to find a way to do this in a different manner than ultimately occurred. He said a comment at the time was that when the Zoning Ordinance was pushed in one direction, there was another direction that had to be considered. He said the full consequence of what was being proposed now had to be considered.

Mr. McNeill said the goal had to be analogous to what Ms. Spang said. He said the upshot should not be to reduce the probability of development in the zones the Town wished to develop. He said the ORLI zone was the zone that was most capable of development, since it was located on state highways, well maintained state and local roads, and was close to infrastructure. He said there shouldn't be unfair advantage to Capstone at the expense of the rest of the ORLI zone, and said there should be a reasonable way to think out the best way to integrate mixed uses into this zone, if that was what the ultimate conclusion was after studying it.

He said he was aware of Mr. Robert's view. He said it was up to the Board and others to

come up with a logical, well reasoned result, so that development rights were preserved, and it was felt the job had been done effectively.

He said after the Council acted as it did, the people in the development community asked if projects like Capstone could no longer be done in Durham because of the conservation subdivision aspect that was passed. He said his response was not at all, and said if that was the case, the Capstone project couldn't go forward either. He said there was a great deal of confusion about all of this, but said in the end, what the Council had passed with the originally proposed Zoning change was beneficial to these zones. But he said what was being proposed now needed further consideration.

Councilor Robin Mower, 11 Faculty Road, said she was not necessarily opposing to this Zoning amendment, but said she had questions. She said it might be appropriate for the Board to consider the exact interpretation of Section 175-107 F concerning conservation subdivision. She read this provision out loud, and asked if there needed to be a review by the Town Attorney concerning whether the provision addressed building on a single lot, or specifically addressed subdivided lots.

She noted that the Master Plan was about 12 years from its inception, and said many things had changed since that time, including awareness of reliance on fossil fuels, and threats to food supplies. She said Durham hadn't yet weighed in on what it saw for the future, with this knowledge in hand. She said it was possible that certain stretches of Town might be considered for more appropriate uses than what they were now designated for in the Zoning Ordinance. She said to argue that ORLI should be saved only for development such as Capstone might not be the wish of the community today.

She said they didn't know what the community wanted. She agreed that a well considered, reasoned approach to this challenge from the Planning Board was needed. She said they needed to separate special interests from the long term benefit to the Town, and said while 40 years seemed like a long time, the next 10 years could pass quickly, and they might find themselves wanting something different than they wanted today.

Doug McDonald, 2 Stonewall Way, said his interest was in the general economic prosperity of the Town. He said he had lived in Durham for 4 years, and was attracted to its beauty, But he said he was worried about the Town's future. He said he was concerned that there was a lack of joined up thinking in the town, with some groups working to bring economic activity to the Town, but other groups and regulations put in the way of that.

He said if the conservation subdivision restriction applied to these two areas, he didn't think it would be worth a developer's while to do a development there. He said he agreed with Ms. Mower that there needed to be more thought given to how development was going to happen in the Town. He said the Zoning proposals were a bit ad hoc, but said he also had a larger fear that no development seemed to be preferable to some development. He also said cookie cutter and sprawl were emotional terms, and said they had to be considerate of different people in the community with different circumstances, as to what accommodations were appropriate.

Paul Scoff, 5 Stone Wall Way, said his concern was primarily that the application of conservation subdivision would kill any development. He said it just wasn't economically feasible after it was applied. He said when there were opportunities for development, they didn't happen. He said every section of the Town couldn't be covered by conservation easements. He said diversity of all types of uses made up a town, and said it was important to bring them into play

Councilor Diana Carroll, Canney Road, asked what happened if the Planning Board didn't approve this.

Mr. Campbell said that would mean the Zoning change proposal was done at the Planning Board level. He said the Council would then have the opportunity to initiate the Zoning change, and also said there could be a citizen petition.

Mr. Roberts said he had asked Mr. Campbell to get the legal team to give the Planning Board something clean and easy for the Ordinance that would give stability for where conservation subdivision was allowed, and assurances that there would be no subdivisions in these zones that were never intended for this. He said the Planning Board was on this issue, and needed to pressure its legal team to provide this. He said a counteraction at this point would make an even bigger mess.

