

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

**Durham Planning Board  
Wednesday December 8, 2010  
Durham Town Hall - Council Chambers  
7:00P.M.**

**MEMBERS PRESENT:** Chair Lorne Parnell; Vice Chair Peter Wolfe; Richard Kelley; Richard Ozenich; Town Council representative Julian Smith; alternate Andrew Corrow; alternate Town Council representative Bill Cote

**MEMBERS ABSENT:** Secretary Susan Fuller; Bill McGowan; alternate Wayne Lewis

**I. Call to Order**

Chair Parnell called the meeting to order at 7:04 pm.

**II. Approval of Agenda**

*Richard Kelley MOVED to approve the Agenda. Peter Wolfe SECONDED the motion, and it PASSED unanimously 5-0.*

**III. Report of the Planner**

Mr. Campbell said he had met with University planner Doug Bencks on Monday, and said he would provide the notes on this to Board members. He outlined the key issues that were discussed:

- Bus transportation for the proposed Capstone development. He said Mr. Bencks was staying in touch with what was going on regarding this.
- The Fire station/parking garage concept. Mr. Campbell noted the mini-charrette regarding this that would be held on Thursday, December 16<sup>th</sup> at 7 pm, and also the next morning at 9 am, in the Council Chambers.
- He said he and Mr. Bencks had also talked about parking in general. He said by next summer, parking at the former New England Center would be faculty/staff parking. He said this would shift the current parking by these people at the outdoor pool parking area, and said half of that area would become visitor parking. He noted that UNH was trying to create more visitors parking on campus.
- He said they also discussed the UNH Business School project. He said the Board of Trustees would get to look at the plans in January/February, and they would then come to the Planning Board. He said the hope was to start construction in the summer.

Mr. Campbell said the Master Plan Advisory Committee was continuing to meet, and said next week they would be getting an update from the subcommittees. He said the Visioning

forum would take place on January 28<sup>th</sup> at 5 pm, and said the snow date was January 29<sup>th</sup>. He noted that as a way to encourage people to attend the forum, the MacGregor Ambulance Corps and Kappa Delta and the Durham Library would provide activities there for kids, including a CPR course.

He said the Survey subcommittee planned to get the Town-wide survey out by the end of January, and noted that it would be available in hard copy as well as on the web.

Mr. Campbell said in November, the consultant working on the market analysis had done stakeholder interviews with Town staff, the Chair and Vice Chair of the Town Council, the Durham Business Association, EDC members, UNH, and real estate people, including Ms. Fuller. He said phase I of the report would come out toward the end of January.

He said the Innovative Zoning Implementation Program (IZIP) committee had met with the consultant in November, and also said he and the consultant had met with developer Eric Chinburg to try to get a developer's perspective as to whether the density bonus approach that had been developed was on the right track. He said Mr. Chinburg would be providing comments as to whether a developer would consider moving forward with something like this. He noted that Mr. Chinburg had done a project in Exeter involving some affordable housing options that had turned out well, which was why they had decided to speak with him.

Mr. Campbell noted that the Planning Board had met with Beth Della Valle of the B. Dennis team in November, regarding possible "quick fixes" to the Zoning Ordinance. He said he had been in touch with her since that time, and said she would be coming back next week with some draft language. He said hopefully the proposed changes would move on to public hearing early in 2011. He said he would provide the draft language to the Board prior to that meeting.

Mr. Campbell said RSG would be doing 3 runs of the traffic model for the Town and UNH, one of which would be in conjunction with Capstone, working with engineers at Appledore Engineering. He said the other two model runs were for the downtown area, noting that an idea that came from the B. Dennis charrette was changing the downtown back to a two way traffic pattern. He said the model would be used to see what would have to be done to make this work.

He explained that one model would be done based on existing conditions, plus the already approved CWI and Kostis projects, even though they hadn't been built yet. He said there would then be a separate model done looking down the road a bit with the Business School project, a combined parking garage/Fire Department at C lot, and a possible hotel, in order to see what would need to be done to make a two way traffic pattern or a one way traffic pattern work.

Mr. Campbell said the Water Resource subcommittee met on November 12<sup>th</sup> and discussed House bill 1295, which resulted from the State Stormwater Study committee recommendations. He noted that Mr. Cedarholm was a member of both committees, and

said the State committee was looking at opportunities to address stormwater in State statutes, and also at the local level. He noted that the idea of possible stormwater utilities, similar to those for water and wastewater, was being considered. He said they were also looking at the concept of addressing stormwater on a watershed basis, and noted that this would require a lot of cooperation between local towns.

