

These minutes were approved at the July 13, 2011 meeting.

**Durham Planning Board
Wednesday May 25, 2011
Durham Town Hall - Council Chambers
7:00 P.M.**

MEMBERS PRESENT: Chair Lorne Parnell; Secretary Susan Fuller; Richard Ozenich; Richard Kelley (arrived at 8:30 pm); Bill McGowan (arrived at 7:52 pm); Town Council representative Jay Gooze; alternate Town Council representative Julian Smith; alternate Andrew Corrow

MEMBERS ABSENT: Vice Chair Peter Wolfe; alternate Wayne Lewis

I. Call to Order

Chair Parnell called the meeting to order at 7:04 pm. He said Mr. Corrow would sit in for Mr. Wolfe.

II. Approval of Agenda

Susan Fuller MOVED to approve the Agenda. Councilor Gooze SECONDED the motion, and it PASSED unanimously 5-0.

III. Election of Officers

Board members agreed to wait until more members were present before electing officers.

IV. Planner's Report

Mr. Campbell said the Master Plan survey was currently on line, and was also available in hard copy form at the Town Hall and the Library. He said the deadline for completing the survey was May 31, 2011.

He noted that the Board would be electing officers that evening.

He said consultant Roger Hawk had begun working on the Design Guidelines, as well as reviewing the design standards for the Historic District Overlay. He said he and Mr. Hawk would be meeting with the Historic District Commission on June 8th.

Mr. Ozenich asked if this would be televised. Mr. Campbell said he would look into this, and said the meeting it would most likely be available through DCAT on demand, on the Town website.

Mr. Campbell said he was continuing to work with planning consultant Beth Della Valle on further changes to the proposed Zoning amendments that had arisen out of the Commercial Core Strategic Plan. He said he would forward these to the Board when the review of the changes was complete, perhaps in time for the quarterly planning meeting.

Mr. Campbell said Town staff had been working with Capstone Development Corporation as they moved forward with meeting the pre-signature conditions of approval, and said he expected these conditions to be fulfilled within the next week or two.

He said at the June 8th Planning Board meeting, the Board would review an application submitted by Capstone for the boundary line adjustment that had been discussed during the Site Plan and CUP application reviews. He said the Shea parcel being added to the existing Capstone parcel would be in conservation, or deeded as permanent open space.

He said the Cemetery Committee would be meeting to vote on a letter of support for Capstone's proposal concerning landscaping and fencing issues related to the Town cemetery that abutted the Capstone property. He also said Capstone would be going for a variance to allow an 8 ft fence, and said if this was denied, they would go with a 5.75 ft fence. He said the company had worked with the State arborist on this proposal, and had incorporated her suggestions into the plan. He also said they were supposed to get their State wetland permit the following day.

Mr. Campbell said to date, there had been no appeals of the Planning Board's decisions on the Capstone applications, and said the deadline was May 27th. He said if there was in fact no appeal, the transfer of land to Capstone would probably occur at that point, and the bulldozers would come in soon after.

Councilor Gooze spoke about an email relating to the Capstone condition of approval that there would be water testing, which indicated that it would be difficult to find people to do the testing, given the fact that the State wouldn't have the funding for this.

Mr. Campbell said if this funding went away, the Oyster River Watershed Association wouldn't have the capability to do the water testing. But he said there had been a hint that the funding could go away at the time the applications were approved. He said Capstone had said a third party, approved by him, would do the testing if needed.

IV. Approval of Minutes –

March 16, 2011

Page 1 line 8-9, should say "Chair Lorne Parnell; Vice Chair Peter Wolfe; Secretary Susan Fuller; Richard Ozenich; Richard Kelley...)"

Agenda Item III should say "Report of the Planner". It should also say there was no No report
Page 2, line 6 should say "Councilor Mower..."

Page 3 line 32, should say "Part II Building Construction..."

Page 5, lines 9, 15, 21 and 26, etc. should say "Councilor Mower"

Page 8, line 23, should read "...was that if the Board was ever challenged..."

Page 9, line 14 should read "Councilor Mower..."

Page 12, line 18 strike comma after "...would go away..."

Page 13 line 20-22, should read "...was the only one in the commercial core that allowed..."

Page 18, line 6, should say "Mr. Wolfe"

Page 19, line 36, should say "...do with their buildings into stone."

Page 25, 2nd to last paragraph, should say "...noted that it had come out..."

Councilor Smith MOVED to approve the March 16, 2011 Minutes as amended. Richard Ozenich SECONDED the motion, and it PASSED unanimously 5-0.

(Councilor Gooze was not a voting member for this motion because he was absent from the meeting)

March 23, 2011

Page 1, line 33, should say "...Mr. Campbell said the Master Plan survey committee..."

line 36, should say "Gsottschneider"; line 37, should say "Mr. Campbell said the applicant planned to add a single unit..."

Page 2, 2nd paragraph from bottom, should read "Bill Hall said he was very pleased..."

Page 3 6th paragraph from bottom, should read "...tires for older residents."

