

*These minutes were approved at the May 25, 2011 meeting.*

**DURHAM PLANNING BOARD  
WEDNESDAY, MARCH 23, 2011  
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL  
7:00 P.M  
MINUTES**

**MEMBERS PRESENT:** Chair Lorne Parnell; Vice Chair Peter Wolfe; Secretary Susan Fuller; Richard Kelley; Richard Ozenich; Bill McGowan; Town Council representative Jay Gooze; alternate Town Council representative Julian Smith; alternate Andrew Corrow

**MEMBERS ABSENT:** alternate Wayne Lewis

**I. Call to Order**

Chair Parnell called the meeting to order at 7:01 pm. He welcomed Councilor Gooze as the regular Council representative on the Planning Board

**II. Approval of Agenda**

Chair Parnell noted that the Agenda needed to be amended to include approval of the February 9, 2011 Minutes.

*Susan Fuller MOVED to approve the Agenda as amended. Bill McGowan SECONDED the motion, and it PASSED unanimously 7-0.*

**III. Report of the Planner**

Mr. Campbell said the Master Plan survey committee met on the 17<sup>th</sup> and 23<sup>rd</sup>, and said the draft survey had been provided to the Board for this meeting.

He said he met with Dick Gsottschneider, and received an application from him for the April 13<sup>th</sup> meeting. Mr. Campbell said the applicant planned to add a single unit to an existing duplex on the Mast Road extension. He said variances were needed for two minor setback exceedances. He also said it would be a conditional use permit application because of the wetland setback issue, and would also go to the Conservation Commission for that reason.

Mr. Campbell said the Board's quarterly planning meeting went well, and said the Zoning change language discussed at that meeting would come back to the Board at some point.

He said on Monday, the Town Council set the public hearing dates for two applications under RSA 79-A, the community revitalization tax incentive program.

He said there was a preconstruction meeting for the redevelopment of the 9-11 Madbury Road property. He said Mr. Crape was looking to start demolition this spring, and to start construction at the end of the summer. Mr. Campbell noted that it was a tight corner where the construction would take place.

He said the Technical Review Committee had recently met concerning the application from Varsity Durham regarding its 35 Main Street property. He said the Committee approved an application to allow flexibility in the uses allowed in the spaces there. He said all uses currently permitted in the CBD would be allowed without having to go through a review process with the Planning Board each time there was a change of use.

Mr. Campbell said a condition of approval was that the applicant was granted a five year waiver from having to put a sprinkler system in the entire building for a change of use. He said the idea was that the applicant would redevelop the site within the five year period, which was in their plans, or would be required to sprinkler the building when the five years was up.

He said another condition of approval was that as businesses applied for building permits to fill those spaces, the Fire Department and Code Enforcement Officer would check to see if there was sufficient fire separation. He said he would provide a report on this to the Planning Board.

**IV. Public Hearing on an Application for Site Plan Review** submitted by DCoastal LLC, Epping, New Hampshire on behalf of Ionian Properties LLC, Dover, New Hampshire, to place a fully commercial concession trailer on a piece of property to be operated as a carry-out restaurant. The property involved is shown on Tax Map 21, Lot 12-11, is located on 10 Pettee Brook Road, and is in the Central Business Zoning District.

**V. Public Hearing on an Application for a Conditional Use Permit** submitted by DCoastal LLC, Epping, New Hampshire on behalf of Ionian Properties LLC, Dover, New Hampshire, to place a fully commercial concession trailer on a piece of property to be operated as a carry-out restaurant. The property involved is shown on Tax Map 2, Lot 12-11, is located on 10 Pettee Brook Road, and is in the Central Business Zoning District.

Dan McNeill spoke before the Board, and briefly described the carryout restaurant that was proposed, using the commercial concession trailer on the site.

***Susan Fuller MOVED to open the Public Hearing. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.***

**Bill Hall, Smith Park Lane**, said he was very pleased to see some entrepreneurs take a step like this. He said he supported what they were doing.

**Mike Farrell, Durham Bike**, said this application had been a surprise to him. He said parking was a problem in that area, and said he was concerned that with the restaurant there, there would be a problem for his customers as well as restaurant customers. He said the applicants were planning to have a carnival like restaurant, which was an atmosphere that wasn't wanted there.

He said it would have been nice if the landlord had consulted with him, and said what was proposed hadn't really been thought through. He noted that the applicants planned to keep the restaurant open until 2 am, and said he was concerned about possible vandalism.

Mr. Farrell said if this application was approved, that would be the end of the bike shop. He noted that his business had been in Durham since 1974.

Mr. Wolfe asked what would happen to the bike shop when the new mixed use building went up on that site.

Mr. Farrell said it would be a matter of looking at what was available, and moving into one of the spaces.

There was discussion on the parking available on the site. Ms. Fuller said it sounded like Mr. Farrell currently parked in the paved open area.

Mr. Farrell said that was correct. He said there seven parking spaces, and said Don Thompson had had some kind of agreement with the Town concerning this.

Mr. Campbell said that to the best of his knowledge, there were no official parking spaces there.

Chair Parnell asked what the lot in question had been used for previously.

There was discussion. Mr. Farrell said it was used for parking.

Councilor Gooze asked if customers currently drove up to the building where the bike shop was located.

Mr. Farrell said yes, and noted that part of the service he provided was to inflate bike tires for older residents.

***Susan Fuller MOVED to close the Public Hearing. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.***

Chair Parnell said he was surprised to hear that the landlord hadn't said anything about this proposed restaurant to Mr. Farrell.

Mr. Farrell said the landlord had said the restaurant would be located by the dumpster, and didn't say it would be located outside his door.

There was discussion on additional Findings of Fact needed.

It was noted that the name on the plan needed to be changed. Mr. Kelley also noted that the Board had the deeds for the transfer of the land from the Town to Ionian properties. Mr. Campbell noted that the restrictions were included in this. He explained that the proposed

location for the mobile trailer was a result of the Town restriction that there could be no new structures located greater than 20 ft from the property line. He explained that the applicants had originally proposed that the trailer be set back further than this but they had to move it up because of this restriction.

Mr. Campbell said that the other restriction was that if Ionian properties didn't build the mixed use building within five years, the parcel in question would revert back to the Town. He said they planned to start construction in the spring of 2012.

Mr. Kelley said he was fine with the site plan provided by the applicants as long as the Board got the revisions back. But he said it was peculiar for the Planning Board Chair to be signing a lot line adjustment plan.

Chair Parnell asked if the site plan would show the location of the building as currently shown.

Mr. Campbell said yes, and said this was basically the only change to the site.

Chair Parnell noted the comments from Mr. Farrell about parking. He said applicants in the Central Business District could be exempted from having to provide parking if they paid a fee instead.

Mr. Campbell said that at the last Planning Board meeting, there had been discussion that the mobile trailer would contain approximately 100 sf, which meant two parking spaces would be needed for the restaurant customers, and two spaces would be needed for the employees. He said if the trailer was bigger than that, the applicants would need to pay an additional fee for the additional parking space required.

Mr. Wolfe asked what the policy of the Planning Board was in a situation like this, where a new business could possibly harm an existing business nearby.

Chair Parnell said he was not sure there was such a policy. He said both of these businesses were involved with Ionian Properties, and said this landlord was submitting an application for one tenant that was a problem for the other tenant.

Mr. Kelley said in this particular situation, he didn't think the Board could be the referee. He said this involved Town owned land that had been used in an informal manner.