Councilor Carroll asked whether if this Zoning proposal didn't move forward, it would mean that no one would come forward with an application that had single family homes in it.

Mr. Campbell said that wasn't the case, and said this use was allowed right now if there were more than 3 lots, as a Conditional Use.

Councilor Carroll asked whether a project that was a single family, duplex, and multiunit application could come forward now, and if the Planning Board turned down this Zoning change.

Mr. Campbell said it could come forward as of now, and without having to do a conservation subdivision. There was further discussion.

Mr. Roberts said the Conditional Use process, gave the Board the discretion it needed, and he spoke further on this.

Councilor Carroll agreed that some legal advice was needed.

Steven Bobick, 63 Mill Road, said it seemed that to develop 300 acres with no conservation regulation would be too much development. He spoke in some detail on this

Councilor Smith noted that right now, all 300 acres in ORLI could be developed without a conservation subdivision. He said there could be small factories and other commercial uses placed upon the land.

Councilor Mower asked if there was anything from Mr. Kelley on this issue, and was told

no.

Mr. McNeill said as of the Council's vote, if Capstone came forward on the site, or if there was a development on Mast Road with single family houses, duplexes and multifamily units, these projects would go through the Conditional Use process. He said what they were all talking about was what happened if a developer came forward with 40-50 lots, and what the level of control would be. He said in terms of the legal sequencing of conservation subdivision coming into play, the threshold question was if what was proposed was a subdivision, as defined in the Zoning Ordinance.

He said the Capstone proposal didn't divide the land at all. He said there was one owner, which was analogous to a condominium project. He said they couldn't get into the conservation subdivision approach with such a project, because this approach only dealt with subdivisions. He said if he came forward with a project, the Town's scope of authority would be site review only, as long as there was no subdivision of the land.

Mr. McNeill said if a cookie cutter subdivision came forward now in those districts, a Conditional Use permit was needed. But he said beyond that, the regulation, to him was unclear. He said the express terms of ORLI and MUDOR currently said that conservation subdivision did not apply. He said the issue of Capstone and its progeny, in terms of equitable fairness throughout the ORLI zone, was over. He said the Council had acted. He said if he came forward with a plan under design review, he could get a vesting of the plan and go forward under the existing law.

He said the issue as a result of the end of the Council debate was what happened if alternative forms of development were proposed, and said that was for the Planning Board to consider. He suggested that the Board go through the Ordinance to see how many sections a proposed change would impact.

Councilor Gooze said the Ordinance was clear that only residential use could be under conservation subdivision. He said Conditional Use was a buffer the Planning Board could use to decide whether a project met the criteria. He said the reason he felt conservation subdivision was an appropriate approach was that planning boards came and went over time. He said the Master Plan was definite that residential subdivisions should be addressed under conservation subdivision.

He noted that the Planning Board had discussed other ways to approach this issue, but what was presented to the Council was to get it done quickly, or it would be lost.

Mr. Roberts said in 2006, the Board had presented the Council with a Zoning change to allow duplexes in MUDOR, as a way to give some control and yet get off the strict industrial base.

Councilor Gooze said the only thing requiring conservation subdivision would affect was that if someone decided to do a residential subdivision, there was this extra layer. He said it wouldn't affect the other uses allowed there. He noted that the word sprawl was used in various Town regulations, and wasn't meant to be derogatory.

He said if the original Zoning proposal for ORLI and MUDOR had come without this protection, he would have been very leery, But he said seeing what was happening now, he wished the original Zoning proposal and the current proposal had been vetted. But he said he had done what he felt was appropriate. He asked what the unintended consequence was of applying conservation subdivision as proposed.

Ms. Fuller said the Board needed to look at the Zoning Ordinance, and see how this would affect it.

Councilor Gooze said if the Board was looking at what other way this could be done, he wished the Board had done this before it came to the Council.

Mr. Roberts said the Board had had a deadline. But he said there was a recent request that the Board's legal team solve this current problem, and said the Board was owed a simple, clean response.

Councilor Gooze asked what happened if the legal team simply said conservation subdivision in ORLI and MUDOR only applied to residential subdivisions, and nothing else was affected by it.

