

DRAFT
DURHAM HISTORIC DISTRICT COMMISSION MINUTES
THURSDAY, NOVEMBER 6, 2003
DURHAM TOWN HALL – COUNCIL CHAMBERS
7:00 P.M.

MEMBERS PRESENT: Andrea Bodo - Presiding Chair
Crawford Mills – Vice Chair
Malcolm Sandberg- Town Council Representative
Nicholas Isaak – Planning Board Representative
Joan Graf
John Harwood – Assistant Planner

MEMBERS ABSENT: Leslie Schwartz
Roger Jaques – Chairman, recused

ALSO PRESENT: Fall Line Properties - Mike Sievert, Paul Berton, Robbi Woodburn, Attorney Malcolm McNeill

I. Call to Order

Chair Andrea Bodo called the meeting to order at 7:05 PM.

- II. Application for Certificate of Approval submitted by Michael J. Sievert, PE, MJS Engineering, Newmarket, New Hampshire on behalf of Fall Line Properties, Portsmouth, New Hampshire for signage, lighting, landscaping features and other issues related to Article VI of the Durham Zoning Ordinance.** The property involved is shown on Tax Map 4, Lots 52-0 & 53-0, is located off of Dover Road and Main Street and is in the Limited Business Zoning District.

Chair Bodo said there would be an amendment to the agenda at the start of the meeting to reflect that the meeting would be the discussion portion of the Commission's previous meeting and not a public hearing. She explained it would be a discussion on the application for Certificate of Approval and that the Board would recess for ten minutes so members could read through documents that had just been received from the applicant.

Malcolm Sandberg MOVED to recess for 10 minutes. The motion was SECONDED by Crawford Mills, and PASSED unanimously.

The meeting resumed and discussion continued on the Application for Certificate of Approval. Chair Bodo said the Commission had received a document entitled Summary of Applicant's Evidence in Support of a Certificate of Approval from the applicant. She asked if Board members wished to make a statement about the document.

Malcolm Sandberg said he questioned the propriety of the document being submitted and also said he personally took offense to its tone. He recommended that if the Board was considering making it part of the record, the public should have the opportunity to see the document and

respond to it. He recommended the Commission either ignore it or have a discussion about re-opening the public hearing.

Joan Graf said the document appeared to be going over the same issues presented at the public hearing.

Crawford Mills said the first part of the document appeared to be in agreement with some of the issues raised in the public hearing. He said the rest appeared to be an attorney's interpretation of the Zoning Ordinance, which he didn't think the Commission had any particular argument with. He said the bold part at the bottom of the document represented a change in tone, which was unfortunate.

Nick Isaak said he agreed with all the points, but didn't think the document would affect the outcome of the meeting, so would rather not re-open the public hearing.

John Harwood said the document did seem like a summation of items the public had heard before, and there was really nothing in it to constitute opening the hearing.

Attorney McNeill asked if he would be allowed to speak about the document.

Chair Bodo noted the public hearing portion of reviewing the application was closed.

Attorney McNeill said he wished to explain why he had submitted the document.

Mr. Sandberg called for a point of order.

Attorney McNeill asked that the record reflect that the Chair did not allow Attorney McNeill to speak.

Chair Bodo asked if anyone on the Board had a question for Attorney McNeill about the document. Hearing no responses, she said the meeting would go forward.

Chair Bodo said it would be helpful to look at the definition of "structure", as stated in Article VI, 175-6 (Word Usage: definitions) of the Durham Zoning Ordinance. She read this definition, and also read Article VI, 175-54 Guidelines, under B. Criteria for conformance (new structures), and said it appeared that b. length, c. width, d. street frontage, and e. setback from the street might apply to the present application. She said the first question to consider was whether the application required a waiver, and the second question was whether, if it did require a waiver, the Board should grant one. She asked Board members if they believed a waiver of Article VI, 175-54 B.1 was required.

Nick Isaak said the Commission would have to have dimensional data on adjacent properties in order to be able to determine whether the length, width, street frontage and setback from the street dimensions of the site were within a variation of ten percent from these properties.