Mr. Wolfe said it bothered him that this conflict existed, but he said Mr. Kelley might be right in what he had said.

Mr. Farrell said there was an agreement with Don Thompson. Mr. Campbell said he didn't recall such an agreement, and said Don Thompson didn't own the building there.

Mr. Ozenich said he agreed with Mr. Wolfe, and asked if perhaps the trailer could be re-oriented in some way. He said it sounded like the people standing around the concession trailer would be opposite the bike shop door.

Chair Parnell asked what was possible in terms of re-orienting the trailer.

There was discussion on this, with Mr. Campbell explaining that the requirements concerning the hood system for the kitchen and the propane tanks were the reason for the present orientation of the trailer.

Councilor Gooze said if it was the owner who had the business, that would be one thing, but he said the owner was leasing his property. He said this was an issue between the landlord and the businesses, and said this should have been well vetted before coming to the Planning Board. He said this was the landlord's problem, but said it could now also be the Planning Board's problem because of possible safety issues.

Mr. Ozenich said it wouldn't be all foot traffic coming to the restaurant, and said there wasn't enough space in there now. There was discussion about this.

Mr. Kelley said the footprint of the trailer wasn't much larger than the footprint of a car. He said no picnic tables were proposed. He said he understood Mr. Farrell's concerns, but said there was close to 20 ft between the edge of the proposed restaurant and his door. He said there was the footprint for one vehicle there, and said he thought there was room to accommodate his needs as well as the needs of the restaurant business.

Councilor Gooze suggested that a longer cord could be used to fill bike tires of elder residents arriving in their cars.

Chair Parnell questioned whether this area where cars now parked was intended to be a parking lot anyway.

Mr. Ozenich said he thought it was temporary space for people coming and going to the bike shop.

Mr. Kelley said he had little doubt that there was currently parking going on there.

Chair Parnell said the issue of parking there was one for the landlord to deal with, with or without this restaurant going in.

Mr. Kelley said the owner would be better served by providing some striping there for parking for the applicants, and also allowing two spots for the bike shop.

Councilor Smith said the key issue concerning the proposed Conditional Use Permit application was whether there would be external impacts from the proposed use, and "...whether this use would discourage the appropriate and orderly development and use of land and buildings in the neighborhood". He said only the owner could determine this, and said he didn't see that the Board could do anything about the objection.

Mr. Kelley suggested that the Board address the Conditional Use permit application first, and said conditions could be created that the owner could then decide whether or not to sign off on.

He noted emails provided by Town staff on the applications, and asked if the information they had provided had gotten worked into the conditions of approval. There was discussion. Regarding the parking issue, Mr. Kelley said the parking on the Town property had been informal at best. He said the Board had no authority to get between the lessee and lessor concerning the parking issue, and said the only way to address this would be to require the property owner to put in some stripes for parking.

There was detailed discussion by the Board on the appropriate conditions of approval to include concerning trash issues and hours of operation.

Chair Parnell next went through the Conditional Use Permit checklist with the Board.

Councilor Gooze said that concerning the issue of adequate vehicular access, he didn't see a problem in terms of customers being able to get close enough to the bike shop. Other Board members agreed.

Concerning the issue of waste disposal, there was discussion that greywater would be taken off site. Mr. Kelley recommended that there should be a condition concerning this, and said it would otherwise be easy to dump water down a catch basin at 2:30 in the morning.

Mr. Ozenich noted that the concession trailer would be a temporary structure on the site, and asked if there would be a time limit.

It was noted that it had been one year already since the Ionian Properties applications had been approved, so there were 4 years left during which time the mixed use project on the site could be built. Chair Parnell said to him, if the temporary restaurant was ok there for one year, then it was ok for 4 years. It was noted that the restaurant would be open year round.

#### **Conditional Use Permit - Findings of Fact**

1. A site walk of the property was held on March 23, 2011, minutes will be submitted by the secretary.
2. A Public Hearing was held on March 23, 2011 and interested members of the public were in attendance to give comment.
3. The Code Enforcement Officer/Health Officer/Zoning Administrator (CEO/HO/ZA) provided comments via email on March 8, 2011.
4. The Planning Board exempted the applicants from the required parking with the requirement that the applicants pay \$750 per space not provided.

#### **Conditional Use Permit Application - Conditions of Approval to be met prior to the Signature of Approval on the Site Plan.**

1. The applicant shall supply one mylar copy of the plan and one paper copy for signature by the Planning Board Chair. See Site Plan.
2. Operators to provide names, emails and cell numbers to Durham Fire, Police, Health

and Code offices for emergency contacts.

3. Operator to provide copy of NH Bureau of Food Protection license and all Bureau inspection reports to Durham Health Officer within 24 hours of receipt for review and property file.
4. Operator and owner to provide procedure for restroom access for operator use to Code Official for review and approval
5. Provide Durham Health Officer with copy of operators' standard operating procedures for employees to follow as directed by operator to meet Planning Board conditions of approval.

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

1. The referenced Site Plan and these Findings of Fact and Conditions of Approval shall be recorded with the Strafford County Registry of Deeds, at the applicant's expense, within seven (7) days of the Chair's signature on the Plan.
2. The applicant shall be issued a Conditional Use Permit from the CEO.
3. The Durham Health Officer will require inspections of the concession trailer on a quarterly basis. Other inspections will be performed as needed based on any complaints received.
4. A minimum of (5) five trash receptacles to be emptied/cleaned as needed by the operators and stored inside before leaving for night.
5. Operators shall remove and dispose of trash within a 20 ft. perimeter that will be patrolled before and after every shift. The perimeter may become larger based on findings by the CEO/HO after the business has been in operation.
6. The operators have agreed to terminate operations by 2 a.m.
7. The Police Chief has stated some concerns about the late hours of operation and the location away from downtown. The operators are strongly encouraged to keep behavior under control at 10 Pettee Brook Road. If there are persistent problems as determined by the Durham Police Chief at this location, or in the area surrounding this location as a result of this business, the Zoning Administrator is authorized to suspend the CUP immediately after being notified by the Police Chief. The CUP will remain suspended until such time the Police Chief is satisfied that a plan is in place to correct the persistent problems.
8. Operator has agreed to remove and dispose of grey water off-site in accordance with all state and local ordinances

Site Plan Application - Findings of Fact

1. A site walk of the property was held on March 23, 2011. See CUP
2. A Public Hearing was held on March 23, 2011. See CUP
3. The Code Enforcement Officer/Health Officer/Zoning Administrator (CEO/HO/ZA) provided comments via email on March 8, 2011.
4. The Planning Board exempted the applicants from the required parking with the requirement that the applicants pay \$750 per space not provided.

#### Waivers

The applicant has requested waivers from Site plan Regulations Section 7.02 (D)(4)(d), existing and proposed 2' contours, and from 7.02 (D)(4)(s), landscaping plan. The Planning Board has considered this request and hereby grants the waivers.

#### **Site Plan Application - Conditions of Approval to be met prior to the Signature of Approval on the Site Plan.**

1. The applicant shall supply one mylar copy of the plan and one paper copy for signature by the Planning Board Chair. The plan name shall be amended to remove "Lot Line Revision Plan".
2. Operators to provide names, emails and cell numbers to Durham Fire, Police, Health and Code offices for emergency contacts.
3. Operator to provide copy of NH Bureau of Food Protection license and all Bureau inspection reports to Durham Health Officer within 24 hours of receipt for review and property file.
4. Operator and owner to provide procedure for restroom access for operator use to Code Official for review and approval
5. Provide Durham Health Officer with copy of operators' standard operating procedures for employees to follow as directed by operator to meet Planning Board conditions of approval.
6. The applicants will work with the Durham Fire Department to ensure all fire and life safety codes are being met with the concession trailer.
7. The applicants will apply for, and be granted, the necessary building permits from the CEO.
8. Final determination by the CEO for the number of required parking spaces shall be made and the parking fee assessed.

