

*These minutes were approved at the January 12, 2011 meeting.*

**Durham Planning Board  
Wednesday November 10, 2010  
Durham Town Hall - Council Chambers  
7:00P.M.  
MINUTES**

**MEMBERS PRESENT:** Chair Lorne Parnell; Secretary Susan Fuller; Richard Ozenich; Town Council representative Julian Smith; alternate Wayne Lewis; alternate Andrew Corrow

**MEMBERS ABSENT:** Vice Chair Peter Wolfe; Richard Kelley; Bill McGowan; Town Council representative Bill Cote

**I. Call to Order**

Chair Parnell called the meeting to order at 7:06 pm. He welcomed new member Andrew Corrow, and said he would be sitting in for Mr. Kelley. He said Mr. Lewis would sit in for Mr. McGowan.

**II. Approval of Agenda**

*Susan Fuller MOVED to approve the Agenda. Councilor Smith SECONDED the motion, and it PASSED unanimously 6-0.*

**III. Report of the Planner**

Mr. Campbell updated the Board on the following items.

- He noted that there were updated FOF and COA for the Sawyer application, and draft FOF and COA for the CWC Conditional Use Permit application and Site Plan Application.
- He said he had met with University planner Doug Bencks for their monthly meeting, and would provide the Board with a summary of this.
- He said additional citizens were still needed for the Master Plan Advisory committee. He also said the committee would be split into two subcommittees, one to organize the public visioning session/forum, and the second to develop the community survey. He noted that the visioning forum had been postponed until January, and said he would provide more information on what it would involve.
- Mr. Campbell said there were two consultants in Town interviewing stakeholders for the market analysis in order to get some thoughts about the business climate. He said those to be

- interviewed included UNH leadership, real estate professionals, the Durham Business Association, two Councilors, members of the EDC, and Town staff. He said this information would be incorporated into the market analysis, and said the results were expected at the end of December.
- He said the IZIP (Inclusionary Zoning) committee had met that day. He said there would be one more meeting, and said proposed Zoning changes would then be brought to the Planning Board for discussion, either in December or in early 2011.
- Mr. Campbell said there was discussion at the Council meeting on Monday on the rendering of the improvements proposed for Pettee Brook Lane. He noted that it included the approved Kostis building, and incorporated the existing design elements on Main Street, which would make the Pettee Brook Lane area more attractive and pedestrian friendly.
- Mr. Campbell welcomed new Planning Board member Andrew Corrow to the Board.

Councilor Smith noted that the Conservation Commission would hear a presentation the following evening of an amended conceptual site plan for the Capstone proposal.

- IV. Public Hearing on a Site Plan Review** submitted by McEneaney Survey Associates Inc., Dover, New Hampshire on behalf of Geoff Sawyer, Durham, New Hampshire to permit an accessory building currently used as part of the kennel operation to be approved as an accessory structure. The property involved is shown on Tax Map 6, Lot 11-7, is located at 27-35 Newmarket Road, and is in the Residence C Zoning District.

Ms. Fuller recused herself for this application.

Mr. McEneaney spoke before the Board, and reviewed again what was proposed with this application. He noted that there had been a site walk at the property on Saturday. He also noted that the applicant was requesting a number of waivers.

***Councilor Smith MOVED to open the Public Hearing. Richard Ozenich SECONDED the motion, and it PASSED unanimously 5-0.***

Chair Parnell asked those members of the public who were in favor of the application, had concerns about it, or were against it to come forward to speak. There was no response.

***Councilor Smith MOVED to close the Public Hearing. Richard Ozenich SECONDED the motion, and it PASSED unanimously 5-0.***

Chair Parnell noted the definition of accessory structure and accessory use, and said in his view, this application would meet both of these definitions.

There was brief discussion on additions needed to the Findings of Fact.

Mr. Campbell noted that the applicant would need to apply for a building permit and would also

have to meet with the Fire Department.

Chair Parnell asked if there was any indication from Mr. Johnson that he would not approve a building permit, and Mr. Campbell said there was no such indication to him.

Waivers:

The applicant has requested a waiver from the Site Plan Regulations:

Section 7.02(D)(4)(s), Landscape Plan

Section 8, Construction Guarantee

Section 11.03, Maintenance Guarantee

The Planning Board has considered these requests and hereby grants the waivers.