Page 4, 2nd paragraph should read "Mr. Campbell said that the other restriction..."

Page 7, under Item #5, should say "...trash within a 20 ft perimeter that will be patrolled..."

Page 12, 3rd full paragraph, should read "it would be nice to get some local businesses in the New Business School."

5th paragraph from bottom, should read "...to the east of Ballard Way, there..."

Last paragraph, should read Paul Schlie said he had..."

Page 13, line 21 and line 27, should say "borne"

Page 14, 2nd paragraph, should say Councilor Robin Mower, Faculty Road..."

last paragraph, should say "...it was not their intent to make..."

Page 15, first paragraph, should say "...to the various buildings on campus."

2nd paragraph, should say "...on the Water and Wastewater Committee..."

Page 19, line 16, oxbow should not be capitalized

line 11, should say "...purchase of the property to the west of the Capstone property."

Page 20, line 29, should read "Mr. Acken said it was understood..."

Page 21, line 13 should read said "...the University would essentially pay for the buses."

Page 23, line 30, should say "...but the students or the University might..."

Page 24, last line, should read "...something that could be imposed to address..."

line 13, should say "... he thought there was enough recourse for ..."

Page 25, line 7, should say "Chair Parnell noted that it said 1.0 space per tenant."

Susan Fuller MOVED to approve the March 23, 2011 Minutes as amended. Richard Ozenich SECONDED the motion, and it PASSED unanimously 5-0.

- VI. Deliberation on an Application for Conditional Use Permit** submitted by Richard Gsottschneider on behalf of Van Rich Properties, LLC, Durham, New Hampshire, to construct a one story, 2 bedroom unit on the site which would be attached to an existing duplex, creating a multi-unit building. The property involved is shown on Tax Map 9, Lot 20-1, is located on 279

Mast Road, and is in the MUDOR Zoning District.

Chair Parnell asked if Board members who hadn't been at the last meeting had watched the video. He said he had watched it, as did Councilor Gooze and Ms. Fuller. He noted that the most recent draft of the Findings of Fact and Conditions of Approval were before the Board now.

Ms. Fuller asked if Mr. Gsottschneider had seen this latest draft, and Mr. Campbell said yes. He noted that the issue Mr. Gsottschneider had had was a previous condition of approval that there had to be security on the site Thursday through Sunday from 9 pm to 2 am. Mr. Campbell said his sense was that the Board didn't think this was necessary because of the number of units involved. There was discussion that this condition had therefore been taken out.

Councilor Gooze noted that someone else might own the property in the future. But he said it made sense not to require Mr. Gsottschneider to have this security to begin with, and said the condition of approval could say it could be required later if there were problems on the property. He said the Board should give him this chance because it was a smaller property.

Other board members agreed. Chair Parnell said what Councilor Gooze had suggested provided an easier first step, and Councilor Smith said the wording of the condition of approval was a fallback if necessary if there was another owner.

It was noted that Finding of Fact #3 now said the applicant had two years to begin the project, which fit with his time schedule.

There was further discussion about the conditions of approval. Councilor Gooze said Mr. Gsottschneider had provided a wonderful lease. He asked what happened if the property changed hands, and the new owner didn't want to use this lease. He noted that while the security issue was addressed with a condition of approval, social occupancy, and other issues were not, and said he was curious about how this kind of thing was handled.

There was discussion, with Chair Parnell saying there was no obligation for the new owners to bring the lease to the Town Planner to look at.

Councilor Smith said there would have to be a condition of approval that certain things would have to be in the lease, but Mr. Campbell said the Board couldn't get into that.

Mr. McGowan arrived at 7:52 pm.

Ms. Fuller said something the Board might want to think about for this application or in the future was that the date for completion of a project, including the way the project looked after it was finished, in terms of landscaping, etc. She noted that there had been some projects in Town where some of these things had been left undone, and said this could become an eyesore at a construction site.

Chair Parnell agreed that this issue had come up before and should be addressed, but said he wasn't sure that it applied to this project. He said it would be an eyesore for Mr. Gsottschneider too if some

things were left undone.

Mr. Ozenich suggested that the Board could discuss this issue at the upcoming quarterly planning meeting.

Chair Parnell said especially with multi-stage projects, there was the risk that some lots would be developed but the rest would be abandoned.

Mr. Campbell noted that there was bonding for utilities, but not for the buildings themselves.

The Board next reviewed the Conditional Use Permit checklist for the application.

There was discussion that no architectural plans had been provided Mr. Campbell said the architecture of the addition would match the existing building.

Board members discussed the wetlands concerns that had been expressed by the abutter, and determined that these had been properly addressed with what the applicant proposed, and that condition of approval #2 to be met subsequent spelled this out. Mr. Campbell noted that this condition said the applicant would have to work with the Town Engineer if there were problems.

Findings of Fact

1. A Site Walk was conducted on May 11, 2011.
2. A Public Hearing was conducted on May 11, 2011 and members of the public were in attendance to speak to the application.
3. The Planning Board hereby grants the applicant an approval for two-years for the project to begin.