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

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



2. The Durham Health Officer will require inspections of the concession trailer on a quarterly basis. Other inspections will be performed as needed based on any complaints received.
3. Violations of Durham Solid Waste Ordinance Chapter 118 to be issued to concession trailer operators, if not corrected or fines paid by the operators the owner of property shall be responsible.
4. Trash receptacles to be emptied/cleaned by the operators as needed and before leaving for night. See CUP #4.
5. Operators to monitor trash on property, stream, Rosemary Lane and parking lot. A 200' perimeter will be patrolled before and after every shift. The perimeter may become larger based on findings by the CEO/HO after the business has been in operation.
6. The parking fee assessed for the exempted parking spaces shall be paid in two equal installments. The first installment will be paid by the end of July 2011 and the second installment will be paid by the end of September 2011.
7. The applicant shall work with the Director of Planning & Community Development to ensure the site is properly landscaped.
8. The applicant shall apply for, and be granted, a permit for any signage.
9. Operator has agreed to remove and dispose of grey water off-site in accordance with all state and local ordinances.

***Richard Kelley MOVED to approve the Findings of Fact and Conditions of Approval, as amended this evening, for the Conditional Use Permit application submitted by DCoastal LLC, Epping, New Hampshire on behalf of Ionian Properties LLC, Dover, New Hampshire, to place a fully commercial concession trailer on a piece of property to be operated as a carry-out restaurant. The property involved is shown on Tax Map 21, Lot 12-11, is located on 10 Pettee Brook Road, and is in the Central Business Zoning District. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.***

***Richard Kelley MOVED to approve the Findings of Fact and Conditions of Approval, as amended this evening, for the Site Plan application submitted by DCoastal LLC, Epping, New Hampshire on behalf of Ionian Properties LLC, Dover, New Hampshire, to place a fully commercial concession trailer on a piece of property to be operated as a carry-out restaurant. The property involved is shown on Tax Map 21, Lot 12-11, is located on 10 Pettee Brook Road, and is in the Central Business Zoning District. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.***

**VI. Public Hearing** for the new UNH Business School requested by the University of New

Hampshire on a proposal for the construction of a new Business School facility, located within the academic core of campus but also in close proximity to the downtown. The location of the new facility will be located off Main Street, Garrison Avenue and Rosemary Lane. The new facility will consist of 115,000 gross square feet.

University planner Doug Bencks spoke before the Board. He said he was present to provide a brief description of the project, and answer questions of most interest to the Planning Board. He said the Business School would take on the new name with the completion of the new building, and said it was an important building as the University advanced its business programs.

He described the site, and said some University parking there would be displaced. He said this would be offset by parking at what used to be the New England Center. He said as part of the shifting in parking as a result of this initiative, a parking lot at the corner of Main Street and Edgewood Road would be half visitor parking, and half faculty/staff parking.

Councilor Gooze asked if this visitor parking would be for the University, or for anyone in Town wanting to park there.

Mr. Bencks said it would be for anyone wanting to park there, and said there would be a booth there similar to the situation at Lot C, across from Mill Plaza.

He described the 4 existing wood frame houses on the site now, which contained various offices and said they were in the process of being relocated. He provided details on this. It was noted that Bachelor House would be moved off as well. He said the new building would look out onto Main Street, and said a key reason for its location was the proximity to the downtown. He noted that there would be a walking path that led directly to the downtown.

Councilor Smith noted the roundabout on the site plan, at Quad Way.

Mr. Bencks said it suggested a possibility, and was not part of the project. He then showed visuals of the site and new building from various vantage points, and also showed the various kinds of spaces in the building. He said it would be a brick building with granite trim and slate roofs, and said it would have 3 stories facing onto Main Street. He noted the courtyard space outside.

He said the building would tie in to water and sewer on Garrison Ave, and said the sizing for this had been reviewed by the Durham DPW. He said there were no wetlands on the site. He provided details on the project schedule, and said it was expected that construction would begin at the end of May, and would be completed in time for the beginning of classes in January of 2013.

Mr. Bencks said the goal was that it would be a LEED Gold project, and said the University was going through a formal certification process for this.

Ms. Fuller asked if there would be water features in the courtyard.

Mr. Bencks said yes, but said much of it would be part of a rain garden, which would take care of all of the stormwater runoff on a portion of the courtyard. He also noted a portion of the site that would be porous pavement.

Ms. Fuller asked what would happen to McConnell Hall.

Mr. Bencks said it would remain, but said it hadn't been determined yet what it would be used for.

Mr. Kelley said it looked like a great looking structure. He said what he did not see in the plans were details to direct the contractor regarding how they would abandon or remove sanitary sewers, water service to existing hydrants and existing storm drains.

Mr. Bencks said the intent was not to abandon these utilities in place, but to remove them.

Mr. Kelley asked if the removal would include a situation where a water service to an existing hydrant being abandoned would be chased back to the T, to make sure there wouldn't be a situation where it would leak in the future.

Mr. Bencks said in general, that was what would be done, in terms of removal of utilities.

Mr. Kelley asked if Garrison Ave. was a Town road. Told that it was, he asked if the Town needed to be concerned about the retaining walls encroaching within the Town right of way. He noted sheet C-2 O-2, and said there was one retaining wall on Rosemary Lane, and another on Garrison Ave. He asked if perhaps there needed to be a maintenance agreement between the Town and the University.

Mr. Bencks explained in detail the need for the retaining walls. He said the University would be building a sidewalk within the right of way, and said on most of the Town roads where there was a sidewalk abutting a University property, the University maintained the sidewalk. He said if a formal maintenance agreement was needed for the retaining wall behind it, that was something the University could do.

Mr. Kelley asked if it had been determined that blasting would be needed under what would be the west wing of the building. He noted ledge outcroppings in that area.

Mr. Bencks said some blasting would be needed, but said that area dropped off rather quickly. He said there was a row of trees that would need to be protected, so there would be discussion with the contractor about doing the ledge removal without having to do blasting.

Mr. Kelley said on Main Street, significant utilities needed to be brought across the street, in the area near the pullout for the bus stop. He asked how it was proposed to stage this. He also asked if the contractor would be submitting a traffic management plan for the work on Main Street.

Mr. Bencks said absolutely, and said there had been initial conversations with DPW about that. He said once the contractors were on board, they could work through the details, including the

sequencing. He said it was expected that this would be done in the summer, when there was less traffic.

Mr. Kelley asked if deliveries would come in off of Pettee Brook Lane, after the building was built.

Mr. Bencks said yes, and he showed the loading dock on the plans. He said there would be office type deliveries, and also noted that the Hospitality program would be located in the building, so there would be some food deliveries. He said there would also be a small café in the building.

Mr. Kelley commented on the fact that the café would be located close to Durham's downtown. He said it would be nice to get some local businesses in the New Business School, but said he realized that Mr. Bencks didn't make those decisions.

He said this beautiful building was going to be built, but said Garrison Ave. would look like hell. He asked that the University consider expanding the paving area to encompass all the utility cuts occurring in front of the building, and said there were seven of them. He said having walked that area today, he realized that the pavement was in a difficult condition.