Conditions of Approval to be met prior to the Signature of Approval on the Site Plan.

1. The applicant shall submit one mylar copy and one blue print copy of the Site Plan. The Site Plan shall be stamped with the plan preparer's professional seal.
2. The applicant shall apply for a building permit for the accessory structure and submit the application to the Code Enforcement Officer. The permit application must be approved and a permit issued.
3. As part of the building permit, the applicant shall meet with the Fire Department to ensure all fire and life safety codes are met.

Conditions to be met subsequent to the Signature of Approval on the Site Plan:

1. These Findings of Fact and Conditions of Approval shall be recorded with the Strafford County Registry of Deeds, at the applicant's expense, within ten (10) days of the Planning Board Chair's signature on the Site Plan.

*.Councilor Smith MOVED to approve the amended FOF and COA for the Site Plan Application submitted by McEneaney Survey Associates Inc., Dover, New Hampshire on behalf of Geoff Sawyer, Durham, New Hampshire to permit an accessory building currently used as part of the kennel operation to be approved as an accessory structure. The property involved is shown on Tax Map 6, Lot 11-7, is located at 27-35 Newmarket Road, and is in the Residence C Zoning District. Richard Ozenich SECONDED the motion, and it PASSED unanimously*

- V. **Deliberations on an Amendment to a Previously Approved Site Plan Review** submitted by MJS Engineering, P.C., Newmarket, New Hampshire on behalf of CWC Properties LLC, Durham, New Hampshire to change the construction plans for a new three-story, mixed use building to remove the proposed full basement and to add a proposed fourth floor for commercial use. The property involved is shown on Tax Map 4, Lot 12-0, is located at 9-11 Madbury Road, and is in the Central Business Zoning District.

**VI. Deliberations on an Amendment to a Previously Approved Conditional Use Permit submitted by MJS Engineering, P.C., Newmarket, New Hampshire on behalf of CWC Properties LLC, Durham, New Hampshire to change the construction plans for a new three-story, mixed use building to remove the proposed full basement and to add a proposed fourth floor for commercial use. The property involved is shown on Tax Map 4, Lot 12-0, is located at 9-11 Madbury Road, and is in the Central Business Zoning District.**

Chair Parnell noted that the Board had received an amended letter of intent, and asked Mr. Sievert to review it.

Mike Sievert of MJS Engineering said yes and said the amendment requested was to go to a phased approach to the development. He said the applicant already had received approval for a 3<sup>rd</sup> story building, and was now requesting a partial 4<sup>th</sup> story. He said the applicant now proposed that the 3 story building would be phase I, and a possible 4<sup>th</sup> floor would be phase II.

He said as part of this proposal, the applicant requested that pursuant to Section 175-22 E.2, the expiration of the Conditional Use Permit would be extended to four years rather than 12 months. He explained that there were two tenants in the existing building on the site who had long term leases, and were unwilling to move out. He said this was impeding the owner from beginning construction. He said the current economy was also an issue.

Mr. Sievert said the applicant was also requesting that the condition of approval regarding construction and landscape bonding would have to be met subsequent to the signature of approval, rather than prior to it, because of the unknown construction timing.

Chair Parnell asked whether if the project was done in phases, the completion of the first phase, the three story building, would include finishing the top of the building.

Mr. Sievert said phase I would result in a complete three story building with a complete roof. He said the idea was that if it turned out that construction started sooner rather than later, the applicant would probably go with a fourth floor right away. He said if this didn't happen, the roof would have to be removed later, when the fourth floor would be added.

Ms. Fuller determined from Mr. Sievert that the tenants' lease was two years.

Mr. Ozenich asked if the plan was still to go without the basement.

Mr. Sievert said yes. Asked where the proposed laundry area would go, he said there probably wouldn't be one with a three story building, unless the applicant chose to put it on the first floor.

Ms. Fuller asked whether if the laundry was put on the first floor, it would be part of the commercial space.

Mr. Sievert said yes, and said the main reason for not putting it on the first floor was to not break up what would presumably be higher value rental space there.

Mr. Ozenich asked if with the two phase approach Mr. Sievert had described, the Planning Board would be locked into the design for the fourth floor that had previously been presented.

Mr. Sievert said the design would be the same, and said there would be 6400 sf on the fourth floor, which would include a deck.

Mr. Ozenich noted that over four years, a lot of things would change.