Mr. Campbell said \$4,000 would be provided to the Town's Water resources subcommittee to pay for a hydrogeologist to review the draft aquifer protection ordinance amendments that had been developed. He said the consultant who was working with the Town now would most likely do this work early in 2011, and said the amendments would then come to the Planning Board for review.

Mr. Campbell spoke about ongoing discussion on the issue of bus service for the Capstone development. He said Capstone wanted to provide UNH with \$50,000 to buy an additional bus for UNH so buses would come somewhat more frequently to the Capstone property, but UNH instead wanted operating funds to run the existing buses. He said the discussion on this would continue, and said Town staff would be kept in the loop about this. He said hopefully something would be ironed out before the application came to the Planning Board.

Mr. Kelley asked if Planning Board members could get copies, and perhaps electronic copies, of the phase I market analysis report. He also said he had thought the Town had gotten an opinion that it was in line with the State statute regarding affordable housing, given all of the student housing in Town.

Mr. Campbell said the Town had not gotten that opinion.

Mr. Kelley suggested that the revised H lot Mr. Campbell had mentioned could be included in the running of one of the traffic models.

Councilor Smith said as the Board's representative to the Conservation Commission, he had gone to the recent Capstone site walk, which was well attended. He noted that Mr. Corrow had also been there, Chief Kurz was there, and Capstone was represented by Normandeau Associates, MJS Engineering, and Mr. Acken, who was Capstone's Vice President of Cottage Development.

He said Mr. Acken would be at the Conservation Commission meeting on Thursday, and that Capstone would be revising the conceptual plan further because of some wetland issues.

Councilor Smith noted that he had encouraged the Library Trustees to run their initial thoughts and plans for the new Library by the Planning Board and the Conservation Commission, and said he believed that this would be happening.

**IV. Acceptance Consideration of an Application for Amendment to a Previously Approved Conditional Use Permit** submitted by Steven F. Kimball, Pine Ledge Holdings, Auburn, New Hampshire to create a parking area. The property involved is shown on Tax Map 2, Lot 6-0, is located at 20 Strafford Avenue, and is in the Professional Office Zoning District.

Councilor Smith noted that he had recently applied for a variance regarding a small storage building where he intended to mount a photovoltaic array, and Mr. Kimball had objected to the application, approval, and a subsequent rehearing regarding one of the stipulations of the variance. He asked Planning Board members if he should therefore recuse himself, stating that he believed there was some animosity involved, although he didn't feel any animosity toward the Kimballs.

Chair Parnell said it didn't sound like Councilor Smith needed to recuse himself, but said it was up to him.

Councilor Smith said the Kimballs were not abutters to his property, but said he thought they were sending a message.

Councilor Cote asked Councilor Smith if he felt that he could remain unbiased concerning the application.

Councilor Smith said he could be objective, and said he would remain for the application if the Board had no objection to this.

Chair Parnell asked Mr. Campbell to provide a brief summary of the current application.

Mr. Campbell said the original Conditional Use Permit was approved by the Planning Board in April of 2009, for the replacement of the back building and renovations to the front building. He said at that time, there was discussion about parking, but said he didn't believe that at that time, the parking was approved.

He said Pine Ledge Holdings came back in May 2010 with an amended application because they wanted to document the parking, and also wanted to put an addition on the front building instead of doing a renovation. He said the Board accepted this application in June 2010, it was continued, and at the same time, the applicants were going to go to the Conservation Commission to get approval regarding an incursion into the wetland buffer. He said the Planning Board got a memo from the Commission regarding this in July, but said the application was in the mean time withdrawn.

Mr. Campbell said Pine Ledge Holdings was now interested in bringing back an application to amend the Conditional Use Permit. He said this time, it did not include doing the addition to the front building, and said there would just be renovations, which were part of the original approval, so the Board didn't need to look at this part. He said from the applicants' perspective, the application was intended to document the parking and where and how much parking there would be on the site.

Christine Chickering of Pine Ledge Holdings spoke before the Board, and explained that she selected tenants and oversaw the day to day operations on the property. She said this application was being pursued because Mr. Johnson's interpretation of the building permit submitted by Mr. Kimball had resulted in a problem property.