Conditions of Approval -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. The Property and Security Management Plan shall be submitted to include, but not limited to, the following: Rules and regulations; 24 hour/7 day a week primary contact person to resolve security or other issues in a timely and appropriate manner; a secondary contact person in case the primary contact person is not available; and all contact information updated with the Police Department, Fire Department, and Code Enforcement Department on an as-needed basis. Security will not be needed for this site. If problems occur as determined by the Police Chief, night time security will be needed for the site for Thursday night through Sunday morning from 9:00 p.m. to 2:00 a.m. However, if problems persist on the property, as determined by the Police Chief, full time security will be needed 7 days a week from 8 PM - 6 AM until the problems are rectified to the satisfaction of the Police Chief. The plan shall be approved by the Town Planner with the advice and consultation of the Police, Fire,

and Code Enforcement Departments and can be reviewed, modified, and updated by the owner with the approval of the above departments.

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. The applicant shall install a drywell for stormwater management and continue to work with the Town Engineer to review the drainage and correct any deficiencies to minimize drainage issues on the abutting property (Tax Map 9, Lot 15-0).
3. The School Impact Fee will be assessed for any units that are occupied by school-age children.
4. The applicant shall apply for and be granted a sewer permit for the new unit.

Susan Fuller MOVED to approve the Findings of Fact and Conditions of Approval for an Application for Conditional Use Permit submitted by Richard Gsottschneider on behalf of Van Rich Properties, LLC, Durham, New Hampshire, to construct a one story, 2 bedroom unit on the site which would be attached to an existing duplex, creating a multi-unit building. The property involved is shown on Tax Map 9, Lot 20-1, is located on 279 Mast Road, and is in the MUDOR Zoning District. Richard Ozenich SECONDED the motion, and it PASSED unanimously 6-0.

- VII. Deliberation on an Application for Conditional Use Permit** submitted by Raymond Holmes, Greenland, New Hampshire on behalf of David Ieni, Durham, New Hampshire, to construct a 12' x 39' deck and a 24' x 28' attached garage. The property involved is shown on Tax Map 12, Lot 1-21, is located at 20 Cedar Point Road, and is in the Residential C Zoning District.

Chair Parnell determined that what was before the Board now was Findings of Fact and Conditions of Approval draft #3. He referred to the May 12th note from the Town Engineer, and asked if the issues in it had been addressed.

Mr. Campbell said Town Engineer Dave Cedarholm, representing the DPW, had three issues:

- Concerns as to whether stormwater runoff could be accommodated by the driveway
- the garage being located 5 ft from the right of way, and likely impacts on snowplowing
- septic system

Mr. Campbell noted that the ZBA had granted the applicants a variance to allow the garage to be located 5 ft from the right of way.

Mr. Ozenich said there had always been a problem on Cedar Point Road concerning this kind of thing.

Councilor Gooze said on that road, there were four shed structures although no garages that were located right up at the road, which snow plows must have some difficulty with. He noted that this was something the ZBA had had to deal with when he served on it, and said it was a tight spot.

Mr. Ozenich asked if Cedar Point Road was a private road, and said it didn't look wide enough to be a public road.

Mr. Campbell said it was a Town road, and said the situation there was what it was. He noted that some people living there had asked that the Town pave it, but said right now the Town graded it when needed, and plowed it.

Mr. Ozenich said the road related to why there was a wetland there.

Mr. Campbell said some of the septic systems for parcels in the area were actually under the road. He said the properties on Cedar Point Road were nonconforming structures that had received variances, and said now people lived there year round.

Councilor Gooze asked if the issues of concern to Mr. Cedarholm could have been raised with the ZBA, as well as with the Conservation Commission.

Mr. Campbell said he wasn't sure that the snowplowing issue had been raised before the ZBA.

Councilor Smith said the May 12th email from the Town Engineer was raising an objection, but said he didn't think the Board should see a problem regarding the location of the garage. He noted the fact that he had bought a colonial farmhouse in Durham that was 3 ft away from the right of way, on a street where other houses were also close to it. He said this was not an unusual problem for Durham, and also said he doubted that Cedar Point Road would ever be widened.

Councilor Gooze said a question was whether the Town Engineer was saying this was a situation that was dangerous for snow plows, or if they simply had to be careful, which was the case all the way down the road. He also said he felt this was more of a ZBA issue, and should have been raised there. There was discussion.

Mr. Campbell said Code officer Tom Johnson had spoken about putting some kind of buffer there in order to protect the building.

Mr. Kelley arrived at 8:13 pm.

Councilor Gooze noted that in his letter, the Town Engineer did talk about possible widening of the road. He said if that was done, it would be harder to move a garage than it would be to remove a shed.

There was further discussion about the fact that some people living on Cedar Point Road had asked that improvements be made to it.

Mr. Holmes said he had discussed the conditions of approval with the Town Engineer that day, and

he was fine with them.

The Board agreed to take out condition of approval #1 to be met subsequent to signature, regarding the applicant working with the Town Engineer and Code Enforcement Officer to mitigate conflicts with snow removal and the location of the garage.