Chair Parnell determined that if the applicant decided to put on the 4<sup>th</sup> story, he would have to come back to the Planning Board.

Mr. Ozenich asked if the Planning Board had allowed this lengthy an extension before.

Mr. Campbell said not for a Conditional Use application. He said generally an applicant was proposing to start construction right away, so the Board didn't concern itself with the extension language Mr. Sievert had referred to in Section 175-22 E.2. But he said an exception was allowed if the Planning Board approved it. He asked Mr. Sievert why four years had been chosen.

Mr. Sievert said this was chosen because of the RSA allowing a four year exemption from further Zoning changes. He said the rental leases would run for a maximum of two more years, ending in the spring of 2012. He said if the Board was more comfortable with two years, he didn't see why this would not be acceptable. He said if the applicant then had to ask for an extension to get to the next ideal season for building, this could be done.

Mr. Campbell provided details on the vesting of the project.

There was discussion about the applicant's request now to pay the parking fee that would be owed in three installments. Mr. Campbell noted that with the 6 Jenkins Court project, there were two payments. He said this issue was covered in Finding of Fact #5, and said the applicant would be charged for the lack of parking when the certificate of occupancy was issued for the three story building. There was discussion that #5 would include wording on installment payments for parking, if the Board decided to do allow this.

There was also discussion that the applicant would have to pay an additional fee for the lack of parking if the fourth floor was built.

Chair Parnell asked if any changes to the Site Plan were proposed now.

Mr. Campbell said an additional FOF was that the project was being approved in two phases. He suggested that the Board might want to add that the building permit must be issued for phase I within a certain number of years.

Mr. Campbell asked the Board if it was willing to grant the applicant a Conditional Use Permit for more than a 12 month period, and if so, for how long.

Chair Parnell said he didn't think it should be allowed for four years, stating that this seemed extreme. Ms. Fuller agreed.

After further discussion, it was agreed that Finding of Fact #10 for the Site Plan Application would include wording that a building permit must be issued on Phase I within three years of the signature of on the Site Plan.

Mr. Ozenich asked whether the applicant would be able to do any preliminary work on the site before the leases expired. There was discussion that the applicant couldn't really do anything until the leases were up.

Concerning the parking issue, Mr. Campbell said as FOF #5 was written now, the applicant would pay the parking fee for the fourth floor space as tenants occupied the space.

There was further discussion about the idea of allowing the parking fee to be paid in three installments.

Mr. Campbell noted that COA #3 for the Site Plan Application had been changed to say that the financial surety and landscape bond must be submitted as a Condition to be met subsequent to the Signature of Approval on the Site Plan. He said if the Board didn't allow this, the applicant's money could be tied up for quite awhile. He noted that if it turned out that the applicant wanted to build within a year, he would have to provide the surety at that time.

Chair Parnell asked Mr. Sievert if the applicant was ok with a building height of 49 ft, and Mr. Sievert said yes.

Chair Parnell asked if Board members had concerns at this point about the project itself.

There was discussion about whether the Board needed to go through the Conditional Use checklist. Mr. Campbell noted that the Board went through it for the original application for the three story building. Board members said they were willing to accept the checklist that had previously been approved.

#### Findings of Fact for both the Conditional Use Application and Site Plan Application

1. The Zoning Board of Adjustment approved three variance requests on February 16, 2010 and March 9, 2010.
2. Chief David Kurz submitted a memo regarding the proposed development on October 7, 2010.
3. A Site Walk was conducted on October 23, 2010.
4. A Public Hearing was conducted on October 27, 2010.
5. As part of the original approval the Planning Board exempted the applicant from 148 parking spaces with the requirement that the applicant pay the parking fee of \$750 per space not provided. The applicant will need to pay an additional \$750 per space not provided as the build-out for the fourth floor occurs. The payments will be in three installments as follows: 1<sup>st</sup> installment at issuance of Certificate of Occupancy, 2<sup>nd</sup> installment six months after the Certificate of Occupancy is issued, and 3<sup>rd</sup>

- installment twelve months after the Certificate of Occupancy is issued.
6. As part of the original approval the Planning Board has waived the school impact fee. However, if within a six-year period a family with a child or children in the school system moves into the building, the school impact fee will be assessed at that time.
  7. As part of the original approval the Planning Board has waived the requirement of Section 9.6 of the Site Plan Regulations for Non-Municipal Utilities to allow the overhead wires to remain.
  8. For the amended application the Planning Board has granted a building height of up to 49 feet.
  9. The Durham Conservation Commission unanimously included their wish to recommend that artificial armoring (with stone or rip-rap) be limited on the stream banks and natural vegetation be restored to the maximum extent reasonable.