Mr. Bencks said there had been extensive discussions with DPW, and said that street was on the Town's schedule for re-pavement, in the summer of 2012 or 2013. He said Mr. Lynch could provide the straight answer on this issue.

There was discussion that the parking in front of the building was controlled by the Town, with Mr. Bencks saying that initial discussion had indicated there would be metered spaces, with perhaps one space for a 10 minute drop off so it would stay open more frequently.

Mr. Kelley asked if there was any reservation about creating a major crosswalk at the end of Ballard Way.

Mr. Bencks noted that this existed today.

Mr. Kelley said the way it was striped, to the east of Ballard Way, there was a curb cut.

Mr. Bencks said in working with DPW, there had been a lot of discussion on how to configure that. He said they had discussed trying to do something that was more like a V, to steer pedestrians so they weren't walking right down the middle of Ballard Way.

Chair Parnell asked how people would pass from the building to the downtown, and Mr. Bencks showed that there was a portal through the building that would allow this.

***Susan Fuller MOVED to open the Public Hearing. Peter Wolfe SECONDED the motion, and it PASSED unanimously 7-0.***

**Paul Schlie** said he had some questions. He said it appeared the plans were presumptive, and said the DPW and the Town did not exist at the disposal of the University. He said there were a lot of costs associated with the construction, the ripping up of the roads, the traffic generated and

pulled further downtown, the wear and tear on the roads, and the conspicuous lack of parking. He said the fact that the University kept adding and pushing parking to the periphery of where buildings were being built would put more stress on the Town's parking.

He said this was the exact opposite of what the Town Council claimed it wanted to mitigate. He said the Town should insist that if this structure was built, it needed to be accompanied by a parking garage, with the cost born by the University, so it could start taking some responsibility concerning parking.

Mr. Schlie said that regarding the water and sewer issue, there had been on-going discussion for years, but said the majority of growth in water use was from the University, not the Town. He asked what the reciprocal obligation of the University and Town was to cover the costs of all of this.

He said this was a beautiful new building that was planned, but said there were implicit costs that would be born by the Town, and said the Town had no obligation to provide for this. He said there appeared to be presumptions in terms of changes in traffic patterns, which involved costs for the Town. He asked what the budget was to allocate to the Town in order to cover the expenses during construction and also on an ongoing basis. He noted that the University was not a taxpayer. He said building this infrastructure created more and more costs for the Town, and said it wasn't going to be borne by the Town, which meant it had to be born by the University.

He said he didn't know what authority the Planning Board had regarding the construction of University projects, but asked the Board to use whatever power it had to delay this project, by preventing the use of Town roads until some of these things had been properly addressed by the University to the Town's satisfaction. He said this was a cost to the Town and was not an appreciable benefit to it. He said it increased the fiscal burden, and said this should not be borne by Durham taxpayers.

**Bill Hall, Smith Park Lane**, determined from Mr. Bencks that there would be 15 classrooms and about 120 offices in the new building. He said the building would have about 500 people in it, and said it would add pressure to the parking downtown. He said currently there was some parking relief downtown because the New England Center building was being used for overflow parking for the University.

He said when that property was redeveloped, he suspected that more pressure would be put on downtown parking. He noted that parking was already a contentious issue for merchants downtown, who had to buy permits. He said it would have been gracious of the University to put some diagonal parking the length of the new building, down Garrison Ave.

Mr. Hall said the Town paid all of the maintenance costs for the \$2.5 million water tank at Foss Farm. He said the Town had paid \$900,000 for the project to bring water from Packers Falls Road to the treatment plant, and the University had paid \$600,000. He provided details on this. He said he saw all kinds of issues with this Business School project that he didn't think the DPW and Police Department had spent much time working on.

He said the Whittemore School was largely commuter students and staff. He described how the Northern Connector approach would have addressed the traffic problems in Town. He said there was some real work to do with the University concerning infrastructure, parking and traffic, and said Town staff had let residents down concerning this.

**Councilor Robin Mower, Faculty Road**, said she would like to hear responses to the questions raised, especially regarding parking. She said they all appreciated the University's efforts to try to reduce the number of cars coming to the campus, but said the project would leave the Town with a difficult situation. She also asked if this new building would be adding water users, or would be an even transfer. In addition, she asked if there would be plans to accommodate bicycles on Main Street during construction.

**Councilor Diana Carroll, 54 Canney Road**, said it was a very handsome building. She said this would be the second building on campus that would be LEED certified, and said she would like to hear about the components that made it so. She noted that there would be a nice walkway connecting Ballard with the downtown, and said this reminded her of the B Dennis report, which had recommended providing more connectivity, including with walkways. She asked if bicycles would be allowed on them, so someone could travel on them without having to travel on Main St.

She said a question was how all of this transportation would work out. She noted that the UNH Master Plan said the University wanted to be a walking campus, and said it was being designed this way. She noted that part of their plan was to provide shuttle buses for people who either couldn't or didn't want to walk. She said she would like to hear if there would be a shuttle bus on Garrison Ave. She said it would be very interesting to see how these goals could actually be put into practice so they worked.

Councilor Carroll said this building was close to the downtown, and said the hope was that the people there would come downtown to have lunch, or get coffee. She said the Town needed the business from the University in order to make the downtown viable.

Mr. Hall criticized the way Town staff had dealt with some previous projects, and said it was important to make sure that the Town was protected, in regard to the Business School project.

Mr. Bencks explained that the University thought about parking in a systemic way. He said over the past few years, they had put in place additional parking on campus, so they needed to take away parking for a project like this. He said with the NE Center parking available now, that offset the parking removed. He said there were always questions about where people would park, and said some people coming to the new building certainly might park downtown.

He said it was not their intent to make parking downtown worse, and said the intent in locating the building here was to make it close to the downtown in order to encourage more activity there. He said he expected people to hunt for parking spaces in either University staff or student parking spaces, and said if they were parking downtown inappropriately, the University encouraged the Town to take appropriate action,

Ms. Fuller asked if there was shuttle service that went to the various buildings on campus. Mr. Bencks said yes, and he provided details on this. He said there were stops near where the new building was, and said it was believe that there was good coverage in terms of making the building accessible.

Concerning the water issues that had been raised, Mr. Bencks said he understood Durham's concerns. But he said the University was very committed to working with the Town on the Water and Wastewater Committee, and finding ways to have a shared system that worked effectively for both of them, so that the costs were allocated in reasonable ways. He said he understood that for some people, the system was not considered to be equitable.

He said for every project the University did, there was an agreement with the Town to calculate what the additional uses would be, and to pay a fee for that. He said they also paid the operational costs in terms of water usage on campus. He said he would leave it to others to say whether or not it was an equitable system.

Chair Parnell asked if the building would result in an increase in water usage for the total campus, and Mr. Bencks said probably, but noted that it would be an office use. He also noted that water efficient fixtures would be installed, and said the engineers had calculated that there would be a limited increase in water usage, compared to a residence hall.

Chair Parnell asked if there would be an increase in staff and students because of this building, and Mr. Bencks said it would be more or less the same, but said there could be an increase. He noted that it wouldn't be a situation where they would be housing more people, and said there were no big plans in terms of increased enrollment.

Mr. Bencks said that concerning the bicycle issue, it was expected that bicycles would be able to move through Ballard Way, as an alternative to being out on Main Street. He also said the utility construction on Main Street would take place for a limited period of time.