Findings of Fact

1. The Zoning Board of Adjustment approved a variance for a deck and detached garage with conditions on October 12, 2010.
2. A Shoreland Impact Permit was approved by NH Department of Environmental Services on March 23, 2011.
3. Town Engineer, David Cedarholm, submitted an e-mail with comments on the application on April 18, 2011.
4. Conservation Commission Chair, James Houle, submitted a Summary of Durham Conservation Commission findings on April 25, 2011.
5. A Site Walk was conducted on May 11, 2011.
6. A Public Hearing was conducted on May 11, 2011 and no members of the public were in attendance to speak to the application.
7. At the May 25, 2011 meeting, the Planning Board deliberated on the Conditional Use Permit for the Wetland Conservation Overlay and Shoreland Protection Overlay Districts and found that the applicant met the standards set forth in these sections of the Durham Zoning Ordinance.
8. The Town Engineer submitted an e-mail on the application on May 25, 2011.

Conditions of Approval - to be met prior to the Issuance of the Certificate of Occupancy by the Building Inspector

1. All conditions of the October 12, 2010 Zoning Board variance approval shall be met.
2. The conditions from the Conservation Commission in their letter to the Planning Board dated April 25, 2011, shall be met.
3. The applicant will need to apply for, and be granted, a new driveway permit from the Department of Public Works. As part of the issuance of a driveway permit, the applicant shall work with the Town Engineer to accommodate for stormwater run-off.
4. The applicant shall receive the Wetland Permit from the NHDES.
5. The applicant shall submit a request to the NHDES to modify the septic system and provide documentation to the Code Enforcement Officer that the existing septic system meets NHDES's requirements for innovative/alternative technology (Env-Wq 1024) and for being located under a driveway (Env-Wq 1017.04). Any modification shall be approved by NHDES.
6. These Findings of Fact and Conditions of Approval shall be recorded with the Strafford County Registry of Deeds, at the applicant's expense.

Susan Fuller MOVED to approve the Findings of Fact and Conditions of Approval for a Conditional Use Permit submitted by Raymond Holmes, Greenland, New Hampshire on behalf of David Ieni, Durham, New Hampshire, to construct a 12' x 39' deck and a 24' x 28' attached garage. The property involved is shown on Tax Map 12, Lot 1-21, is located at 20 Cedar Point Road, and is in the Residential C Zoning District. Councilor Gooze SECONDED the motion, and it PASSED 6-0-1, with Richard Kelley abstaining.

Break from 8:25 to 8:39 pm.

The Board went back to reviewing the March 23, 2011 Minutes, and after doing so, Councilor Smith said Mr. Kelley's comments regarding the Business School were masterful. He noted that he had mentioned these comments at a recent Town Council meeting.

III. Election of Officers;

Richard Kelley MOVED to appoint Lorne Parnell as the Chair of the Planning Board.

Chair Parnell asked if any other Board members would like to volunteer to serve as Chair, and none stepped forward. He said he would therefore agree to stay on as Chair.

Richard Ozenich SECONDED the motion, and it PASSED 6-0-1, with Chair Parnell abstaining.

Councilor Gooze MOVED to appoint Peter Wolfe as Vice Chair of the Planning Board. Richard Kelley SECONDED the motion, and it PASSED unanimously 7-0.

Richard Ozenich MOVED to appoint Susan Fuller as Secretary of the Planning Board. Richard Kelley SECONDED the motion, and it PASSED unanimously 7-0.

VIII. Introduction and Discussion on Possible Workforce Housing Ordinance Amendments

Mr. Campbell explained that he and the Workforce Housing subcommittee had been meeting with consultant Jack Mettee over the past several months. He noted that Mr. Mettee had been hired through a \$9,000 grant as part of the NH Housing Finance Authority's IZIP (Inclusionary Zoning Implementation Program).

He said they had looked at the existing Zoning Ordinance and the State Workforce Housing statute, and had tried to figure out what needed to be done to make the Zoning Ordinance more inclusionary. He said some draft language had been developed for the Zoning Ordinance, along with a developers' guide and sample restrictive covenant language.

Mr. Mettee noted that Lisa Henderson with the Workforce Housing Coalition of the Greater Seacoast Area was present, and said she educated institutions, developers and communities on this issue, and also let them know about opportunities for implementing workforce housing projects.

He provided a slide presentation to the Board, and said that when he finished this presentation, he would walk the Board through a potential project that was in the works through the Workforce Housing Coalition, which showed the collaboration between it, towns, consultants, and other groups in order to provide greater opportunities for workforce housing in the Seacoast area.

Mr. Mettee said the language the Committee had developed was designed to be suitable for Durham. He explained that they had started with the question of whether students would be eligible for the workforce housing if it was developed, and said research gathered by an intern from around the country indicated that they would not be, because students were dependants of their parents, and therefore couldn't meet the income guidelines.