Crawford Mills said if a waiver was appropriate, the Commission should proceed with one because any other decision would simply be argumentative and would extend the review beyond that meeting because members didn't have the data. He said he thought the intention of the ordinance was to keep something from being so out of context with the neighborhood that it

would in some way interfere. Mr. Mills said he thought the Planning Board had addressed the dimensions and entrances and if a waiver was required, he proposed the Commission waive the requirement.

Joan Graf said she was assuming, concerning Section 175-54 B.1, that since the Board was looking at the parking area, that would mean it would look at parking areas of other nearby buildings in the district, and try to determine whether this parking lot was more than 10% bigger than an average of the nearby parking lots. She said that was a difficult thing to estimate, and apparently wasn't considered in the design of the parking lot.

Malcolm Sandberg said his reading of the Zoning Ordinance was that the Board was constrained from granting the Certificate of Approval without a waiver because Section 175-54 B. said "...structures must conform to the existing structures in the district in terms of general size and scale.." He noted the Commission didn't write the law, but must interpret it. Mr. Sandberg said he didn't know if the application required a waiver or not because the applicant did not provide the data. He said he specifically asked the applicant for that information at the public hearing, who said he didn't have it, and had not done any comparisons of adjacent properties. Mr. Sandberg said he wasn't inclined to go out and get these measurements himself, and the burden was on the applicant to do this. Mr. Sandberg said it would be another discussion, if the Board concluded a waiver was required, whether it should vote in favor of granting a waiver or not.

Chair Bodo restated the question as to whether it was the opinion of the Board that the application would require the granting of a waiver, noting it did not have the data to determine whether a waiver was required.

Malcolm Sandberg agreed with Mr. Mills that if one was inclined to approve the application, there must be a discussion first on whether a waiver needed to be granted, just in case it didn't.

Crawford Mills said the size of the parking lot was most likely determined by the Planning Board relative to the size of the hotel, required parking spaces needed, etc., and questioned backing up now and asking whether it conformed to the neighborhood. He said if it were considering a structure, the Commission would be expected to have more input, but in this situation, he would be in favor of waiving the requirement.

John Harwood said there were two opportunities to consider waiving the requirement. The first choice was to consider whether to waive the requirements of B.1 completely, regardless of whether any information was submitted, because it was not appropriate to consider when evaluating a parking lot, even though it was a structure. He noted the criteria in question didn't apply very easily to a parking lot.

Mr. Harwood said the second choice, if the Board felt the criteria applied to a parking lot, was to ask the applicant if any calculations had been done since the public hearing that the applicant would like to submit. He said this information could then be looked at to see if it was within a variation of ten percent, and if not, the requirement could be waived.

Chair Bodo asked the Commission what they wished to do.

Nick Isaak suggested they first ask the applicant if the data was available.

Attorney McNeill said the data was available and he asked Chair Bodo to read Mr. Harwood's comments on the appropriateness of applying the data. He then read some of Mr. Harwood's comments, and requested that their data be reviewed in the context of Mr. Harwood's recommendations. He noted they were submitting the data even though they did not believe it applied to the parking lot.

Attorney McNeill said they presumed the dimensions of height, length and width relative to a parking lot applied to the depth of the pavement. He said the term street frontage was not defined in the zoning ordinance, although he noted there was a definition of lot frontage in the Zoning Ordinance. He said in trying to determine what street frontage meant in the context of a parking lot, the dilemma was whether lot frontage was in the context of these provisions of the ordinance, because reading B.1 and B.2 appeared to relate, in his view, to buildings. He noted Mr. Harwood's recommendation said these provisions related to buildings. He asked whether the provisions meant they needed to go into the neighborhood and look at the fronts of buildings to determine how much of them were on the front, facing the street. He said his presumption was that the HDC purpose was to make sure that buildings were in scale with other buildings in the zone, and asked what the street frontage was – the front of the building, or the frontage of the pavement on the street.

Mr. Harwood said the definition of lot frontage in the Zoning Ordinance was from side property line to side property line, the dimension of the front property line that ran along the public right of way - the lot line dividing the lot from the street right of way.

Attorney McNeill said they tried to guess what the framers of the ordinance would have intended. They said their presumption was that from an architectural and formulaic perspective, it was not the interest of the HDC to just measure street along the front, it was to measure the effect of the street along the front. He said they had difficulty trying to measure this.