Additional Finding of Fact for the Conditional Use Application

10. Since the existing build has existing tenants with leases that are currently in place and will continue for over the two years, the Planning Board hereby approves the Conditional Use Permit for up to three years from the signature of approval on the final plan.

Additional Finding of Fact for the Site Plan Application

10. The project is being approved in two phases. Phase I will be the construction of the three-story mixed-use building as proposed in the amended application. Phase II will be the construction of the fourth-floor as proposed in the amended application. A building permit must be issued on Phase I within 3 years of the signature of on the Site Plan.

Conditions of Approval to be met prior to the Signature of Approval on the Site Plan, for the Conditional Use Permit Application

1. These Findings of Fact and Conditions of Approval shall be recorded with the Strafford County Registry of Deeds, at the applicant's expense.
2. All final plans must be stamped by the appropriate professionals.
3. All Conditions of Approval from the original June 2, 2010 Conditional Use Permit Approval are hereby incorporated into this document by reference.

Conditions to be met subsequent to the Signature of Approval on the Site Plan, for the Conditional Use Permit Application:

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

2. A Conditional Use Permit shall be issued by the Zoning Administrator.
3. All Conditions of Approval from the original June 2, 2010 Conditional Use Permit Approval are hereby incorporated into this document by reference.

Conditions to be met prior to the Signature of Approval on the Site Plan:

1. The applicant shall supply one mylar plat and one paper copy for signature by the Planning Board Chair.
2. All plans must be stamped by the appropriate professionals.
3. All Conditions of Approval from the original June 2, 2010 Site Plan Approval are hereby incorporated into this document by reference, with the exception that the financial surety and landscape bond must be submitted as a Condition to be Met Subsequent to the Signature of Approval on the Site Plan and must be in place prior to the issuance of any building permit.
4. The applicant will need to apply to, and be approved by, the Department of Public Works for additional sewer and water permits.

Conditions to be met subsequent to the Signature of Approval on the Site Plan:

1. These Findings of Fact and Conditions of Approval shall be recorded with the Strafford County Registry of Deeds, at the applicant's expense, within seven (7) days of the Chair's signature on the Plan.
2. All Conditions of Approval from the original June 2, 2010 Site Plan Approval are hereby incorporated into this document by reference, with the exception that the financial surety and landscape bond must be submitted as a Condition to be Met Subsequent to the Signature of Approval on the Site Plan and must be in place prior to the issuance of any building permit.
3. The fourth floor deck will not be used by the building residents for residential purposes.

***Susan Fuller MOVED to approve as amended, the Amendment to a Previously Approved Site Plan Application and a Previously Approved Conditional Use Permit Application submitted by MJS Engineering, P.C., Newmarket, New Hampshire on behalf of CWC Properties LLC, Durham, New Hampshire to change the construction plans for a new three-story, mixed use building to remove the proposed full basement and to add a proposed fourth floor for commercial use. The property involved is shown on Tax Map 4, Lot 12-0, is located at 9-11 Madbury Road, and is in the Central Business Zoning District. Councilor Smith SECONDED the motion, and it PASSED unanimously 6-0.***

**VII. Deliberations 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 where residential subdivisions are required to be developed as Conservation Subdivisions.**

Mr. Campbell reviewed the history of this proposed Zoning change. He noted that since it was a Council initiated change, if the Planning Board recommended not adopting it, the Council would then make the ultimate decision on it.

Chair Parnell said when this was a Planning Board initiated Zoning change, the Planning Board had ultimately voted not to recommend it. He noted that there was now a slightly different makeup of the Board, and also asked if any new information relative to the Zoning change had come forward.

Mr. Campbell said he didn't think anything new was heard at the Board's recent public hearing. He said a letter received from Board member Bill McGowan restated his original position. He also noted that there were two Board members who voted to recommend adoption of the Planning Board initiated Zoning change, and both were present now.

Ms. Fuller suggested that the Board could say in its recommendations that it was still not in favor of the Zoning change. But she said if the Council still moved forward with it, the Board could also recommend that it be clear that the Zoning change would apply strictly to residential development in the ORLI district. She said simply putting it into the subdivision regulations didn't make that clear.