Concerning the issue of LEED certification, Mr. Bencks said in addition to the usual things UNH did regarding energy efficiency, some new features would include digital lighting controls for every light in the building, and LEED light fixtures. He also said a valence heating and cooling system would be used, which was a radiant system without fans.

Chair Parnell asked if the project budget would cover the cost of the work needed on Garrison Ave.

Mr. Bencks said that work was not in the budget, and was something the Town had already planned to do. He said the construction would certainly do more damage to the road, but said the roadwork had been coordinated with the construction period. He said this was something they could talk about, but said there hadn't been a presumption on this in discussions with the DPW.

Chair Parnell asked if the University had ever contributed before to the costs to the DPW as a result of a University construction project.

Mr. Bencks said the University was investing in the infrastructure, which would be part of the shared Town/University infrastructure. He noted that with both Main Street projects, there was a partnership between the University and the Town, and said the University had contributed significantly more than the Town for both projects. He also said the University was building a sidewalk that went all the way down to Rosemary Lane, and a crosswalk to the other side of the street. He also said they were hoping that if they got good bids, they could rebuild the sidewalk on that other side of the street. He said the University maintained that sidewalk.

Councilor Gooze asked whether, if the Town hadn't planned to do Garrison Ave, the University would be working out something with the Town to do the road.

Mr. Bencks said he couldn't say.

Mr. Kelley said there were many different agreements between the University and the Town, and said one that was missing was concerning the road system. He said there were a number of roads that served the University, and said the traffic that beat them up was truck traffic, which most likely was servicing the University. He said under normal circumstances, the Town would receive taxes from the entity that the trucks serviced, and that money would go toward the road program.

He said he would like to see that change, and said the Planning Board's only recourse was to put something in writing concerning this. He said the 4 inch depth of pavement improvement in the plans was the bare minimum to put down, and said it wouldn't hold up to heavy truck traffic. He said he would like to see the University make the improvement to Garrison Ave, which would serve their needs more than the Town's.

Mr. Kelley also said he would like to see an agreement concerning the road issue. He noted that something that was often up in the air with the Budget and CIP was the Roads Program, and said the Town had sometimes had to bond that program.

He said the grading plan showed that water was conveyed along the traveled way on Garrison Ave, and said the concern with this design was the ability of the catch basins to intercept the water. He said he would prefer to see the grading go to the curb line.

Mr. Kelley asked what the provisions were if existing manholes couldn't be used, and who would make that decision. Mr. Bencks said the construction manager would coordinate the project and would be responsible for that.

Mr. Kelley said in some cases, catch basins were going to be put inline on a 15 inch clay pipe, and asked if sections of that pipe would be replaced if needed. He also asked who would make the call on this, and if DPW would be watching to make those calls.

Mr. Bencks said this was the Town's road, and said they would absolutely be working with the DPW on this.

Mr. Kelley asked if it was known how much additional flow the project would send to the storm



sewers. Mr. Bencks said he didn't have those numbers, but said someone had looked at this.

Mr. Kelley asked what the under-drain system going along the extension of Ballard Way, underneath the sidewalk was there for. He also said there was a drain that came out of a concrete vault, at the northwest corner of the Health service building, and said he was interested to know what went into the Town's storm sewer from that vault.

Mr. Bencks said he didn't have that detail.

Mr. Kelley noted some parking proposed across from the new apartment building, but said there was nothing about it in the materials plan. Mr. Bencks said the intent was not to put pervious pavement in there.

Mr. Kelley said on the Site Utility plan, it appeared that there was an additional utility cut along Garrison Ave., which was not identified. He said there was another cut for a hydrant, further up the street, which didn't appear to be pavement on the materials plan.

He asked if access in and out of the site during construction had been thought out.

Mr. Bencks said yes, and said the intent was that access would be from Garrison Ave. He also said Pettee Brook Lane would be used as needed. He said Madbury Road would not be a truck route, and said all of this information was in the contract.

There was discussion that hours of operation would be consistent with the Town ordinance, and there would be sensitivity to the abutters.

Mr. Kelley also asked about materials storage on site, and employee parking. In addition, he asked what the cut/fill balance was for the project. Mr. Bencks said he didn't know.

There was discussion between Mr. Bencks and Mr. Kelley that it was the policy of the University to maintain the sidewalks on Garrison Ave. Mr. Kelley asked about the use of stainless truncated domes. There was further discussion.

Mr. Hall spoke about other projects the University had done in Town. He then spoke about the water line under Garrison Ave, and said the Town should have significant help in replacing the entire line, as a part of this project.

Mr. Schlie said the people working full time in the offices at the Business School were going to want to park downtown, and said they weren't going to be riding bicycles. He said it seemed there was an opportunity for the University to do the right thing and bear 100% of the cost of a new parking garage. He spoke in detail on this, and said the reality was that shuttle buses would only be used if all available Town parking spaces had already been consumed. He said if the Council had an honest concern about improving the Town parking situation, this might be an opportunity to do so, in conjunction with the University.

***Peter Wolfe MOVED to close the Public Hearing. Bill McGowan SECONDED the motion, and it PASSED unanimously 7-0.***

Mr. Kelley said he would put a letter together that outlined the issues and concerns he had raised.

Chair Parnell said the key issues raised were the cost of road building, and possibly looking at water and sewer at the same time, and possible cost sharing on this.

Mr. Wolfe said the letter should also include the various technical details that Mr. Kelley had raised.

- VII. Deliberation on Application for Site Plan Review** submitted by Capstone Development Corporation, c/o Appledore Engineering Inc., Portsmouth, New Hampshire on behalf of William & Edna Woodward Rev Trust, Durham, New Hampshire to construct approximately 100 residential units consisting of single-family and duplex residences with a total of 619 beds and 650 parking spaces. The property involved is shown on Tax map, Lot 10-3, is located on Technology Drive, and is in the Office Research/Light Industry Zoning District.
- VIII. Deliberation on Application for Conditional Use Permit** submitted by Capstone Development Corporation, c/o Appledore Engineering Inc., Portsmouth, New Hampshire on behalf of William & Edna Woodward Rev Trust, Durham, New Hampshire to construct approximately 100 residential units consisting of single-family and duplex residences with a total of 619 beds and 650 parking spaces. The property involved is shown on Tax Map 9, Lot 10-3, is located on Technology Drive, and is in the Office Research/Light Industry Zoning District.

Councilor Gooze noted that he had just been appointed to the Planning Board as a regular member, but said he felt that on this application, although he was somewhat up to date on it, the Board would be better served by having Councilor Smith, who had been through the entire process, as the voting member on the application. He said he would therefore recuse himself and step away from the table.

There was discussion by the Board that Councilor Gooze didn't need to step away, and could participate in the discussion, even if he didn't vote.

Councilor Gooze said he would stay at the table but wouldn't take part in the deliberations.

Chair Parnell noted that it was already 9:45 pm, and said the Board wouldn't get through all the deliberations that evening. He recommended scheduling an additional meeting between now and the next regular meeting, and suggested April 6<sup>th</sup> as the date. He said it would be the only matter addressed that evening, in order to give the proper attention to the deliberations.

There was discussion, and Board members agreed to have the meeting on April 6<sup>th</sup>.

Mr. Kelley said at the last meeting, there were a variety of things that the Planning Board said it would like peer review on. He asked if there had been any progress made concerning these things.