She said the current application was not to construct any new parking area. She said the parking area currently existed and was legally in use until August 17, 2010. She said they had been denied use of the area due to a misunderstanding of the building permit. She said the ZBA stated that because the lines in front of the lot were not drawn on the original plan, Mr. Johnson's interpretation was that no spaces existed there. She said the ZBA had ruled that only 6 spaces existed on the lot, and said according to Mr. Johnson's memo, there were 5 spaces in the rear and one in the garage out front.

Ms. Chickering said having only one space for the front property made the property unattractive. She said historically they had not only rented to students, and would like to get permission to use the front parking area so it might be possible to rent to traditional tenants again. She said there would be no construction of any new parking areas, lots or structures, and said they were only seeking permission to use what had been there for decades.

She said the front parking area had existed for a very long time, and she showed a slide of a 1942 survey sketch of the front house with a parking area. She said this area was not modified by the 2009 construction. She showed slides of the front parking in 2004 and then in 2010, and provided details on them. She said they didn't think the 2008 Zoning change applied since they hadn't changed the use of the area. She explained in some detail how only being able to park one car there limited renting options.

Ms. Chickering said the parking for the rear building was moved out of the wetland buffer to the greatest extent possible, and was no longer visible from the street, so reduced the cluttered look and the impression of too many cars. She showed a photograph of the property on a typical day in 2004, and also showed a slide of the rear house in 2004 as compared to the rear house in 2010, which she said indicated the improvements under the 2009 Conditional Use Permit that was received. She showed slides of that area including parking in 2004, when the emergency access was blocked and there were impervious sheds, and also showed a photo of the rear area with the house and parking in 2010, which she said was working well.

Ms. Chickering showed a slide indicating that the front parking area was now empty, and said it could easily accommodate 5 cars, providing details on this. She explained that Mr. Johnson had interpreted no lines on the drawing as meaning No Parking. She also said he had applied the new 2008 parking cap to the site even though the use was unchanged. She said no modification or construction was needed, and said there was no impact to the site. She also said the empty space that was there now invited unauthorized parking.

She showed photos indicating that nearby properties had more cars on them than the minimum allowed by the Ordinance, and said a single dwelling unit with 5 cars was not unusual in Durham.

Ms. Chickering said allowing the same arrangement in front would be an improvement. She said they would once again be able to rent to non-students. She said the Zoning

Ordinance made no distinction between five minute or five day parking, and she described in some detail the difficulty of not being allowed more than 6 cars on the property including service and management vehicles. She said parking on Strafford Ave wasn't even an option at times, She also said because of the winter parking ban on the street, there was no parking option for a legitimate overnight visitor.

She said approving this Conditional Use Permit didn't mean 10 cars would be there all the time, and would mean there could be up to 10 vehicles there at one time. She said this would allow a few spaces for management use, and would attract a few tenants who owned several vehicles. She said in the past, they had had tenants who had had more than one car per person, and she provided details on this. She said renting to a family was profitable for the company, but said right now, they couldn't rent to a family that had more than one car. She described other scenarios where more parking spaces might be needed.

Ms. Chickering next reviewed how the Conditional Use criteria were met with the application.

#### Site Suitability

She said the site was suitable for the proposed use because they had been using it this way for decades. She said allowing a couple of tenant cars to be parked there as well as a daily management visit was readily supported by the site.

#### External Impacts

Ms. Chickering said the surrounding neighborhood was primarily UNH dormitory housing, UNH parking lots, commercial/manufacturing, high density multiunit residential, and municipal (library) uses. She said allowing a maximum of 4 additional vehicles would have essentially no impact on the area. She showed photos of other properties in the area, and said the only residential abutter was about 360 ft to the rear of the front house, and didn't have a line of sight to where the additional vehicles would be parked.

#### Character of the site development.

Ms. Chickering said the proposed layout and design of the site was exactly the established character of the neighborhood, and said nothing physically on the site would need to be changed in order to support the use. She also said surrounding properties were or would soon be a much higher intensity of use than this site. She said the front parking area was partially visible from Strafford Ave, but she noted again that it was hidden from any residences at the rear of the property.

She said the rear parking area was hidden from street view since it was behind the front building. She said from the one residential property to the rear, there was over 240 ft of buffer, much of which was wooded, which was far in excess of any buffer typically required.