He said the Committee had also developed a picture of the overall housing situation in Durham, including projections for housing in the future, and projections in terms of what Durham's regional share was. He said they also looked at the Zoning Ordinance to determine if it provided opportunities for workforce housing, as well as where workforce housing might go in Town. He said it was discovered that the Town currently had very limited opportunities for workforce housing, and said the Committee then looked at some ways to address this, through smaller lot size requirements, incentives for developers, etc.

Mr. Mettee said they had focused on the concept of inclusionary housing, which was a mechanism that provided some incentives for a developer to do workforce housing. He said this approach had worked in a number of places around the country.

He provided some details on the documentation that the Committee had developed, and noted that in regard to the covenant language that was developed, a key issue was how to maintain the long term affordability of the housing. He said this was why covenants were needed, and explained that they were attached to the deed for a property.

Mr. Mettee explained that RSA 674:58-61 said municipalities shall allow workforce housing opportunities on the majority of acreage there (greater than 50%) zoned residential, for owner occupied and rental units, so essentially they would be spread throughout the community. He also noted that if multi-family workforce housing was being provided, it could be located in a single area within the community and didn't have to be elsewhere.

Mr. Mettee said a caveat was that a town couldn't be forced to do workforce housing where there were environmental protection, water supply, traffic safety, sanitary disposal, or fire and life safety constraints. He also explained that although there was no state housing police who would be checking to see if a town had workforce housing, if a developer did come forward with a proposal and the Town didn't have Zoning provisions in place, the developer could pretty much do what he wanted.

Chair Parnell received clarification that a Town didn't have to have workforce housing developments, but did have to provide the opportunity for them to happen.

Mr. Mettee said the Town could comply with the State statute if it met its "fair share", and said a problem was that the law didn't define what this was. He said some towns were using this as a way

to get around having to provide workforce housing, but said he thought it would be very difficult to do this. He said based on Strafford Regional Planning Commission's fair share model, Durham was so far behind in terms of providing its fair share that it would need to provide 300-400 units of workforce housing over the next five years in order to catch up.

He provided detailed information on the current housing situation in Durham, as part of the slide presentation.

Mr. Kelley noted that Durham had 75% of rental properties meeting the affordable criteria, and about 33% of non-rental properties meeting it, and asked if the law said what those percentages needed to be.

Mr. Mettee said no, but said Durham's contribution to the region was way behind, and also said there was a lot more demand for workforce housing than what Durham was providing. He said 350 units over 5 years was what SRPC came up with in terms of what Durham would need to provide in order to meet the regional need.

He noted that Ms. Fuller had looked at multiple listing figures over the past year for single family homes in Durham. He said for about 50 units, the median price was \$314,000 and the average price was \$352,000.

Mr. Mettee noted some of the zoning related approaches that could be used to address workforce housing: smaller lot sizes, increased density, open space development, mixed use, village districts, etc. He also explained that towns could look at doing different types of housing, such as multi-family housing, manufactured homes, smaller homes and accessory dwelling units.

Mr. Kelley said it seemed that these different options would be developer driven, and wouldn't be part of the Zoning Ordinance.

Mr. Mettee said the Planning Board could allow something like multi-family housing in an open space subdivision, which would allow a developer to provide more density, and less costly housing.

Mr. Kelley asked how or why the Town would put smaller homes or manufactured homes in the Zoning Ordinance.

Mr. Mettee said it didn't have to, but said they were options to consider. He noted that the town of Amherst had areas in its community where it limited the square footage for affordable housing, and said this all depended on the particular community involved. He noted that there were a few areas in Durham that already had higher density housing for non students.

He said in doing inclusionary zoning, a developer must be able to receive something of value, such as a greater number of units than what was allowed under regular zoning, in order to allow the purchase price of workforce units to be lower.

Mr. Mettee next went through the Zoning amendments that the Workforce Housing subcommittee had proposed. Among other things, he said the draft proposed that workforce housing would be permitted as a Conditional Use in the Rural, Residential A, Residential B and Office Research/Light

Industry districts as an option to Article XIX, Conservation Subdivision. He also said permitted uses would include single family, duplexes, multi-units not to exceed 4 units, accessory apartments and accessory dwelling units.

He next reviewed the procedural requirements that were included in the developer's guidance document rather than in the Zoning Ordinance. He noted that this document was referenced in the Zoning Ordinance.

He said definitions were included in the draft, regarding the following:

- Reasonable and realistic opportunities for the development of workforce housing
- Workforce conservation subdivision - he noted that the decision had been made to include these provisions under Article XIX, Conservation Subdivisions, because it applied to all the residential zones, and made sense in terms of allowing greater density.
- Area median income

Mr. Kelley received clarification that condos could be considered workforce housing. He also noted that condos were treated as a subdivision, and said he wanted to be sure they were triggering the proper mechanism. There was discussion that workforce housing would be an option within the conservation subdivision approach.

Mr. Mettee next discussed the density incentive included in the Zoning amendments: "Any Conservation Subdivision that seeks to include workforce housing shall be permitted to increase the number of market units by 20% above the Maximum Development Density (as calculated per Section 175-107:II E (2), and that will guarantee an additional 20% of units above the Maximum Development Density to be designated as workforce housing."