Mr. Campbell said the UNH Stormwater Center would send a quote on pricing for the review of the stormwater management plan, as well as the installation of the storm water system during construction of the development. He said the review of the erosion and sedimentation plan and the lighting plan was still up in the air. He also said that regarding inspection during construction of water and sewer, he had written it into the draft Conditions of Approval that the Town would do that.

Chair Parnell asked the applicant if there was any new information to provide to the Board. He noted that an outstanding issue had been the potential purchase of the property to the west of the Capstone property. He said another was transportation issues that were being worked out with the University.

John Acken of Capstone said that regarding the other piece of property, Capstone had reached agreement on purchasing the property, and had it under contract. He said the property ran into the oxbow, and explained that with the added property, it linked the properties along the river, and made the river the property line overall.

Regarding the transportation issues, he said there had been numerous discussions with Dirk Timmons of the UNH Transportation department. He said the last time he spoke to them, the University was going to provide ridership numbers from the Rivers Edge apartments. He said the concern was whether one, two or three buses would be needed. He said they took the numbers from Rivers Edge, which was 100 riders, and added the potential riders from the Capstone development, which came to a total of 700 riders.

Mr. Acken said they looked at the ridership in an hourly basis, and then looked at what the peak ridership was, and assuming a 52 passenger bus, determined how many buses would be required each hour. He said it was determined that during peak hours, between 8 am and 12 pm, 3 buses would be required, from Monday through Thursday. He said it was also found that at later hours from 4-5 pm on certain days, only one bus was required. In addition, he said it was also found that on Fridays, there could be two buses in the morning, and one for the rest of the day. He said Capstone had then priced this out, and considered whether this could fall within a budget that would be acceptable. He said it was determined that this would work, with that typical schedule

He said Capstone anticipated that they would be substantially lease up going into the spring of 2012, and that the development would be open in the fall of 2012. He explained an Internet based program where they could survey residents, and said with this, they could understand exactly when students needed to come and go from the campus. He said this information would give them a better indication of the buses that were needed, and said Capstone could then tailor the number of buses to the demand analysis.

He said the University was comfortable with that plan, and said the draft language Mr. Campbell had proposed fit with the plan Capstone had in place.

Mr. Kelley asked if the University was on board with the dynamic program Mr. Acken

had described.

Mr. Acken said he couldn't speak for the University, but said Capstone was on board. He said the University had provided the information that was needed to do the demand analysis, and said based on that, Capstone was comfortable that it could come up with a schedule that would work with the University's budget and Capstone's budget.

Chair Parnell asked if the specific numbers had been discussed with the University, and if so, they were happy with them.

Mr. Acken said the University had provided these numbers, and he explained further the methodology that Capstone used. He said the University certainly understood it.

Chair Parnell noted a letter from the University, dated March 15<sup>th</sup> from University planner Doug Bencks that indicated that the funding offered by the developer would fund approximately half of the peak capacity. Chair Parnell said it seemed that whatever was being offered wasn't as much as Mr. Bencks thought was required.

Mr. Acken said he believed that the intent of that letter was that a third bus was needed, and said based on the demand analysis that had been done, he thought they could provide the third bus. He noted that the University had stipulated that it didn't want to run a bus for less than 4-5 hours. He stated again that through tailoring the schedule to fit peak hour demand, Capstone had been able to stay within its budget but still address the demand the University was speaking about.

Mr. Wolfe noted the draft Findings of Fact and Conditions of Approval regarding this issue, and asked who determined what was "adequate" transportation.

Mr. Acken said it was understood that if students thought it took too long to go back and forth, the development would suffer. He said in terms of adequacy, the call would be made by Capstone and the University, but said Capstone had all the incentive in the world to insure that students were not waiting too long for buses.

Mr. Wolfe asked what happened if Capstone and the University didn't agree on what "adequate" was.

Mr. Acken said under the current system, it would ultimately be up to Capstone to provide the service.

Ms. Fuller said it sounded like the information the Planning Board had on this issue was dated, and asked if there was an updated agreement, based on what Capstone and the University had been working on.

Mr. Acken said Capstone didn't want to get into a specific agreement with the University at this point, because all there was right now was an extrapolation from the Rivers Edge data. He said the agreement with the University could be made after getting the real data

back from real residents of the Capstone development. He said with that information, they could tailor the service to meet the actual needs of the students there.

Councilor Smith said in other words, research would be done with prospective tenants on how much bus service was needed, and there wouldn't be a sudden influx of cars coming in from Technology Drive.

Chair Parnell asked if it was correct that Capstone would pay the operating costs for the bus service, and the University would provide the buses.

Mr. Acken said the University had told them what it cost to operate the buses on an hourly basis, and what it would cost to add two new buses, on a per bus basis, annually. He said the University would essential pay for the buses.

Mr. Kelley asked if the Alteration of Terrain permit had been received yet.

Engineer Joe Pereschino said it was still under review, and noted that there was a 60 day time frame to get that to the Board. He said the deadline was the day after the April 6<sup>th</sup> Planning Board meeting.

Mr. Kelley asked if there had been discussion as to when it was expected, and Mr. Pereschino said it would probably be right up to the time limit, based on the State's current workload.

Councilor Smith noted at the last meeting, he had asked if there could be a rental agreement specific to this development.

Mr. Acken said it had been sent out that day, noting that it first had gone to a NH attorney to look over, who had made some edits. He said it had then been sent to the Town.

Chair Parnell noted it was received but not distributed to the Board yet.

Councilor Smith said he had a number of questions to ask at this point on the applications.

Chair Parnell asked if there were any further questions regarding transportation issues.

Councilor Smith said he would like to address the required parking for the development. He noted that for dwelling units permitted to be occupied by 2 or more unrelated individuals, 0.75 spaces per resident were required, and said Capstone proposed to provide 1.05 spaces. He noted that according to Section 175-23 D, the applicant could be required to include spaces in excess of or less than the minimum required by the Ordinance. He said the applicant proposed more parking spaces than beds, and said the Board had been told that something driving this ratio was lending institutions. He said he wasn't sure that the Planning Board should make its decisions based on the preferences of those institutions.

He said in a communication from Attorney Loughlin, dated December 22<sup>nd</sup> 2010, it was noted that the Police Chief had been clear that he would only support the project if there was adequate on site parking. Councilor Smith said the only document submitted by the Chief on this issue did not actually address that issue. He said there were a number of steps that Capstone could take, or that the Planning Board should impose, as to conditions of use that would limit the number of spaces required here.

He said one was that tenants would be required to pay for parking permits for each vehicle they parked there, and he noted an obvious reason was to avoid having tenants without cars subsidize the cost of supplying parking. He said another reason was to make these units more attractive through slightly lower rents for students not using a car. He said there was a real danger that if there was too much parking, there would be a lot of empty spaces, and friend of tenants would start parking there, and would then get on the bus and go to campus.

Councilor Smith said a condition of approval should be that spaces could not be leased or rented to non tenants, at least not without going through the change of use process. He said the Fire Chief said he was concerned that if there weren't enough parking, cars would be parked every which way if there weren't enough spaces. But he said in a party town, there were never enough spaces, and said that was a management issue. He said he also realized there was concern that some tenants would share there private bedroom/bath suites to cut down on rent, and thus there would be more cars parked there. He said that was another management issue.

Councilor Smith said there needed to be some kind of condition of use that would make it unlikely that tenants or visitors would park along Technology Drive. He said all parking for the facility should be located on the grounds, or Capstone could lease space at Goss International. He said it would take an agreement of the Board to get these things as conditions of approval.