Mr. Roberts said the Board needed an answer. He said the conservation subdivision approach should never have been used, and said the Planning Board should perhaps have studied Conditional Use more. He said they were trying to get this worked out, but said jumping to conclusions would hurt everybody.

Councilor Gooze said if this were passed tonight, it wouldn't affect commercial uses or single family uses of two lots or less. He said by allowing residential uses in ORLI, mixed use had essentially been given to this district. He said if the Planning Board didn't want this, it shouldn't have come to the Council that way.

Mr. Roberts said what the Board put down was a proposal that could only be allowed in a commercial zone. He said ORLI was a commercial zone, and said the Board was allowing a housing unit as a part of a commercial development.

Councilor Gooze suggested that this discussion be continued until information came from the legal team. He said if they said there were in fact unintended consequences, he would be the first to say perhaps there was a better way to do what they wanted to do.

Mr. Campbell said he assumed that was the legal opinion that came to Administrator Selig, and noted that it had not been made public.

Mr. Roberts said the attorney tried to get off easy, and didn't answer the question. He said the request was that there be more details on how the Planning Board could steer the discussion so there weren't then the unintended consequence of destroying a commercial zone. He said a conservation subdivision in that zone could destroy the use of ORLI for light industry.

Councilor Gooze asked that this letter be made public.

Richard Ozenich MOVED to continue the Public Hearing. Steve Roberts SECONDED the motion, and it PASSED 3-1, with Councilor Smith voting against it.

Chair Fuller said this matter would be continued to the August 25th meeting.

Councilor Smith said the Board needed something from the Planner. He said Mr. McNeill had raised a good point regarding the common open space requirements. He noted the wording "... all other districts must have 50% common open space..." He said at this point, ORLI and MUDOR fell into the category of all other districts. He said the question was whether that was an appropriate number or not, and said the Board would have to discuss that.

VII. Public Hearing on an Amendment to Article XII, Zone Requirements, Section 175-53, Table of Uses to change "Convenience Store with Gasoline Sales" in the Office, Research & Light Industry Zoning District from a Conditional Use to a Non-Permitted Use.

Councilor Smith MOVED to open the Public Hearing on an Amendment to Article XII, Zone Requirements, Section 175-53, Table of Uses to change "Convenience Store with Gasoline Sales" in the Office, Research & Light Industry Zoning District from a Conditional Use to a Non-Permitted Use. Steve Roberts SECONDED the motion, and it PASSED unanimously 4-0.

Councilor Jay Gooze, 9 Meadow Road, noted that Administrator Selig had proposed this Zoning change, and was sort of an add on. He said there might be some areas in ORLI where this use might be appropriate, and said he therefore guessed he was speaking against the proposed Zoning change. He said Conditional Use did come into play here, and making it a non permitted use took away the opportunity to do something out by the highway. He said there would be enough public outcry during the Conditional Use process for aquifer protection, etc, to make sure that where the use was put would be appropriate. But he said he wouldn't feel bad if this wasn't approved.

Beth Olshansky, Packers Falls Road, said she supported taking gas stations and convenience stores out of the ORLI district. She noted that Mr. Roberts had mentioned at the last meeting that they were now faced with many incompatible uses because the ORLI district had grown so big that it now included highway land, Mill Road that was clearly residential, and Mast Road that had an agricultural, rural feel to it. She said this issue reflected the fact that the Town had not done careful planning in terms of zoning.

She said everyone in Town would agree that a gas station on Mill Road would be outrageous. She said she didn't agree with Richard Kelley that having the aquifer protection overlay would protect that area, because the zone now extended way past Spruce Wood up toward Town.

Ms. Olshansky said rather than reaping the benefit of gas stations on Route 4, it made more sense to get these benefits by putting up highway signs that got cars to come into Town. She also said if someone wanted to put a gas station on the highway and it was not zoned for that, they could try to get a variance, or try to get a Zoning amendment. She

noted a concern that if this use remained as a Conditional Use in the Table of Uses, during the Conditional Use process, it could be decided that a gas station would bring in tax dollars.