He said the committee had talked a lot about this, and had spoken with developer Eric Chinburg about what he thought would be enough of an incentive for a developer to do workforce housing in Durham. He said it was thought that it would have to be as high as 40% greater than what was done under normal zoning, with 20% going to market housing, and 20% going to workforce housing. As an example, he said if there were 20 units proposed and there was a 40% incentive, that would come to 28 units. He said of the 8 additional units, 4 of them would be workforce housing units.

Mr. Mettee reviewed the five provisions proposed for the Zoning Ordinance, under General Requirements of Workforce Housing Units:

- Interspersing of units to the greatest extent possible throughout the overall development, and not concentrated in a separate area of the subdivision.
- A phasing plan for the development, to provide for the construction of workforce housing concurrently with market rate units.
- More than 50% of the workforce housing units in a development shall contain two or more bedrooms.
- Adherence of the subdivision plan to assurance of affordability standards. Workforce housing dwellings shall also be compatible in exterior appearance, and reasonably consistent with the market rate dwellings in the proposed subdivision. They must also incorporate the equivalent of the Energy Star rating in all building designs.
- Alternate lot sizing, as specified by the Planning Board, through the Conditional Use Permit, assuming that NHDES requirements are met

He reviewed the Assurance of Affordability provisions in greater detail, and noted that the workforce housing units must retain the development criteria and affordability as outlined in the Zoning Ordinance for a minimum of 30 years, through a deed restriction, easement and/or mortgage deed acceptable to the Planning Board, and would be monitored through reports provided to the Planning Board by a selected third party agent, prior to the time of unit sale or resale.

Chair Parnell asked how the price was controlled over time.

Mr. Mettee said this was a question a lot of communities wrestled with. He said a deed restriction was needed to say the property would be affordable for thirty years. He said when the owner sold the property, he could only sell it at the median price at that time, based on the HUD guidelines. He said some equity could be gained, and said some towns took this and put it back into their local housing commission, while some gave the equity increase to the original owner.

He said there were some other approaches as well, but he recommended that the Planning Board didn't make this too complicated. He said if they wanted to encourage affordable housing, it was important to keep a house or unit as affordable as possible for a period of time, and provide a simple mechanism for transferring it from one owner to another.

Mr. Kelley asked why the minimum time period was only 30 years, and asked what happened if housing stock started falling off the market, and the market price went up significantly. He said the Town would be in a pinch, because there would only be so much land that could be developed.

Mr. Mettee said the time period could be longer, and said 30 years was more or less arbitrary. He said presumably more units would be built.

Mr. Kelley noted that an assessment had been done for Durham that said there were about 1200 more houses to be developed.

Mr. Mettee said they therefore might want to make the time period longer.

Mr. Campbell noted that when someone bought a property, the 30 year time period started over again.

Mr. Kelley said if a property owner stayed in the program for 30 years and then cashed out, it would go back on the market at market value and the Town would have lost it as workforce housing.

Councilor Gooze said this issue was something for the Board to discuss, and said they might want to make it a 50-60 year time period.

Chair Parnell said an issue that affected affordability in Durham was property taxes. He asked if there were towns with relatively high taxes like Durham that were still able to go through with workforce housing.

Mr. Mettee said this was a big issue, and said Exeter had some experience with it.

Ms. Henderson said she urged towns moving forward with a workforce housing ordinance to be clear up front how the property taxes would be assessed. She said with the Chinburg Builders project in Exeter, this wasn't made clear up front because they were pioneers. She said there was no overarching precedent in State statute as to how to handle this issue, in terms of whether taxes should be based on the encumbered value or the full market value. She said the assessor in Exeter had gone ahead and looked at the market value, and said initial buyers of the condos were alarmed because it threw off the affordability equation.

She said taxes should be addressed up front as one of the affordability factors to consider, and said what it would mean was that the purchase price would need to be lower than it would be in a community where the property tax rate was lower, in order to make the equation work at the \$265,000 level.

Ms. Henderson spoke in some detail about the inclusionary zoning approach that Exeter had taken with its Forest Ridge project. She said it was a large project that had a range of housing types ranging from estate homes to affordable condos. She said Mr. Chinburg had to make assurances of what the sale prices would be, and that they would fall in line with what Exeter's ordinance said, which required a percentage of units for different income ranges. She said it had been up to the developer to provide the numbers to the town.

Councilor Gooze asked if as time went by, the assessment was limited to keep the percentages right, and if the resale price came into play before a workforce housing property was sold to the next person.

Mr. Mettee said the covenant on the land was the restriction, which meant the house would never sell for more than X, based on a formula.

Mr. Kelley said it seemed that the property had to be assessed at the encumbered value, and that this hadn't happened in Exeter. He asked if HUD came up with revised numbers every year, and was told it did. He said even if the numbers all added up at first at 30% of the median income value, five years later they might not, and asked if some tweaks would have to be done because of this.