Mr. Sandberg noted that the public hearing phase was closed, and said that if the applicant continued to argue his case for his interpretation of the ordinance, he was concerned that other members of the public should have equal time to express their interpretation of what the ordinance meant. He said that in order for him to understand if the application met the waiver benchmark, he needed to know the length, width, street frontage as (the applicant best understands it) and the setback from street of the structure. He said he would then want to know this dimensional data concerning the nearest neighbors, and presumably within the historic district. He said these nearest neighbors would be the Court House, the Chinburg property across the street, and the Social Library.

Chair Bodo said that looking at the numbers that had been provided by the applicant on the street frontage of the Court House as compared to the proposed hotel, the Court House had 113 feet of street frontage, while the proposed hotel would have 316 feet. She noted that this was far beyond the 10% variation, so the question before the Commission did appear to be whether this application required the granting of a waiver of Section 175-54 B.1.

Malcolm Sandberg said that based on the data they were looking at, it was clear that a waiver would be required.

Malcolm Sandberg MOVED that the Historic District Commission grant a waiver, as required by 175-54 B.1. The motion was SECONDED by Nick Isaak.

Malcolm Sandberg said his concern about granting the waiver stemmed from his impression of what the historic district was meant to be, and he asked himself why this particular section was placed in the ordinance. He said it was his understanding that the citizens, when they adopted this ordinance, were concerned that taking the district as whole, they would be able to tolerate gradual transitions going from one property to the next, and the 10% rule was included to avoid stark delineations from one property to the next, particularly for new structures.

He said the 10% variation requirement had a purpose, but the HDC was allowed to grant a waiver because there would be times when doing so would be appropriate, when the impact would not be stark and damaging. But he said that in this case, a structure was proposed which in many ways was off the scale, because there wasn't a building there, while the other lots in the district had buildings. He said the parking lot was off the scale in the other direction because the immediate historic district properties have minimal setbacks, with parking facilities behind the buildings. He said that when he looked at his role as an interpreter of the ordinance, his sense was that the citizens of Durham had no intention of putting up a parking lot in that location.

Malcolm Sandberg noted that a number of years back there had been a fire at the Mellon house, and asked Commission members to imagine that building had been burned to the ground and the owner came to the HDC and said the highest and best use for that land would be to put up a parking lot, with a nice gate and a fence. Mr. Sandberg asked if that was consistent with what the citizens of Durham envisioned for their historic district. He said his personal take was that the HDC was not assigned to find reasons to approve something that was off the scale. But he said he was willing to hear other sides of the argument and form his final decision accordingly.

Chair Bodo said it was a difficult issue because people historically didn't have cars and parking lots, and Mr. Sandberg was absolutely right that if the historic district was asphalted, there was no historic district anymore. She said the Commission had to be careful to try and preserve as much of the flavor of the Town and spirit of the historic district as possible.

Mr. Isaak said that when he looked at the project, it appeared that the way it had been configured was the inverse of what the Commission would like to see--the hotel up front, with the parking lot behind it. He noted that because of contamination issues, and other planning issues, this was not possible. He said that in many ways, the definition of an historic district was arbitrary, a line on the ground, but he said one could step back and see that the hotel was historically in keeping with the district and was helping the district because it edged out the historic district in the right direction. He said the parking lot could be seen as a "missing tooth", in a way, because one would like to see buildings continuing up, but in this case was probably the best solution to what could be proposed on that lot, given the different pressures.

Mr. Mills noted that there were requirements from the planning perspective for parking, and the Planning Board had approved the parking lot structure. He recommended waiving Section 175-54 B.1.

Joan Graf said she found it to be a very difficult issue because even with the screening proposed, the HDC would still be basically looking at a parking lot rather than a structure. She said the HDC had emphasized in its meetings the importance of streetscapes, bringing buildings forward and putting the parking behind them, so she found it personally distasteful to face the possibility of waiving something she consider to be very important – the appropriate placement of the

parking lot. She said she appreciated that efforts had been made concerning screening and landscaping, but that when she looked at the scale of the project and compared it with other buildings in the district nearby, including newer ones, she found it to be most unfortunate.