On another issue, Councilor Smith asked if the plan was to have the property managers live on the site.

Mr. Acken said this option would be offered to the managers.

Councilor Smith said this was such a large project, and there were so many opportunities for things to go drastically wrong, that there needed to be a condition of approval that the managers would live on the site. He said this would be absolutely necessary to prevent these cottages from being over occupied, and he said constant attention would also be needed regarding cars in the parking areas. He said the Board needed to impose some strong assurances that this property would be as well managed as it should be.

Mr. Wolfe asked if Capstone would be amendable to a sentence in the conditions of approval that if in the opinion of the University, the agreed to schedule proved to be inadequate, the parties would negotiate a new schedule.

Mr. Acken said he would have to think about that.

Mr. Wolfe said if this was not done, there was no one making the determination except Capstone. He said he would like the University to have some input on that, as the trigger point to negotiate a new schedule agreeable to both of them.

Chair Parnell said he wasn't sure that the Planning Board could commit the University to get involved in those negotiations. There was discussion.

Mr. Wolfe said he hated a situation where it wasn't clear who determined what was inadequate.

Mr. Acken said under the current system, Capstone would determine this. He said he understood the concern, but said Capstone had the most interest in making sure the transportation was adequate. He said based on other developments, if a student had to wait too long for a bus, the leasing would die.

Mr. Wolfe said the University had an interest in keeping cars away too.

Mr. Acken said he had asked the University if there had been a negative impact based on the Rivers Edge apartments, and was told no, with regard to those types of issues.

Chair Parnell said as written now, the wording said the applicant shall provide adequate transit. He said the onus was on the applicant.

Mr. Wolfe restated his addition to the current draft language regarding bus service. He said it followed the sentence which discussed working with the University to determine optimal bus frequency. He said a year from now Capstone might think the buses were adequately servicing the students, but the students or the University might not feel that was the case.

Ms. Fuller said she wasn't sure that it was appropriate to give the University a say as to whether the buses were adequate. She also said the students would complain to Capstone.

Chair Parnell said perhaps the Board should define what was adequate.

Mr. Wolfe said he was defining it as what met the University's needs.

Councilor Smith said there were also the needs of the Town, and business community and residential neighborhoods.

Mr. Wolfe said he disagreed, and said it was the needs of the students living there.

Councilor Smith said if there was not adequate transportation from the development to the campus, there would be all kinds of static about that. He said there would be a lot of bad feeling that the University hadn't done something to encourage its students to be

more thoughtful.

Ms. Fuller said if that was the case, the Board would tell Mr. Campbell to have Capstone address this.

Mr. Wolfe said he didn't like ambiguities like this.

Chair Parnell said the wording said the applicant would run as many buses as necessary.

Ms. Fuller said it was in Capstone's best interest to provide adequate transportation.

There was further discussion on the involvement of the University.

Mr. McGowan said the way this was worded, he thought there was enough recourse for the Planning Board to say that what was provided wasn't adequate, and that Capstone needed to provide the necessary transportation.

Chair Parnell asked what other Board members thought about Councilor Smith's views on the parking issue. He noted that some members of the public had addressed this issue.

Ms. Fuller said it was in the lease agreement that kids could have parties in their units up to 25 people, with permission. She said they would therefore need that parking. She also said there would need to be a condition not to park on Technology Drive.

Councilor Smith said the Planning Board was a land use board, and was considering about how much land would be used to pave over the site for parking. He noted that there had been a lot of concern on the part of the Conservation Commission about incursions into the wetlands, and the amount of impervious surface on the site. He said it struck him that there was a 33% difference between what was required and the amount of parking being requested by the developer. He said usually, it was the other way around, and the applicant had to provide as much parking as the Ordinance required. He said this was a bad use of land that could be used in other ways, such as allowing more space between the cottages.

Mr. Wolfe said he recalled that the Fire Chief wanted this number of parking spaces.

Chair Parnell said they wanted this ratio on other projects.

Mr. Campbell said he recalled that both the Police Chief and Fire Chief would not like to see less than the 1.05 ratio, for safety reasons.

Mr. McGowan noted the concern that if there was surplus parking, other people would use it. He asked if there would be a permit system, so that only residents would have permits, and Capstone could patrol who was legally parked there and who was not.

Mr. Acken said in its developments to date, Capstone hadn't seen that this was a problem. But he said given the nature of parking in Durham, if it were to become a problem, that was something that could be imposed to address the problem.



Councilor Smith asked if the plan was to have free parking, and Mr. Acken said it was included in the rent. Councilor Smith noted that students who didn't have cars would be subsidizing those who did, or providing extra parking for guests.

There was discussion on the required amount of parking in the Ordinance, under Section 175-113. Chair Parnell noted that it said 1.0 space per tenant.

Mr. Campbell said he would provide clarification on the discrepancy. He also said the Zoning Administrator was requiring 31 parking spaces for the clubhouse.

Mr. Kelley said he was more inclined to meet the applicant's request regarding parking, based on what the Board had heard from Town staff. He noted a PowerPoint presentation Mr. Acken had given on other Capstone projects, and said they seemed to be located in more urban environments. He asked about Capstone projects in a rural community, where some people were traveling in to go to school.

Mr. Acken said Creekside at Auburn was a good example of such a development.

Mr. Kelley asked if the tenants used these parking spots, and Mr. Acken said yes, based on that development and others. He said 1.05 spaces was required because of safety concerns, and said it was one of the fundamental rules of student housing projects these days.

Mr. Wolfe asked if Capstone would be opposed to doing a yearly survey of residents, concerning whether bus service was adequate, and providing a copy of the survey results to the Code Enforcement/Planning office.

Mr. Acken said the idea of turning that information over to the Planning Office was an interesting one, and said he would want to think about Mr. Wolfe's question some more.

Mr. Wolfe said this related to meeting the students' needs, and said he would be much more comfortable with the language concerning "adequate" if the yearly survey was done. He noted that he practiced law, and said the word adequate was rife for misinterpretation. He said he would like to keep disputes to a minimum later on.

Mr. Acken said he would want to think about the language some more, but said it was an interesting idea.

Mr. Wolfe asked M. Acken to get back to the Board on this by the next meeting.

Chair Parnell recommended stopping deliberations for now, and others agreed.

## **IX. Other Business**

### **A. Old Business: Review of Master Plan Survey**

Chair Parnell noted that he was on the committee that had worked on this, and he described the process through which it was developed.

Mr. Campbell said the committee was looking for an endorsement from the Planning Board on it.

Chair Parnell said the survey was supposed to be sent out the first week in April, and the goal was to complete in over a three week period.

Ms. Fuller said it was curious that so many personal demographic questions were being asked, and said it seemed to be a turnoff. There was discussion about how these questions related to the Master Plan.

Mr. McGowan said it would allow better analysis, based on how different groups answered the questions.

Chair Parnell agreed that it was background information for how the other survey results would be analyzed.

Councilor Gooze noted that with questions about housing, it would be nice to know if this could be correlated with ages of residents.

Councilor Gooze said the University knew a lot more about surveys than the Planning Board, but Mr. Wolfe said people could be marginalized this way.

There was discussion about the map in the survey, and that it was confusing. Mr. Campbell noted that this was a rough draft, and said that the map would be clearer in the actual survey.

Ms. Fuller said they should at least work on the wording of the demographic questions. Concerning Mr. Wolfe's comment about possible marginalization of some residents based on the demographic data, Mr. Campbell noted that the information from the survey would be coming back to the Planning Board.