Mr. Campbell said the Applicability section of 175-107 on Conservation Subdivisions said "residential subdivisions", but said this was somewhat of a gray area.

Ms. Fuller asked what would happen if there was a mixed use development, and Mr. Campbell said the conservation subdivision requirements would only apply if the units would be sold as condos. He said if there were no subdivision of land, it would not be considered a subdivision.

Ms. Fuller asked if the conservation subdivision requirements would apply if there were a mixed use development with an office building and residential condos above it. Mr. Campbell said yes, and Ms. Fuller repeated that she didn't think the proposed Zoning change was a good idea. She said she could not support it, and said if the Council passed it, the Town should try to rewrite the conservation subdivision regulations.

Mr. Campbell suggested that the Planning Board should do that. He said it might be a recommendation, and noted that the Master Plan update was underway. But he said right now, they had to deal with what was proposed with this Zoning change.

Councilor Smith said he still supported the Zoning change.

Mr. Ozenich said he hadn't supported it previously and didn't see anything to make him support it now.

Chair Parnell said he had supported this Zoning change previously because he felt that if there

was a residential development in a zone and the Town had said it wanted conservation subdivision, this should go along with it. But he said he had the same concerns that Ms. Fuller had that it would be too broadly applied. He said it shouldn't apply to a condo unit.

He said if the Board said conservation subdivision should only apply to a particular type of residence, at least this would be focusing in on what the intent of the Zoning change was. He also said he had a hard time going against the original feeling of the Board, and noted that all of those who had previously voted were not present now. He said if everyone were included, the vote would be at least 4-3 against the Zoning change. He said it was hard to think about a new vote being taken now and pushing something through. He said he thought the Board should use this opportunity now to say what it thought the Council should do, rather than saying what it should not do.

Mr. Ozenich said he thought they only wanted residential in these zones as part of some type of commercial type of development, and that if it wasn't tied with this, it wouldn't go.

Chair Parnell said what was in the Zoning Ordinance now said residential was allowed in these zones, and didn't say that it had to be done in conjunction with a commercial development.

There was discussion that elderly housing developments had already been allowed in these two zones, and hadn't been required to be conservation subdivisions.

Mr. Lewis said during the public hearing, a number of people had spoken about several issues, and said this had clouded things. He said until these issues were addressed, it was hard to vote on this. He also said some people felt the Zoning Ordinance already contained what was needed, so why add something else to the mix. Mr. Lewis also questioned whether the Council was pushing this Zoning change because of a specific property.

Councilor Smith said when the Council deliberated on the original change to the Table of Uses to allow single family residences and duplexes in ORLI and single family residences in MUDOR as a Conditional Use, there were only 8 people at the table. He said it was clear at that time that the Council was divided so that if it had voted without the compromise proposed that evening, there might have been a 4-4 vote and so the motion would have failed.

He said during the discussion before the vote was taken, a Councilor who had been on the fence said why not include the conservation subdivision requirement, because it would stop the wholesale redevelopment of these zones into subdivisions. He noted that the original Zoning change was designed to benefit someone who wanted to build a complex of free standing rental cottage residences, and was not for single-family housing. He said the agreement at the Council table that evening was to begin the process of changing the Zoning Ordinance to include the conservation subdivision requirement.

He noted that they could have started with a Council initiated Zoning change, but for a number of reasons, asked the Planning Board to initiate it. He said the Planning Board then voted against it, and it was now a Council initiated change. He said he would vote in favor of the proposal and it would probably fail. He said the Council would then have to decide whether it would do what

it had said it was willing to do. He said he didn't think the Board needed to hear any more on this. He said he had listened to the public hearing testimony and read the memo from Malcolm McNeill, but didn't see the danger Mr. McNeill saw in making this change.

Ms. Fuller said she didn't see the danger of leaving the Ordinance as it was now. She said Conditional Use was required now for single family and duplex developments in ORLI and MUDOR, and said by also requiring conservation subdivision, the Council wanted total control of any other housing that went there.

Councilor Smith said the Capstone proposal, which had motivated the original Zoning change, had nothing to do with the conservation subdivision issue. He said if the Zoning change proposed now were done before the original Zoning change, it would not have affected Capstone in any way because the company was not going to subdivide land as part of the development.