Ms. Henderson said the idea was to create opportunities, and she also noted that incomes did tend to come up over time.

Councilor Gooze asked how improvements to a house were factored in.

Mr. Mettee said the house's value would be at the HUD market value, no matter what work was put into the house. But he noted that some workforce housing ordinances did encourage homeowners to increase the value of their property and build equity, and he spoke briefly on this. He said what he was proposing was relatively simple.

Councilor Gooze said some properties in Durham that came up for sale weren't in the best shape because they hadn't been kept up, and said some sold now for rental units. He said if the workforce housing ordinance proposal was tweaked right so those kinds of properties could be improved,

perhaps they could become workforce housing instead, and would be less likely to become student rental properties. He said most of these properties were in the RA district. He said what he was proposing could perhaps be a part of the covenant.

Mr. Kelley asked why these particular districts had been proposed, and Mr. Mettee said they took the zones that they thought would get to them to the greater than 50% amount of acreage. There was discussion that it would be harder to get affordability in the RC district, and Ms. Fuller also noted that the soils there were of a poorer quality. She said it was easier to get to the 50% amount using the Rural district.

Mr. Kelley said there were also poor soils in the RA district. He asked if as part of that exercise, the committee had looked at available lots suitable for subdivision and the kind of density increase they had heard about. He said they should really be focusing on the 20 acre lots.

Mr. Mettee said this was done intuitively, although an analysis wasn't actually done. He also said the committee had made some recommendations regarding the conservation subdivision provisions, concerning the wetland definition, which was quite restrictive, in order to provide more opportunity for workforce housing. It was noted that this was described in the memo that was provided, but was not in the Zoning ordinance itself.

Mr. Campbell said that change would be outside the scope of the grant.

Chair Parnell asked where the Board would be going from here with this proposal.

Mr. Campbell said the Board would have to look through the language for a period of time to make sure it was comfortable with it, before sending it to a public hearing. He reviewed the process involved, since this was being recommended as a change to the Zoning Ordinance.

There was discussion that Mr. Mettee was largely done with his work on this project, but would be available if questions came out of the public hearing process.

Mr. Kelley asked how the committee had come to the conclusion that students would most likely not be an issue.

Mr. Mettee provided details on the research an intern had done to determine this. He said the research was done of states that had workforce/affordable housing statutes, and said it was found not to be a problem, because students were generally dependent on their parents' income, which was typically higher than what would qualify for affordable/workforce housing.

Mr. Kelley asked who had come up with the 350 units number, and was told that consultant Bruce Mayberry had come up with it for the Strafford Regional Planning Commission. It was noted that this number included some existing housing stock. Mr. Mettee also said the model that created this number was weighted to reflect the employment opportunity provided by UNH in Durham.

Ms. Henderson said the housing needs assessment that SRPC did took into account the future as well, and considered economic drivers and projected population growth for a 10 year time period.

Mr. Kelley referred to the fact that the University was an important driver of this number, and noted that if it was a private employer, it would be providing taxes to the community. He asked if the Planning Board should perhaps explore the idea of going to the University and asking that as a land grant university, it open up some of its land for workforce housing, and perhaps partner with the Town on this.

Councilor Smith asked if there had been any discussion with the University on this, and Mr. Mettee said he would like to have Mr. Bencks address this.

Mr. Campbell noted the University's proposal in recent years to develop the Leewood Orchards. He said there had been some talk as part of this of including some workforce housing, and provided details on this, and said there had been some talk at that time about doing a public private partnership

Mr. Kelley said perhaps the conversation needed to address the idea that the University could make some money at this.

Councilor Gooze said the Planning Board was going to need to consider how much it was going to push workforce housing.

There was discussion about why a developer hadn't come forward with a workforce housing project yet, and Mr. Campbell said it was because they knew they could make much more money doing student housing.

Councilor Smith said the only density incentive proposed had to do with conservation subdivision. He asked if density bonuses could be considered for such things as properties on public transit, for example along Route 108, and properties with open areas where buildings could face south and have solar arrays to generate heat and electricity.

He noted that the Town was in the process for negotiating the sale of the Grange, and part of the proposal was to have some workforce housing units.

There was discussion.

Mr. Mettee said they could put in any kind of incentives that wanted.

Councilor Smith noted that a lot of the older housing stock in traditional family neighborhoods were being bought out by absentee landlords, and said some would be suitable for two units of workforce housing, resulting in 5-6 tenants. He said the property would generate more income that way, and said it might be a way to get students out of some of this housing and get small families or mature people into them.

Mr. Kelley said if workforce housing ordinances had been successful in the communities they had been put in.

Mr. Kelley said because of the housing market, the developers hadn't been knocking at the door even in towns where workforce housing ordinances were in place. But he said in the southern part of the state, there had been some successful projects.

Mr. Kelley asked Mr. Mettee if there were any towns he knew of that didn't have a workforce housing ordinance, and were faced with a developer who wanted to put in a workforce housing development.

Mr. Mettee said he knew of one town where there had been a threat of such a development, in a town that didn't have an ordinance.