Judith Spang, 55 Wiswall Road, noted that she was the Chair of the State Legislature's Stormwater Commission, and the 6 year Groundwater Commission. She said she wanted to raise a flag about gas stations, stating that she had been advised by hydrogeologists and others involved in this issue that there was virtually no way to make absolutely sure that gasoline would not get into water supplies.

She said she was very disturbed at the proliferation of gas stations at the Lee traffic circle, which was right near the Lee well. She said she agreed with Ms. Olshansky to some extent that they didn't want the Town to be tempted by tax dollars from a gas station. She said a potential applicant would say there were safeguards so there was nothing to worry about. But she said the experts said they should worry about this. She said there were some sensitive lands in the ORLI district, and said it was important to make sure they would never be developed.

Councilor Diana Carroll, 54 Canney Road, asked the Board to make this use a non permitted in the ORLI district, stating that there were many places in ORLI that were very fragile. She said this issue had been talked about for about 3 years, including during the rezoning of RB land on Mill Road to ORLI. She said during that time, there was discussion about making this Zoning change, but it never happened.

She also said the number one product that convenience stores sold was beer, and asked whether they wanted another one of these stores in Durham. She noted that the Town had already given up a big portion of its gateway to gas stations, and said they were not the most pleasing visuals to look at. But she said they were considered a necessary use, and had been concentrated in one area. She suggested that this plan not be changed, and said the gas stations and convenience stores that were already in Town should be supported.

Councilor Gooze said others had made some good points. But he said there might be some areas of ORLI that were be appropriate. He asked that if the Board did decide not to allow this Zoning change, it would look at an overlay of where this use could possible be located.

Malcolm McNeill, Colony Cove Road, said this was why there were Conditional Use permits, because in any district, there might be different characteristics within it where a particular use might be appropriate in some parts of a district, but not appropriate in other parts of it. He said he agreed there shouldn't be a gas station on Mill Road, and said it probably wouldn't be eligible anyway because it would be conservation land sooner or later.

But he said there were parts of the ORLI zone that were appropriate for this use. He noted the list he had passed out earlier regarding the Conditional use process, and reviewed how a gas station application would be reviewed under this process, including how conditions could be applied regarding increasing setbacks, as well as requiring additional

screening, landscaping, and environmental controls.

Mr. McNeill noted that a mobile restaurant had been approved in the ORLI district at the previous meeting. He also said if a large scale Capstone type development or a large office complex on the McNeill property was approved, it might be appropriate to have a convenience store nearby, and perhaps without a gas station. He said the Board had the authority to choose between the two as part of the Conditional Use process.

He asked if commercial uses were going to be thrown out of a commercial district, when the Planning Board had the authority to get something it wanted. He questioned whether any planning board in Durham would permit a gas station on Mill Road, and also questioned whether the present Planning Board would take away the authority of a future planning board to say this use could happen in this zone.

Ruth Bobick, 63 Mill Road, said there should be a law to say there couldn't be convenience stores or gas stations on Mill Road. She spoke in detail on this, and said if needed, there should be a referendum on this issue. She said the one area she thought young people still had some faith in was sustainability, and also said she hated the gas stations in Town now. She said she believed the public would support rules that benefited them rather than the people who owned the property in the ORLI district.

Chair Fuller asked the Board if this issue should be continued, along with the other proposed Zoning change.

Councilor Smith said these were separate issues, and said he would like to see some resolution on this one.

Ms. Olshansky noted that there had been discussion in the community about developing a vision of sustainability for the downtown area. She said if they started allowing retail in pockets outside of Town, people would be doing their business there and not coming into Town. She noted that Councilors had come on board against sprawl, and agreed they wanted to see more revitalization downtown.

She said perhaps it would be more convenient for students to buy their beer close to where they were living, but said if they came downtown instead, perhaps they would shop downtown. She said she didn't see why people were thinking about retail on the outskirts of Town.

Councilor Smith MOVED to close the Public Hearing. Richard Ozenich SECONDED the motion, and it PASSED unanimously 4-0.

Councilor Smith recommended that the Board either pass this or reject it now, and said either way, it would go back to the Council.

There was discussion that the only other district where this use was allowed was in the Court House district. Mr. Campbell said there was no specific use for convenience store in the Table of Uses. He said it fit retail downtown, but without gas stations.