Malcolm Sandberg said that pursuant to the requirements of the ordinance, there had been consultations with the applicant concerning conceptual ideas, in August of 2002. He noted that HDC members by consensus indicated it would be much better if the building were convex, fronting on the street, with parking in the back, rather than concave, with the parking in the front. He noted the convex design was consistent with the Master Plan, and said the Commission encouraged the applicant to build the hotel to fulfill his needs and theirs.

Malcolm Sandberg said the fact that the land on the site was contaminated was unfortunate, but the misfortune should not be borne by citizens every time they drove in and out of town and had to look at the parking lot. He said although it might be more expensive for a building to be constructed in the convex configuration, he didn't think that was the citizens' problem. He said the land was contaminated before the applicant owned it, and that Section 175-54 B.1 existed before he owned it, and none of this was hidden information. He said though he recognized the application had been through the Planning Board's process, the HDC had a unique role that was distinct from the Planning Board's role. He said as far as he knew, the Planning Board did not go through Article VI in detail, which was not its task. He encouraged Commission members to be true to the ordinance, and noted there were avenues of appeal for the applicant if the waiver was not granted, including developing another plan. He said he was certain there were other plans, and that the Commission would be willing to explore ways the applicant could meet the guidelines, because it was important that this property be developed, for a number of reasons. But he said the development should be done in way that was consistent with the ordinance.

Mr. Harwood said he agreed the intent of 175-54 B.1 was to make sure there weren't significant changes in the historic district, but reminded the Commission that the Town Counsel had said the Zoning Ordinance, not the historic district, dictated the uses within the historic district. He said the example Mr. Sandberg gave of a building burning down, and someone wanting to put up a parking lot to replace it was invalid because putting up a parking lot was not allowed as a principally permitted use in the historic district. He said the fact that this parcel is much larger than what is in the historic district appears to come across as – putting a parking lot in the historic district, when in fact the parking lot is accessory to the use, which is a permitted use.

Mr. Sandberg said he did not intend to say that a parking lot was not permitted, and noted the HDC's role was not to determine that. He said the Commission's role was to make sure the continuity of the parcels within the district conformed within the 10% guideline. He said when there had been discussion on convex vs. concave layouts, there would have been the same number of bedrooms, number of parking spaces, but the total difference between these two approaches was the impact. He said that is where the HDC should be focusing its attention.

Chair Bodo said this was a very difficult issue because the Commission was considering a crossroads location, and an intersection already very commercialized with large traffic lights, which many people found offensive and not aesthetically pleasing. She said the Town was moving forward into a different age, and this was painful. She said she understood the parking lot had to be up there, and that the Planning Board had approved this, but she said the Commission's job was to try to make it as aesthetically attractive as possible, to soften that

intersection. She suggested if it were greener, this might be less painful than having to look at an asphalt parking lot.

Chair Bodo said it was important to discuss this openly because the HDC didn't want huge parking lots everywhere, but had to make some concessions. She said that if they granted the waiver, it would be making a concession, and said she would hope the applicant would be sensitive to the Commission's request for as much landscaping and other aesthetically pleasing details as possible up at the intersection. She said she would like the buildings moved too, but knew that was not possible.

Malcolm Sandberg asked why that was not possible, and asked Commission members to imagine there was no application, and a new owner proposed to build at that site.

Chair Bodo said the Commission was very pleased with the original plan for having the building on the street front, and they had requested the parking be put in the back so it could be more historically correct. She said the application came back as a duplex, with a directive from the Planning Board that the hotel would be on one lot and the parking lot would be on the other two lots, and everyone said that was the only possible use for that land. She said she didn't understand why the contaminated site couldn't be cleaned up and then used for construction of a building, although she realized this was expensive.

Crawford Mills noted that Attorney Mitchell said the HDC had no authority to modify the Site Plan, and said that talking at that point about moving the hotel was too late.

Malcolm Sandberg said that was true, but said the Commission was obliged to decide if it wanted to grant a waiver. He said if the Commission decided not to grant the waiver, there were many other options open to the applicant.