Ms. Henderson said the law didn't go into effect until January 2010, and also noted the difficult housing market. She said there were 18 communities that had passed some kind of workforce housing ordinance. She said that overall, the workforce housing development in Exeter had been successful, and provided details on this.

She said inclusionary zoning drove towns toward mixed income communities, put incentives in front of developers, and said in some communities, the incentives needed to be greater to overcome the economic conditions she said that were there. She said it was undeniable that Durham's economic challenge was that its largest property owner was not a taxpayer. She noted that Portsmouth had a 50% density bonus for its small workforce housing overlay district, so 40% for Durham wasn't that much. She said it had to be that way in order for a developer to make the choice to do workforce housing rather than student housing.

Councilor Gooze noted that the overall tax assessment from a workforce housing development wouldn't be held down, but said there could be children added to the school system.

Mr. Kelley said perhaps an incentive to do workforce housing would be a waiver of the school impact fee.

Mr. Mettee spoke briefly about a property owned by the Goss family, where the Coalition would be holding a workforce housing design charrette on June 16th. He said the Board might want to take some interest in this, and see how an example like this could actually be applied in Durham.

Ms. Henderson said a full design team would be involved in the charrette, and would be paired up with volunteer planners. She provided details on what was involved with doing a charrette, and said they were done on an annual basis. She said they were a great way to take a new ordinance on a test drive.

Mr. Kelley said roughly 47% of the acreage in Durham was either owned by the University or was in conservation, and asked if this was taken off the books. He said if University land was pulled off, conservation land should be pulled off as well because it couldn't be developed.

There was discussion.

IX. Approval of Minutes

April 6, 2011 - postponed
April 13, 2011 - postponed

X. Other Business

A. Old Business:

B. New Business:

1. Request for Technical Review of Previous Subdivision Condition of Approval submitted by Warren & Donna Brown, Edgewood Road, Map 2, Lot 1-9.

Mr. Campbell provided background on what was now proposed by the Browns. He said they owned an undeveloped parcel that had previously been created as a result of a subdivision application, and noted that a condition of approval with that application was that the house built on the property would be owner occupied. He said they were now having trouble selling the property because of this provision.

Councilor Gooze said he would recuse himself from voting in regard to this application, and Councilor Smith became a voting member in his place.

Councilor Gooze said he had been a member of the ZBA when as part of granting a variance to allow the subdivision, that board had attached a condition of approval that a house built on the new parcel had to be owner occupied. He provided details on this, and said the Browns currently had an application before the ZBA to see if this condition of approval could be removed.

Mr. Kelley said he would want to review the Minutes of the previous ZBA application, and also said he would want to hear what the neighbors had to say now. He noted that the Browns had to go before the ZBA again anyway before doing anything else. He said if he had to vote that evening, he would not send the application to the Technical Review Committee.

Chair Parnell said the Planning Board didn't have to do anything right now, but said this didn't seem to be a Technical Review Committee issue.

Mr. Campbell noted that the Zoning Ordinance was silent regarding the Planning Board having the power to send subdivision applications to the Technical Review Committee. He said that since the Browns had to go to the ZBA anyway, in the mean time he could check with the Town Attorney to see if the Planning Board could in fact send subdivision applications to the Technical Review Committee.

2. Geoff Sawyer - Great Bay Kennel

Ms. Fuller recused herself.

Mr. Campbell explained that Mr. Sawyer wanted to include a caretaker apartment above the new

building that was now proposed. He said the kennel had previously been approved with an allowance for a caretaker apartment, but the apartment was never built. He noted that the application for the new building was going to the Technical Review Committee, based on a previous decision by the Planning Board.

Mr. Kelley said he would be interested to see where the building with the approved caretaker apartment was to be located, as compared to where it was proposed now.

Chair Parnell noted that when the Board had dealt with this project recently, there was a fair amount of public comment, and a number of issues regarding permitting.

Mr. Campbell demonstrated on some plans the previous and proposed locations for the caretaker apartment. There was further discussion on this, as well as on complaints that had been received from neighbors about the noise from barking dogs and music coming from the property. It was noted that putting the caretaker apartment above the new building would mean that it would be located closer to the abutters. Mr. Campbell pointed out that it was probably not the caretaker apartment that would be driving the complaints.

Richard Kelley MOVED, per the applicant's request to revise their plans to include a caretaker apartment, to deny the request to send the application to the Technical Review Committee. Richard Ozenich SECONDED the motion, and it PASSED 5-1, with Bill McGowan voting against it.

3. Discussion on Next Quarterly Planning Meeting (June 22, 2011).

Mr. Campbell reviewed the draft agenda for the upcoming quarterly planning meeting, and there was brief discussion on it.

C. Next meeting of the Board: **June 8, 2011**

XI. Adjournment

Susan Fuller MOVED to adjourn the meeting. Bill McGowan SECONDED the motion, and it PASSED unanimously 7-0.

Adjournment at 10:29 pm.

Victoria Parmele, Minutes taker

Susan Fuller, Secretary