#### Character of the buildings and structures.

Ms. Chickering said no new structures would be created by the proposal.

Preservation of natural, cultural, historic and scenic resources.

She said there would be no physical changes to the site or any existing natural, cultural, historic or scenic resources with this application.

Impact on property values

Ms. Chickering said approval of the application would have a neutral or positive impact on surrounding property values. She said to the extent the Board believed that student tenants detracted from property values, this proposal reduced the likelihood that the property would be occupied by student tenants. She said when the Town enacted a rule to limit parking on the site to 6 vehicles with only one space for the front building, it essentially locked the property into the student market.

She said this application made it possible to return to renting to the full market of tenants that included families and non-students, which they commonly had done in the past. She said the impact to the commercial, UNH dormitory, UNH parking lots, high density multiunit and municipal abutters would be neutral.

Availability of Public Services and Facilities

Ms. Chickering said there would be no negative impact on these due to the parking arrangement, and said there would be a positive impact since the proposed arrangement allowed for more active supervision of the property when it was student-occupied, and increased the likelihood of non-student tenants. She said this would decrease the likelihood of using public safety resources, also noting that this had not been a problem in the past.

Fiscal Impacts

She said there would be no negative fiscal impact to the Town by permitting 4 additional cars to be on the site. She said a potential positive fiscal impact might result from having a documented parking plan so there was no ambiguity as to where and how many cars were allowed on the site.

Ms. Chickering said she hoped the proposal was given fair consideration, given the fact that there were plenty of properties all over Town that were currently violating the maximum parking cap, and were allowed to do so even when this was brought to the attention of the Code Enforcement Officer.

There was brief discussion regarding whether the applicants were currently before the ZBA, and about the ZBA's previous decision regarding the parking issues.

Mr. Campbell said Mr. Kimball had filed a motion in Superior Court after the ZBA decision in support for Mr. Johnson's Administrative Decision, as well as a subsequent denial for rehearing concerning that decision.

Ms. Chickering said the Chair of the ZBA had confused things in characterizing that there were 7 parking spaces, even though Mr. Johnson had said there were 6 spaces. She

said the issue was still not clear, based on what was said by the ZBA.

Mr. Kelley asked what the minimum required parking was at the location, and Mr. Campbell said it was 2 parking spaces per dwelling. He noted that this was a zone that didn't allow more than 3 unrelated people in a dwelling.

Chair Parnell asked why it wasn't 3 parking spaces per dwelling.

Mr. Campbell said the Ordinance allowed 2 parking spaces per dwelling, but also noted that 10% more than the required minimum parking could be allowed, and even more could be allowed as part of the Conditional Use process, if the Planning Board approved it.

Mr. Wolfe asked about the issue of possible grandfathering regarding the parking.

Mr. Campbell said that was what the Court would decide on. He said the decision by Mr. Johnson was not that this had always been a parking lot, even though they may have parked cars there. He said Mr. Johnson's contention was that if one looked at the setup, especially in the old plan, there was a way to get into the garage, and then back out and come out onto the driveway. He said the area was never used for several parking spaces, and said people just started parking there.

He said he thought Mr. Johnson considered it a parking area that was never approved by anyone. He said the applicants had said people had parked there for decades and Mr. Johnson didn't agree, and said this was why the issue came before the ZBA. He said the issue was now in the Court.

Mr. Wolfe said the question for the Court therefore was whether the area had been used as parking prior to the enactment of the current Ordinance.

Mr. Campbell noted that another issue was that the rear parking lot was never approved by the Planning Board. He said when Mr. Kimball brought the application before the Board in 2009, he spoke about keeping the existing gravel drive and dealing with it at a later date. But he said he then applied for a building permit that showed the parking, Mr. Johnson issued the permit, and the parking was now there.

Chair Parnell asked who was saying 5 spaces were allowed in the back, and Mr. Campbell said it was Mr. Johnson, who had thought the spaces had been approved by the Planning Board with the CUP, when he issued the building permit. Mr. Campbell said Mr. Johnson had said there were 4 parking spaces outside and one in the carport. He said one space was also given for the front, and said the Board would need to decide whether that made sense.

Ms. Chickering said they weren't even informed of this decision until August, even though there was a memo to the Planning Board in April.