Ms. Fuller said they were doing conservation subdivision by clustering, but Councilor Smith said the clustering had nothing to do with conservation subdivision. He said they were clustering the units for economic reasons, because a good portion of the parcel was very wet and was close to the Oyster River. He said it might look like a conservation subdivision, but was not one and was not required to be one.

Councilor Smith said he had heard people who had spoken against this proposal say that this somehow took away the right for others to do what Capstone would be doing, but said this was not the case. He said if the Zoning change passed and another company like Capstone bought a large parcel and wanted to build a student housing complex with duplexes and cottages without subdividing any land, the conservation subdivision regulations would not apply.

He said he hoped a few more Planning Board members understood that there was no danger here, except for those who wanted to subdivide the land the Town wanted to put aside for economic development. He said if the Town required that the conservation regulations had to be applied there, this would make it harder for someone to take a large piece of land and put it into a development of single family homes. He said this proposed Zoning change encouraged the uses they all most preferred would be put in the ORLI and MUDOR.

Ms. Fuller said she disagreed.

Mr. Ozenich said this reminded him of giant spot zoning, where they were doing this so this company could get its spot.

Councilor Smith said Capstone already had the zoning it needed. He said the Town couldn't do spot zoning, so had made a huge Zoning change.

Chair Parnell said he wasn't sure that a motion to support or not support the proposed Zoning change had any validity one way or the other. He said he thought the Board should take this opportunity to tell the Council what the Board's issues were. He said the Board should ask Mr. Campbell to let the Council know that the Planning Board had certain concerns and divisions on this.

Ms. Fuller said the Conditional Use process was enough protection against this fear of large scale residential development.

Chair Parnell suggested that the Board should urge the Council to rewrite what it was proposing so that there wasn't the possibility of including nonresidential, commercial, or condo units in the conservation subdivision requirements.

Councilor Smith suggested recommending to the Council that it support the Zoning change, with the addition that the Planning Board would like the Council to initiate a series of changes to take care of these problems, including making absolutely sure that conservation subdivision wouldn't apply to condos on a single parcel of land.

Chair Parnell said he wasn't sure the Board would say it supported what Councilor Smith had proposed, stating that they appeared to be at least as divided as they were last time.

Councilor Smith suggested they should therefore end the pain. He said he would vote in favor of the proposal and said he hoped the Chair would support this as well.

Chair Parnell said he would like to do so, but didn't want to send the wrong message. He said he didn't want to take a new vote and give the wrong impression. He said he would like the Planning Board to make a statement that it had concerns about the Zoning Change proposal and was divided on it. He asked Mr. Campbell if he could come up with something that expressed this.

Councilor Smith agreed that Mr. Campbell could provide something to the Council on the Planning Board's reservations. He said the Council should hear them, and perhaps should initiate on its own some Zoning changes that were supportive of what the Planning Board wanted. He also said the Council shouldn't have asked the Board to initiate the Zoning change in the first place.

Mr. Campbell asked for further clarification on what Board members were saying.

Chair Parnell said the Planning Board couldn't support the change, noting that there was too much division on it among Board members. He said he didn't want to take this to a vote, and said he agreed with Ms. Fuller that if the Council was going to proceed with the Zoning change, the Planning Board had certain concerns about doing this.

Mr. Campbell said the Board could say nothing if it wanted to. He suggested that if the Board had reservations and concerns about the Zoning change, it should say it didn't recommend the change.

Ms. Fuller said this shouldn't be recommended until the conservation subdivision regulations were reviewed and possibly rewritten in order to ensure that Durham got the type of development and liberty for developers that would bring economic vitality to the Town.

Mr. Campbell said he didn't think the Planning Board or the Council wanted residential subdivision in those zones, and would like to allow commercial activities to occur there. He noted that he had originally put forward some other ideas including planned unit development and mixed housing development. But he said he had thought they would have taken too long to get through, and the opportunity would have been lost.

He said as part of the Board's recommendations, it could say it did support the idea of someone looking further into what could be done to allow the kind of development they wanted, and not the development they didn't want in these two zones.

There was further discussion. Mr. Campbell said if the Council did approve the Zoning change, he didn't think anyone would want to do conservation subdivision in these two zones.

Councilor Smith said making the Zoning change would discourage residential subdivisions. He said the intent of this Zoning change was to protect as much land as possible in these two zones for commercial development.