Concerning #4, Councilor Smith questioned the use of the words "what is your status..." He said what they really wanted to ask was what the person's living status was.

Mr. Campbell said that regarding the demographic questions, Charlie French of UNH Coop Extension had included these questions, and had extensive experience doing this for other master plans.

Mr. Corrow said any survey research always included demographic information, and Mr. McGowan said this information was needed.

Mr. Wolfe said he wasn't sure that was true.

Chair Parnell said most of these questions would provide information that was needed for updating the Master Plan. He said the gender information was discriminatory, and shouldn't be

there.

Ms. Fuller and Mr. Kelley said to let it go.

Councilor Gooze said people didn't have to fill the demographic part out if they didn't want to.

Regarding #17, Councilor Gooze said there were divergent answers in the same question, and said he didn't know if it could be answered. There was discussion on whether the question could be split up into two different questions. Councilor Gooze noted that #16 covered some of this as well. There was further discussion, and he said he thought the question needed to be revamped because it was confusing.

Councilor Mower provided comments concerning #17. She also said it had been very much on the minds of the survey subcommittee that the questions not be discriminatory, and said they had discussed this in great detail. She provided details on this.

Ms. Fuller said New England was very good at discriminating, and said it wasn't good for towns.

Councilor Mower said it all depended on what was done with the information in a report. She also said it was only one source of data.

Mr. Kelley noted that #12 needed a heading. He also asked what "attractive entrances" meant.

Councilor Gooze asked what was meant by the "the downtown" in #14. There was discussion. Chair Parnell said what was meant was the Central Business District, but said most people knew it as the downtown.

Councilor Gooze suggested that "downtown" should be spelled out more, because peoples' interpretations differed.

Chair Parnell said the interpretation of the person filling this out would be useful.

Concerning #15, Mr. Wolfe asked who would not support something to reduce property taxes. There was discussion. Mr. Campbell said there were people in Durham who would be willing to pay somewhat higher taxes if the Town stayed a certain way.

Councilor Smith said that regarding #15, he thought a lot of people answering that question wouldn't understand how building a parking structure in the downtown would stabilize the tax rate.

Mr. Kelley said initially this would probably increase the tax rate.

Councilor Smith asked why promoting downtown housing opportunities for retirees and small households would stabilize and reduce the property tax rate.

Councilor Gooze said the idea was that more businesses would come in, but said this question

didn't get at this. There was discussion.

Mr. Kelley asked how the word "retiree" fit in here. He said more thought needed to be put into what was in #15, in terms of the policies they represented.

Mr. Wolfe said he thought there should be something about expanding the uses permitted in the CBD.

Mr. Kelley said perhaps there could be something about expanding the boundaries of the CBD.

Ms. Fuller asked if there was a difference between retirees and seniors, and there was discussion.

Councilor Mower said a question the subcommittee had struggled with was how to get at some way to provide an incentive to build smaller building units than what they typically had for the major portion of residents downtown. She agreed that the wording should probably be moved to #16.

Ms. Fuller said downtown housing to her meant smaller townhouse condos.

Councilor Mower said the idea wasn't to cater to a particular age group, but it was a different housing unit that was typically developed.

Ms. Fuller said to her, downtown to her said something that wasn't necessarily already built. She said she thought of 2-3 stories, with one or two residential units, whether it was a townhouse, or garden apartment.

Councilor Mower said they were trying to get at a description that wouldn't be discriminatory. She said there were members of the community who were concerned that saying "housing downtown for non-students" was discriminatory. She said some people didn't understand the wording "small households".

She said the Board had had the opportunity to offer questions some time ago, and now they were up against a tight deadline. She said she wasn't saying they couldn't make some changes now, but said it would have been useful to have comments on the table earlier in the process. She said perhaps they needed to take a bit more time to get this right, in which case, they would have to adjust the time frame for the survey.

Mr. Kelley said he thought this was needed. He said a fresh set of eyes, that hadn't looked at the survey, was needed.

Councilor Mower said she had hoped there would have been more review before now from the Board, and then time to get it back to the subcommittee and also have Charlie French have the chance to format it appropriately.

Councilor Gooze suggested that Board members could take it home, and fill it out.

Councilor Mower said it wasn't appropriate for the Board to make a decision that night. She said the survey would provide valuable information. She said the subcommittee had worked hard to make this right, and said it was now the Board's opportunity to do this.

There was discussion that it was sent to Board members as a Word document, and could be edited. Councilor Mower suggested that the comments be emailed to Mr. Campbell.

There was discussion on the schedule. Mr. Campbell said it was important to get this right, and said it was ok if it took a few more weeks. He provided details on the process for getting the survey out. He said it would be available online, and also said there would be hard copies available at several spots in Town.

Councilor Gooze said the earlier they could get going with the Master Plan update, the better. He said it should be driving the big picture Zoning things that were being discussed, and said he didn't think they should get too far ahead of themselves.

Mr. Kelley said the Board constantly asked the planning consultant from B. Dennis if what they were contemplating concerning Zoning changes fit with the Master Plan. There was further discussion.

Chair Parnell said the changes they were making had come out of the charrette, which was the initial step in the revision of the Master Plan. He also said it would have been good to have the survey results a year ago.

Mr. Campbell said if there were changes the Board could make to improve the situation, especially after the public process, they should make them. He said some might be bigger than others, and said the Board should probably wait on them. But he said it would take time to get the Master Plan updated, and also said they might then not get the Zoning changes coming out of that for another several years. He noted that it had taken six years last time. He agreed that the Board needed to be careful right now about what they were changing.

Ms. Fuller said the Board needed to be able to step up some of their changes. She noted that she had heard in the news recently that Durham was listed as one of the five fastest growing towns in NH. There was discussion.

Councilor Mower said the EDC had recently received an update on the town-wide marketing analysis, so there was some thought that it might be beneficial for people in Town to learn what was in that before the survey went out.

Mr. Campbell agreed.

It was agreed that Board members' comments needed to get back to Mr. Campbell by the following Wednesday.

Mr. Kelley asked what would prevent him from going to the web 50 times to fill out the survey. It was also noted that people could fill out several hard copies of the survey.

Mr. Campbell said the online responses could be tracked. But he said they needed to trust that people would do the right thing.

Mr. Kelley asked if it would be appropriate to include the survey with tax bills, and Mr. Campbell said this might skew some of the results.

B. New Business:

C. Next meeting of the Board: April 13, 2011

## **X. Minutes**

Mr. Kelley, Councilor Gooze and Mr. McGowan left the meeting at 11:14 pm, because they weren't at the February 9, 2011 meeting.

### February 9, 2011

Page 1, line 31, extra word memo "...memo from Jerry Gottsacker.."

Page 6, line 31, should read "Councilor Niman" Also, other locations.

Page 9, should read "Councilor Mower"

Line 2, "...a little further beyond it in order..."

Page 14, line 32 "...and Ms. Olshansky asked what the size..."

Page 15, should read "Councilor Carroll"

Page 18, line 23, "...there should be assurance that it would not be discharged....."

***Susan Fuller MOVE to approve the February 9, 2011 Minutes as amended. Peter Wolfe SECONDED the motion, and it PASSED unanimously 6-0.***

## **XI. Adjournment**

***Peter Wolfe MOVED to adjourn the meeting. Susan Fuller SECONDED the motion, and it PASSED unanimously 6-0.***

Adjournment at 11:18 pm

Victoria Parmele, Minutes taker

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Susan Fuller, Secretary