Mr. Wolfe said an issue raised was that the Town had been arbitrary and capricious in the enforcement of this, and said he didn't know if that was a valid complaint or not.

Mr. Campbell said Mr. Johnson and the part time Code Enforcement assistant were going after a lot of people regarding parking issues.

Ms. Chickering provided her perspective on this.

Councilor Cote determined from Mr. Campbell that if those other properties shown on the slides wanted more parking, they would have to come to the Planning Board if they were in the Professional Office District. He said they could then possibly say they had been parking that way for the last 10 years.

Mr. Campbell said the Planning Board could approve something like that as new parking, as part of a Conditional Use Permit in the Professional Office District.

Councilor Cote said with the most recently submitted plan, submitted November 22, 2010, he looked at those parking spaces and saw an extension of the gravel drive to accommodate those proposed 4 parking spaces in front. He said he was having a bit of a hard time with this.

Mr. Campbell said he thought what the applicant had said was that right now, there was a dirt/gravel area where people parked, and they wanted to delineate the spaces so people would know where to park, and how many people could park there.

Councilor Cote noted where it extended outside the gravel area, and said a question was whether the Board was to assume that this was gravel too, or worn down lawn because cars had been parking there for so long.

Mr. Kelley said if things progressed, there would be a public hearing and a site walk, so there would be the opportunity to see that.

Chair Parnell noted that the Board had been through this before, and said what was being asked for now wasn't different than what had been asked for before.

Mr. Kelley said the application referred to updated information that had been provided with this application, which suggested changes. There was discussion about this with Ms. Chickering, who said there was no change from the original application to amend the CUP.

Mr. Wolfe said he was hearing in some of the presentation that Ms. Chickering was talking about rental of some spaces to non apartment renters.

Ms. Chickering said as far as she knew, the Town Council didn't care one way or the other about this issue. She said she had had a bartering arrangement with someone who had parked there and in exchange had done some property management. But she said that

had now been totally called into question, and said it prohibited her from keeping a close eye on the property anymore.

Mr. Kelley noted that the Planning Board did have to care about that issue.

Mr. Campbell said the Council had directed him to come up with some language regarding this issue, and he noted that the Planning Board had talked about this.

Mr. Kelley asked if the application was complete, and Mr. Campbell said yes. Mr. Kelley said he would like to see in the Board's packet prior to the public hearing the site plan that was approved when the CUP was initially approved. He said he would also like to see the building permit that had been referenced.

Chair Parnell said they should also see any correspondence with Mr. Johnson.

Mr. Campbell said he believed that in May, the Board was provided with a new site plan dated April 5<sup>th</sup>, and an old site plan, which was supplied with the original application in 2009. There was discussion on this, and it was noted that because it had been a CUP, there was no recorded site plan for the application. Mr. Campbell said what was on the old plan was what the Board approved with the CUP. He said it was different than the new plans that had the parking area in the back, and said the Board never saw or approved that with the original application.

***Richard Kelley MOVED to Accept an Application for Amendment to a Previously Approved Conditional Use Permit submitted by Steven F. Kimball, Pine Ledge Holdings, Auburn, New Hampshire to create a parking area, and schedule a Public Hearing for January 12, 2010. Richard Ozenich SECONDED the motion.***

Mr. Corrow was appointed as a voting member.

***The motion PASSED unanimously 6-0.***

The Board agreed to do a site walk of the property on December 18<sup>th</sup> at 9:00 am.

## **V. Other Business**

### **A. Old Business: Discussion on Questions for Master Plan Visioning Survey**

Mr. Campbell said the Board was being asked to provide input on the survey. He said the final draft would be completed in January, and would then need to be approved by the Planning Board. He said it would go to at the end of January.

- Councilor Smith recommended not asking people what they "felt" about various

issues, in the survey.