Crawford Mills said their mission was to accomplish an aesthetic environment to the extent they could, and to make the development conform to the historic district. He said that came down to fencing, shrubbery, so the problem could be masked. He said he felt the applicant had made an effort in that direction, concerning landscaping, fencing, light fixtures, and that more questions could be asked about this as compared to questioning the size of the lot, and its location.

Chair Bodo called for a vote as to whether the Commission would grant a waiver for Section 175-54 B.1.

The motion PASSED 3-2, (with Malcolm Sandberg and Joan Graf voting against the motion).

Crawford Mills MOVED to approve the application for Certificate of Approval submitted by Michael J. Sievert, PE, MJS Engineering, Newmarket, New Hampshire on behalf of Fall Line Properties, Portsmouth, New Hampshire for property on Tax Map 4, Lots 52-0 & 53-0, located off of Dover Road and Main Street with the following conditions of approval for fencing; landscaping; lighting; piers; signage; stockade fence; and the granting of the 10% waiver from Section 175-54 B.1 of the Durham Zoning Ordinance. The motion was SECONDED by Nick Isaak.

Chair Bodo said the Commission would discuss the appropriate conditions of approval for each of the following issues within the purview of the HDC: fencing; landscaping; lighting; piers; and signage.

Fencing

Chair Bodo said Commission members had recommended the proposed fence would run along the street frontage, the design would be Pick rail Essex, and the height would be 4 feet, and the fence would be black painted steel. She said the proposed anchoring was for 12 in. square, 4 ft. high, 6 inches granite rough-edge posts on the exit and entryways.

Joan Graf said the design proposed was good, and was similar to the fence across the street. She also said 4 ft. was desirable, noting that if they put a tall fence it would look like a prison.

Malcolm Sandberg said he was concerned about the 4 ft. fence because the property sloped upward from the intersection, and vehicles, pedestrians would have a view over the top of the fence into the parking lot. He said he would be more comfortable if were a 6 ft fence.

Chair Bodo noted that an email from Leslie Schwartz requested that it be a 6 ft fence.

Malcolm Sandberg said the 6 ft. fence would enhance the appearance of the district. He said he realized there were concerns the taller fence would block the view of vehicles exiting the parking lot, but said drivers would have a clear view of pedestrians left and right. He said he would also like to see a hedge behind the fence that was thick enough, either an evergreen or a shrub with thick enough branching so that it obstructed the view on a year round basis. Chair Bodo and Mr. Mills agreed with Mr. Sandberg, assuming these things conformed to other requirements.

There was discussion about what the height of the posts for the fence needed to be to accommodate the 6 ft. fence.

Robbi Woodburn said that when the posts got higher, it took the proposed historic detail to a place that was not appropriate. She also noted that anchoring became more difficult with taller posts.

Mr. Harwood agreed there could be anchoring and proportion problems with taller posts, and suggested steel posts could be used.

Nick Isaak said they could also consider using brick piers.

Joan Graf suggested that if the hedge behind could be allowed to grow up taller than the fence, it could provide sufficient screening, so the taller, disproportionate fence would not be needed.

Ms. Woodburn said the 4 ft. fence was meant to be a unifying element, matching the one across the street, and was meant to be lighter in color, for safety reasons.

Chair Bodo said there was agreement that a 4 ft. fence was acceptable.

Joan Graf MOVED to approve the condition of approval for fencing, to run along the property on the street frontage, defining the entry and exits; the design will be Essex to complement the fence across the street; the height will be 4 feet; the material will be black

painted steel, and the posts will be 4 feet 6 inches. The motion was SECONDED by Crawford Mills, and PASSED unanimously.

Landscaping

Chair Bodo noted Commission members had recommended the fence proposed for the property along the street frontage and defining the entry and exits would have evergreen plantings behind it.

Joan Graf said she understood this would be a high salt area, but felt that some type of hearty evergreens would be more cheerful in winter, and would provide better density. She recommended that the hedge be allowed to grow higher to 6 ft.

Robbi Woodburn said that raising the height to 6 ft. would be too daunting in an open, urban space and suggested going no higher than 5 ft. because this represented eye level.

Mr. Sandberg asked whether, if the Commission made it a requirement that there be evergreen plantings, was it inferred or required that they be maintained to obscure the views of passersby.