Mr. Campbell suggested that the Board make a motion that either recommended that the Zoning change be adopted, or recommended that it not be adopted. He said the Board could also add its concerns, which would be provided to the Council.

***Councilor Smith MOVED to recommend to the Town Council 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 where residential subdivisions are required to be developed as Conservation Subdivisions. Chair Parnell SECONDED the motion, and it FAILED 1-5, with Councilor Smith voting in favor of it.***

Mr. Campbell said he would draft a memo for the Council that expressed the concerns Planning Board members had raised about the proposed Zoning change.

## **VIII. Other Business**

A. Old Business:

B. New Business:

Mr. Campbell noted that Beth Della Valle would meet with the Board next week, and possibly post new language for voters...

C. Next meeting of the Board: **November 17, 2010**

## **IX. Approval of Minutes –**

September 15, 2010

Page 1, should say Steve Roberts MOVED to approve the Agenda as amended.  
Page 2, 5<sup>th</sup> paragraph, should read "...to the list of Zones required to be developed..."  
5<sup>th</sup> paragraph from bottom, should read "The Planning Board resumed its public meeting at 7:57 pm."  
Page 3, top paragraph, should read "...that the conservation subdivision requirement could be..."  
3<sup>rd</sup> paragraph from bottom, should read "...be used seemed contradictory."  
Page 4, motion at top of page, should read "...to the list of Zones required to be..."  
6<sup>th</sup> paragraph should read "...hadn't changed since last time,.....within 8 ft to the side of their lines...."  
Page 5, top paragraph, should read "...trimming was seeing a tree-related outage..."  
Page 7, 5<sup>th</sup> paragraph, should read "...brought to his attention was a..."  
Bottom paragraph, should read "...did a site walk so it could observe..."

***Councilor Smith MOVED to approve the September 15, 2010 Minutes as amended.  
Susan Fuller SECONDED the motion, and it PASSED 5-0-1, with Andrew Corrow abstaining because he was not yet a member of the Planning Board.***

September 15, 2010 Nonpublic meeting

Page 1, top paragraph, should read "RSA 91-A:2 (I) (b)  
Page 2, 2<sup>nd</sup> full paragraph, should read "...conservation subdivision requirements would protect..."  
Page 3, 1<sup>st</sup> full paragraph, should read "...the underlying argument was not..."  
6<sup>th</sup> full paragraph, should read "...decided to subdivide a large lot..."

***Susan Fuller MOVED to approve the Notes on the Nonpublic Discussion with Legal Counsel.  
Richard Ozenich SECONDED the motion, and it PASSED 5-0-1, with Andrew Corrow abstaining because he was not yet a member of the Planning Board.***

September 29, 2010

Page 1, should say alternate Council representative Bill Cote, under Members Absent  
Page 5, top paragraph, should read "...come up with a least cost alternative..."  
Page 7, 4<sup>th</sup> full paragraph, should read "...Longmarsh Road, and into Hamel Brook, where it undermined Route 108 and came rushing down..."  
Remove current 6<sup>th</sup> paragraph beginning with Councilor Smith.  
Page 9, 2<sup>nd</sup> paragraph from bottom, should read "...and the UNH Police station."  
Page 13, 5<sup>th</sup> paragraph, should read "...consultant Mark Eyerman..."

***Councilor Smith MOVED to approve the September 29, 2010 Minutes as amended.  
Susan Fuller SECONDED the motion, and it PASSED 3-0-3, with Chair Parnell, Richard Ozenich abstaining because of their absence from the meeting, and Andrew***

***Corrow abstaining because he was not yet a member of the Planning Board.***

Mr. Ozenich asked how Edgewood Road had been chosen as the location for the speed table, stating that he didn't think there was that much traffic there.

Mr. Campbell said the neighbors said there was a lot of speeding on that road.

Mr. Ozenich said he didn't see the speeding there that others spoke of, and said the speed table there seemed like a waste of money. He said Emerson was the worst road, and Mr. Campbell said perhaps people avoided it by using Edgewood.

***X. Adjournment***

***Susan Fuller MOVED to adjourn the meeting. Richard Ozenich SECONDED the meeting, and it PASSED unanimously.***

Adjournment at 8:54 pm  
Victoria Parmele, Minutes taker

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Susan Fuller, Secretary