- Mr. Kelley said the Community Services heading on page 1 seemed wrong, and said it should perhaps say Community Character and Attributes, or something like that. He also said some of the things listed were a wish list, while some were in place. He asked if perhaps there should be a wish list.
- Mr. Kelley suggested that “Planning and Community Development” should be included under question #2, concerning Community Services
- Chair Parnell said the survey should distinguish between what the Town had now and what it would like to see.
- Councilor Cote said there should be something on rail transportation under #2, concerning Community Services. Mr. Kelley suggested that inter-modal transport opportunities should be included. He noted that he had recently heard that there would be bus service from Durham to NY City.
- Chair Parnell suggested that industrial development should be included under Community Land Use and Economic Development
- Mr. Kelley suggested that things the Town didn’t have should be put in a category of their own, and should be rated from 1 to 5. Chair Parnell noted that question #5 addressed that.
- Councilor Smith said instead of listing Police Protection and Fire Protection under Community Services as part of question #2, this should say Police Department and Fire Department.
- There was discussion about the idea of being able to comment on, or rate the Zoning Ordinance, such as being clear and understandable; too restrictive; not restrictive enough, etc. It was suggested that this could go somewhere under Community Land Use and Economic Development
- Mr. Kelley noted the population growth percentage reported under question #3, under Community Land Use and Economic Development, and that Charlie French had questioned what population numbers this represented. There was discussion. Councilor Cote asked if perhaps the population numbers themselves could be included.

There was discussion that the survey could indicate what the population was in 2000, and also what it was as of 2010. It was noted that there was no way to know how accurate those numbers would be, but Councilor Cote said they should still be there, as a reference point. Mr. Campbell said the numbers probably came from NHOEP, and said this could be cited in the survey.

- There was discussion that under question #8, “Multi-family” residences should say “Multi-unit” residences.
- Councilor Cote asked if there should perhaps be something in the survey about the Town’s relationship with UNH. He noted the Durham, It’s Where U Live program, and the desire of students to be more integrated with the Town. Other Board members agreed that it was important to put this in the survey.
- Mr. Kelley said under Resource Preservation, there should be a question that asked specifically about the Mill Pond Dam. Councilor Smith agreed, and noted that it was a natural/cultural resource. Mr. Kelley suggested that the survey should ask for specifics on which of the Town’s natural/cultural resources were the most important to residents. There was discussion about the idea of ranking them in importance.

Mr. Kelley pointed out that the Oyster River corridor was included under question #9 but the Lamprey River corridor was not.

It was suggested that there should be a separate list of historic resources and sites, and questions regarding the list. There was discussion on how to craft the questions so they would be seen as objective, and wouldn’t skew the data.

Chair Parnell said he would pass these comments on to the subcommittee, and Mr. Campbell said if Planning Board members had any further comments on the survey, they could forward them on to him.

- B. New Business: Brief Discussion regarding the Durham Energy Committee’s desire that all applicants meet Energy Efficient Building Standards and that this be made part of the Conditions of Approval.

Mr. Campbell said the Energy Committee’s question for the Planning Board was a general one right now, as to whether higher standards could be used by the Board in reviewing applications. He noted that most of the Energy Committee’s members couldn’t be present now, but Councilor Mower was present. He said the Committee wanted to have a discussion with the Board on this issue soon, and said they could provide a presentation and there could then be a discussion.

Chair Parnell said it would be good if the Board had some things to respond to.

Mr. Ozenich said his son had listed for him several standards that could be used, and had said it was important to get people to think about life cycle costs versus first costs. He said there should be one set of standards for residential development and another for commercial development.

Councilor Mower said she was speaking as the Council representative to the Energy Committee. She said the Planning Board might want to think of benefits to property owners of having higher standards, so that over the life of a property, the construction

was held to a standard that would benefit the property owner and not just the developer.

She said the Committee could talk about specifics with the Board, and said a clear concern was that the Town code referenced the 1990 BOCA standards. She noted that requiring higher standards wasn't necessarily the same as adding a layer of regulation. She said it was reasonable to have a discussion with applicants about higher standards, and said while they might not be requirements, it would be important to have them front and center in discussions with applicants. She noted some points she has submitted by email that were worth considering, such as siting for passive solar heating and cooling.

Mr. Wolfe noted that if someone was building a house on a lot, the Board would have no jurisdiction. He said there might therefore have to be two paths taken, for those who came before the Planning Board, and those who didn't.

Councilor Mower said the Energy Committee would like the Town in general to move toward greater concern for energy efficiency. She said where the Planning Board had influence concerning this, the Committee would like it to exercise that influence. But she said the Committee would also go to the Council for an amendment to the BOCA code, so would be approaching things from two different perspectives.

She noted that there were some large developments coming down the pike that could have a significant impact in terms of energy usage, and said Administrator Selig, the Council and the EDC would be very happy to see Durham be forward thinking in regard to energy efficiency. She also said the Committee was very aware of the importance of striking a balance between costs and energy efficiency.