Chair Bodo suggested the wording “Shall be maintained at a height of not less than 5 ft. from the ground, and in such a manner that the density would obscure year round the view of vehicles utilizing the parking structure from the sidewalk or from passing vehicles”.

Malcolm Sandberg said it was important to include these conditions, and noted they needed to go with the property, not the owner.

Ms. Woodburn said that if the Commission required evergreens, the client would have a hard time maintaining them there. In answer to a suggestion from Ms. Graf that arborvitae might work, Ms. Woodburn agreed it might, and also said it would take time for any plants put there to reach the required height and thickness. She said the salt issue for evergreens was real, and also noted that if evergreens were used, more plants would be needed, so this would be more expensive.

Nick Isaak said that the privet was still very dense even when the leaves were gone because of its twig structure.

John Harwood noted this was a high traffic area, and increased pedestrian traffic was expected, so people passing through would affect any type of hedge. He said the fence was seen as being a stronger street edge, and appropriate to this busy intersection to better define the parking area and the pedestrian area.

Ms. Woodburn suggested the conditions should include a window for establishing full and healthy plants.

Nick Isaak said the HDC needed to be realistic about what could grow in this location, and should defer to plant specialist. He noted the fence would protect the hedge from the snow.

Malcolm Sandberg suggested it made sense that the language of the condition says a hedge would be maintained at 5 ft, and of sufficient density that the view was obscured on a year round basis from vehicular passengers and pedestrians.

Crawford Mills MOVED to approve the conditions of approval for landscaping: Dense plantings shall be installed immediately behind the fence and will be maintained in such manner and be of such density as to obscure, year round, the view of vehicles utilizing the parking structure from the sidewalk or from passing vehicles. Plantings shall be maintained at a height of not less than 5 ft from the ground, with a 3-year window to attain height and density. The motion was SECONDED by Joan Graf and PASSED unanimously.

Malcolm Sandberg noted there had been discussion and agreement at the public hearing about changing at least three of the trees at the rear of the lot to evergreens to accommodate the wishes of one of the abutters. He suggested this should be included as a condition, since it was not part of the original application.

There was discussion about the trees that would be included along the street edge, and Nick Isaak noted that these trees, which would grow to 50-60 feet tall, would be very important in terms of providing a wall to fill in the space, when there would not be a building there.

Jim Jelmsberg noted the Commission had agreed there would be a fence all the way across on top of the retaining wall.

Mr. Sandberg MOVED to approve that there would be three trees on the northern western most property line; that the trees would be evergreens, and those and all other trees depicted in the application would be maintained in a viable condition. The motion was SECONDED by Nick Isaak, and PASSED unanimously.

Lighting

Joan Graf MOVED to approve the conditions approval for lighting: the lantern style will be Hancock lamp posts with Jefferson lanterns, shall be consistent with the site plan at 11 ft 2", and the maximum height of the lamppost and lamp shall be 15 ft.

Malcolm Sandberg said it was his impression that the lights on Church Hill were the wrong color, and were too intense. He suggested that lights placed lower would be better for the parking lot, as compared to the lighting scheme one would find in a mall parking lot. Mr. Sandberg suggested fewer posts, and more lighting from a lower plane, with ground lighting so the lights would not be lighting up the sky. He said the intensity of lighting was something the HDC should be sensitive to, even though he understood some people might not think that was within their purview. He said he understood the Planning Board had control over this, but said it was also appropriate that the HDC provide its perspective.

Ms. Woodburn explained that when the height of the fixture was brought down, more fixtures were needed.

Malcolm Sandberg said he recognized this. He said the concern was that lantern lights provided 360 deg. lighting, and he was questioning whether 15 feet was too high. He said it might not be a problem if there were more lights if they were placed lower down, and weren't in one's face, and suggested this would be better aesthetically. He also asked whether light poles in the upper left hand corner of the site would sit on top of the retaining wall, or would be on the ground, and questioned the impact of these lights.

Mike Sievert, the project engineer, said the lights would sit at the back of the parking lot, at ground level.

It was clarified that the Town set the standards for lighting intensity. Mr. Sievert said the original intention was to put dome lights in for the reasons Mr. Sandberg described, but the HDC had suggested using the lantern type lights, and also said it didn't matter to the applicant. He noted Mr. Harwood had said the Planning Board intended to have them submit the illumination plan, and that they would be doing that.