Mr. Roberts said this issue came forward because a former Council made the decision to extend ORLI way beyond its original intent. He said the use was only intended for the isolated location at the upper interchange on Route 4. He said he had mixed feelings about the current zone, and noted he had recently suggested to Mr. Campbell a very light industry zone with one set of uses, and keeping the rest of ORLI separate. He said this use would be appropriate where it had originally been put, and would probably be inappropriate in the enlarged zone. He said the question was how to get to the endpoint that was right, and said he was open to suggestions.

Mr. Campbell said there was very little land in the area where the ORLI zone had been enlarged that would be appropriate for this type of use. He said it was either in the aquifer district, the shoreland district, or was owned by the Town. He said he didn't see any planning board in Durham approving a Conditional Use permit there because of the overlays, and also said he didn't think the Town would ask for such a use on its land.

He said this use had been an allowed use as a Conditional Use in the ORLI district since 2006, and said Conditional Use gave the Planning Board the power to look at the various things that needed to be considered.

Councilor Smith said although he would like to see a convenience store that sold beer and gas at the corner of Packers Falls Road and Mill Road so he wouldn't have to go so far, he thought the Board should amend the Table of Uses to remove gasoline sales from ORLI. He said a reason he suggested this was to spare a future planning board from a future application for a gasoline development, and spare it the public outrage over this.

Chair Fuller said she didn't agree. She said she saw this as similar to the last issue, as a reaction. She said there hadn't been applications for gas stations, and said even if there were, if it were proposed in an inappropriate place, it wouldn't get through.

Councilor Smith said if it could never get through, why not take it out of the Table of Uses.

Chair Fuller said there were places where it would be appropriate. She said if office research/light industry was developed in ORLI, whether as mixed use or a small factory, people would like to stop there. She also questioned whether they wanted everyone to come into Town to get gas, where there was already one of the most successful gas stations in New Hampshire.

Councilor Smith said he didn't care whether the Board said yes or no to this, and said he would simply like to get it back to the Council.

There was discussion that if the Board didn't recommend this change, the Council could then address it on its own.

Councilor Cote said this issue spoke to what had happened to the ORLI district. He said he agreed that a gas station/convenience store might be appropriate in some areas of ORLI but not in others. He said he had faith in the Conditional Use process, and in the overlay districts, so it would be impossible to propose something on Mill Road.

He said it could be argued that banning it would make sure it was never seen. But he said there needed to be some flexibility, and said they didn't know what was going to happen over the longer term. He noted a speaker who had said a development could benefit from this use. He agreed they had to be very environmentally sensitive, and said there wasn't a gas station around that hadn't leaked, despite the technology. He said he was leery regarding this, but said he thought the concerns could be addressed through the Conditional Use process.

Mr. Ozenich agreed, noting that the Board had wrestled with these concerns originally, and made it a conditional use. He said the discussion back then was that the population was moving west, and that the west part of Town was the only place to develop.

Mr. Roberts said UNH had said that was going to be their main entry, and it was thought there could therefore be a retail opportunity.

Mr. Ozenich noted the Board's discussions on traffic in Town, and the lack of parking. He said he would vote to keep this use through Conditional Use.

Mr. Campbell said if the Board recommended that this use be removed from the Table of Uses, it should look at a way to allow it somewhere. There was brief discussion about the idea of a gas station overlay.

Mr. Roberts said Portsmouth had several light industrial zones. He said Mill Road needed to be taken out of ORLI and assigned different uses including no gasoline sales. But he said the Route 4 intersection was fine.

Mr. Ozenich said he remembered when the Town was dry, and people got their beer in Lee or Dover. He said it would be nice to keep the drunks off the road.

Councilor Smith MOVED to Amend Article XII, Zone Requirements, Section 175-53, Table of Uses to change "Convenience Store with Gasoline Sales" in the Office, Research & Light Industry Zoning District from a Conditional Use to a Non-Permitted Use, Richard Ozenich SECONDED the motion, and it FAILED 1-3, with Councilor Smith voting in favor of it.

VIII. Discussion on the Commercial Core Strategic Plan prepared by B. Dennis Town Design.

There was discussion that this would be addressed at a future meeting where more time could be devoted to it.