Chair Bodo explained that the lights they approved for the historic district were lantern style, going up the road, but the Town had installed some dome lights, which was a surprise to the Commission.

Mr. Harwood said the lighting plan could not be finalized until the fixtures were chosen. He said the Darth Vader light was much better at containing the light within a parking lot, and also said that perhaps a lower, down light would be appropriate for minimizing lot spillage off the lot. He noted that quite a few lantern lights would be needed in order to contain the light within the parking lot, and still appropriately light the lot.

Ms. Woodburn said that if the Commission went with the non-descript lower lights, it would probably not like the look of those lights.

Nick Isaak suggested the Hancock colonial light was more logical for the street, and the Darth Vader light would be more appropriate for the parking lot.

Chair Bodo said she agreed with Mr. Sandberg that the aesthetics were a concern when one was looking at all these lights. She said the colonial lantern fixture was in keeping with the district, but suggested there might be some kind of bulb that was not so irritating to the eye.

Nick Isaak said the softer bulbs existed, but in order to get sufficient illumination, more fixtures would be needed, so there was a tradeoff.

Malcolm Sandberg noted that when the Planning Board considered the Gibbs property, there was a question of whether the lights in the canopy should be recessed completely. He explained the recess allowed the bulb to be hidden, said there was a huge visual impact when the light hung down as compared to being recessed. He said he agreed with Mr. Isaak that lantern lights were appropriate for the street, and lighting in the parking lot should be recessed in some way so the bulbs could not be seen.

Chair Bodo asked if there was a way to illuminate on the ground level to supplement street lamps in the parking lot.

Malcolm Sandberg suggested a consultant would be useful, or the Commission could ask the applicant to come in with suggestions, and they could approve the lighting subject to further review.

Nick Isaak suggested the HDC could put this in the conditions of approval.

Chair Bodo and Mr. Harwood clarified that the Commission could approve the fixture, but the lighting issue would go back to the Planning Board, which would make sure the lighting chosen met all the requirements, including no light spillage over the boundaries.

Commission members agreed a consultant was needed to work out aesthetic details, especially concerning the tone and brightness of the lighting, and put this into language that would hold up.

Mr. Isaak said these aesthetic issues concerning lighting were not necessarily particular to this project, and said he did not want the issue of lighting for the Town to affect this project. But he said that hopefully when the correct lighting was chosen for this project, it would become the Town standard for future projects.

Commission members continued discussion of the choices for fixtures, for different portions of the property.

Mr. Sievert suggested there was a rectangular box type light that had a recessed, focused down light that ranged in size from 12-25 ft.

Mr. Harwood said the HDC could recommend that the Jefferson lanterns be installed just along the street frontage, and the remaining light fixtures could be a focused, down lighting configuration, anti-glare, and that they would want to see the final design.

Mr. Sandberg asked who Mr. Harwood would recommend to consult with the HDC to sort this out. Mr. Harwood said Joe Murdock had worked with the Town on the Gibb project.

Chair Bodo suggested that a mockup at nighttime would be useful so the Commission could see what they were trying to envision.

Attorney McNeill said Mr. Harwood indicated in his review that the Planning Board would be doing its own review of the lighting. He suggested the representative to the Commission from the Planning Board could take the HDC's recommendations back to that Board so the applicant did not have to go to two consultants.

Mr. Mills suggested that the HDC could address the style of the lighting, and send it back to the Planning Board, who would be dealing with other aspects of lighting issues. He said that if there were problems with the style the HDC had chosen, the Board could come back to the HDC and something else could be worked out. He said in this way they could avoid the need for outside consultants.

Mr. Harwood agreed with Mr. Mills' suggestion.

Crawford Mills MOVED to approve the conditions of approval for lighting: there shall be lantern style Hancock lamp posts with Jefferson lanterns, to be consistent with the site plan at 11 ft 2"; the maximum over height of the lamp post and lamp shall be 15 ft. The motion was SECONDED by Nick Isaak.

Nick Isaak suggested there should be additional wording that said "pending further review by the Planning Board and the Board's lighting consultant.