IX. Discussion on 2011 Budget

Postponed

X. Other Business

A. Old Business:

B. New Business:

1. Request for extension on Conditions of Approval for La Paz Mexican Restaurant at the Mill Road Plaza, Map 5, Lot 1-1.

Mr. Campbell said a 90 day extension had been requested. He recommended allowing this, and said it would be more than enough time. He explained that the water and sewer permit was on the Council's Agenda, and if approved, would fulfill the conditions of approval.

Councilor Smith MOVED at the request of the applicant, Douglas Greene, to grant the 90 day extension on the Conditions of Approval for La Paz Mexican Restaurant at the Mill Road Plaza, Map 5, Lot 1-1. Richard Ozenich SECONDED the motion, and it PASSED unanimously 4-0.

2. Request for extension on Conditions of Approval for Katharine Paine Subdivision, 51/53 Durham Point Road, Map 11, Lot 35-1.

Mr. Campbell said the applicant wanted a six month extension. He recommended granting this, but said the Board should let the applicant know this was the last time an extension would be granted.

Councilor Smith MOVED at the request of the applicant, Katherine Paine, to grant an extension on the Conditions of Approval for the Katharine Paine Subdivision, 51/53 Durham Point Road, Map 11, Lot 35-1, but indicate that this will be the last extension. Richard Ozenich SECONDED the motion, and it PASSED unanimously 4-0.

Chair Fuller left the table at 10:02 pm.

3. Quarterly Planning Meeting

Mr. Campbell said he would like to set September 29th as the date for the quarterly planning meeting. He also noted that the CIP would come to the Planning Board at the September 15th meeting, and said discussion on this could then continue at the quarterly planning meeting.

Chair Fuller returned to the table at 10:05 pm. Councilor Smith left the table at that time, and Councilor Cote was a voting member in his place.

Richard Ozenich MOVED that the quarterly planning meeting be held on September 15th. Steve Roberts SECONDED the motion, and it PASSED unanimously 4-0.

There was discussion that Mr. Campbell would provide the Board with a spreadsheet on some "quick fixes" based on the B. Dennis plan recommendations.

Mr. Ozenich asked if legal opinions would be obtained on them, and Mr. Campbell said if needed, this would be done.

Councilor Smith returned to the table at 10:08 pm.

XI. Next meeting of the Board: August 25, 2010

XI. Approval of Minutes –June 23, 2010

Mr. Ozenich left the table at 10:08 pm, , since he had not been at the June 23rd meeting.

Page 1, under Members Present, should indicate that Richard Kelly arrived at 7:18 pm.

Line 15, should say “Chair Parnell called the meeting to order at 7:02 pm.”

Line 20, should read “...in place of Mr. Ozenich, and appointed Mr. Wolfe as a voting member in place of Mr. Kelley.”

Page 3, line 8, should read “...was supposed to be...”

Line 16, should read “...a written explanation from the applicant...”

Line 40, should read “...if the Ordinance was very changed...”

Page 4, line 23, should read “...that allowed parking within...”

Page 5, line 6 should read “..parking permitted by the Ordinance.”

Page 7, line 3, should read “...he appreciated this...”

Page 9, line 25, should read “no rental of parking spaces.”

Line 34, should read “...She said this was...”

Line 43, should read “...out to the brook.”

Page 11, line 4, should read “Kostis Family”

Line 10 and 25, should read “Mr. Sievert...”

Page 14, line 12 should read “...rather than cinder blocks...”

Line 20, should read “...existing wall.”

Page 15, line 14, should read “...access to queuing...”

Page 19, line 41, should include “...and schedules a public hearing for July 14, 2010.”

Councilor Smith MOVED to adopt the June 23, 2010 Minutes as amended. Steve Roberts SECONDED the motion, and it PASSED 3-0-1, with Richard Ozenich abstaining because of his absence from that meeting.

XII. Adjournment

Richard Ozenich MOVED to adjourn the meeting. Councilor Smith SECONDED the motion, and it PASSED unanimously 4-0.

Adjournment at 10:27 pm

Victoria Parmele, Minutes taker