It was also questioned whether lanterns should be recommended for the front perimeter only, with helmet lighting for the back. Commission members decided to go with one light unless it was determined that this would not work. It was clarified that they liked the down-directed light from the Darth Vader lamp, but did not like the style of the lamp itself.

The MOTION (as amended???) PASSED.

Piers - at Entrance of Property

Chair Bodo said the proposal was to have a granite pier base standing on a concrete foundation, with a brick pier, with a total height of 8 ft., 10 ft. total with the lantern.

There was discussion about the piers. Mr. Sandberg said he thought the piers were ugly, and should be granite or granite faced in some way to be consistent, and should not be lighted. Chair Bodo agreed. Mr. Mills said the granite could look too massive, and would not fit with the historic building across the street, which was brick. He suggested there should be brick that matched the Courthouse as much as possible, and also said the pier should be lighted.

Mr. Sandberg asked if it was envisioned that the piers would be used for signage at some point, and Ms. Woodburn said she did not know. She said they were recessed to reduce the scale, and were not meant to be a frame.

Nick Isaak asked if the large columns were needed at the entry, and said perhaps having the granite and metal fence was enough, rather than glorifying the entry to the parking lot. He said the lanterns gave a nouveau riche feel to the entry, so that the entry didn't seem historically right. He suggested the entryway could be more simple and understated. Other Commission members agreed.

Ms. Woodburn suggested it would be lovely if the height of the pier was dropped down, and agreed that in this case it would also be good to get rid of the lights.

Joan Graf MOVED to approve the conditions of approval concerning piers: the piers at the entrance shall be smaller in scale, constructed of granite, without lights, and will be a slightly larger form of the granite piers in the rest of the fencing, with the same rough finish. The motion was SECONDED by Crawford Mills, and PASSED unanimously.

Signage

Chair Bodo noted this issue had been left as subject to final approval by the HDC. She read the following wording "directional signs visible from the street and used for guiding traffic shall be discreet and of a design scheme in keeping with 19th century character of the historic district". She noted an email from Leslie Schwartz asked if they could take out 19th century character, and Commission members agreed this was a good idea.

Malcolm Sandberg said the HDC's concern was the appearance of the signs within the Historic District, so the signs they should be concerned with were those that were visible as one looked into the property, not out of it. He also asked if it was clear that a sign plan would be coming back to the HDC for review.

There was discussion about what signs the HDC should be concerned with. Mr. Mills said their mission was to look at the private signage that would be coming later, in the area in which they

had purview. Mr. Sandberg clarified that his concern was that private signage not appear to be DOT signage.

Chair Bodo asked if one of the conditions of approval could be that the applicant would come back to the Commission with the signage plan. Commission members agreed this was the way to proceed.

Joan Graf MOVED that the applicant will come back to the Commission for approval of private signage; and the signs shall be discreet and of a design scheme that is in keeping with the Historic District. The motion was SECONDED by Crawford Mills, and PASSED unanimously.

Mr. Harwood asked if there were any comments concerning the retaining wall or the stockade fence.

Ms. Graf asked if it had been written down that the wall would be level, noting that was a request of an abutter at the public hearing. It was clarified that the Commission had discussed this at the public hearing.

Mr. Harwood noted the Planning Board had stipulated this, and it would be requested on the final site plan, but this could also be reiterated by the HDC in their conditions of approval.

Stockade Fence

Joan Graf MOVED to approve the conditions of approval that the retaining wall and stockade fence would be level all the way across rather than a staggered height, as requested by abutters, and shall be maintained in a plumbed and level fashion. The motion was SECONDED by Nick Isaak, and PASSED unanimously.

The motion to approve the Certificate of Approval submitted by Michael J. Sievert, PE, MJS Engineering, Newmarket, New Hampshire on behalf of Fall Line Properties, Portsmouth, New Hampshire for signage, lighting, landscaping features and other issues related to Article VI of the Durham Zoning Ordinance PASSED 4-1, (with Malcolm Sandberg voting against the motion).

Malcolm Sandberg moved to adjourn the meeting. The motion was SECONDED by Joan Graf and PASSED unanimously.

The meeting adjourned at 9:45 pm

Victoria Parmele, Minute Taker