Mr. Kelley said when the Committee came in to speak with the Planning Board, it would be good if they had specific recommendations or topics of discussion.

Councilor Mower agreed, and provided some details on what the Committee would recommend.

Mr. Kelley asked if the Energy Committee would favor the idea of providing a certain density bonus in exchange for doing a LEED gold project, and a certain density bonus for doing a LEED platinum project.

Councilor Mower said even if it wasn't a LEED project, it was appropriate to have a conversation with the Energy Committee about allowing density bonuses if certain energy standards were met. She said something could be worked out between the Energy Committee and the Planning Board concerning this, if the Town valued a proactive regarding energy conservation. She said at the very least, they should consider some of the lesser cost approaches, such as siting, which would allow solar gain or position for solar thermal. She said there was a philosophical approach involved here, as to what the Town wanted to do to create incentives, or encourage, or mandate steps that would help wean people off a dependence on fossil fuels.

Mr. Wolfe said he didn't disagree, but said the standards would need to be done community wide.

Councilor Mower said this would be a multi-pronged approach.

Mr. Kelley asked if perhaps this issue would be addressed in the Master Plan survey.

There was discussion. Councilor Mower first noted that the survey the Board had been looking at was not a base for the survey being developed. She said the survey was being put together by the subcommittee, and said it was important that the Planning Board weigh in on it.

Mr. Kelley asked if the Energy Committee would have questions to put in the survey, and Councilor Mower said absolutely, explaining that the greatest leverage the Town had concerning energy use was through transportation choices. She also said there might be questions in the survey on climate change, and said the answers could provide the basis in the Master Plan for allowing the Town to make policy decisions on energy conservation through building requirements, etc.

Mr. Campbell noted that the Energy Committee was creating a new chapter for the Master Plan, and had discussed how this could be weaved into the rest of the Master Plan.

Councilor Mower said it was hoped that the Energy Chapter would inform other chapters. She noted that Keene had taken this approach.

Councilor Smith said when the Planning Board deliberated on the Capstone development, they could ask questions about the energy planning aspect of Capstone's design. He said he didn't think the design right now was going to be able to make any significant use of solar gain, largely because of the way they wanted to lay out the cottages and have lots of buffering, and the relationship between the cottages and the parking lot. He said people interested in energy conservation regarding buildings and transportation could come to the public hearing.

Councilor Mower said Capstone's current proposal was to have 9 ft ceilings, and said according to the Energy Committee, it had a ways to go in terms of adapting to the New England climate. She said Capstone would benefit from a discussion with the Code Officer, the Planning Board, and the Energy Committee.

There was further discussion of what the Planning Board would like to see from the Energy Committee when it came to speak with the Board. Mr. Ozenich said he would like to see a sample of energy efficient building standards from Keene, Peterborough, etc. Mr. Wolfe suggested that the Board might want to do a site walk of the Capstone property before the snow fell.

Councilor Smith said he could ask Mr. Acken about this the following evening.

Councilor Mower said members of the Conservation Commission who didn't go to their site walk might like to go to the Planning Board site walk. She also said Planning Board members might be interested in hearing Normandeau Associate's presentation regarding the Capstone project at the Commission's meeting the following evening.

Mr. Campbell asked if the Conservation Commission had put money in their budget for televised meetings. There was discussion that the Commission dealt with a lot of things that were of interest to the community.

On another issue, Councilor Mower said she had heard from some residents that it was worth considering having a public comment period at quarterly planning meetings, so the public could bring up particular issues, or discuss planning in general. She said she and Councilor Carroll agreed this was a good idea, and she noted that the EDC, the Conservation Commission and the Town Council all had public comment periods.

She said the Planning Board had a great deal of influence and power, and said there were members of the community who would be interested in having a conversation with the Board if there was such an opportunity. She noted that this idea had been suggested to the Chair previously, when he gave his yearly report to the Town Council. She said she hoped the Planning Board would consider it.

Mr. Kelley said he thought it was a great idea, and said the only thing he would take issue with was that the Planning Board had influence and power.

Mr. Wolfe agreed it was a good idea, and said the only caveat was that there should be no personal references.

Councilor Mower agreed.

There was discussion about allowing a certain amount of time for the public comment period. Councilor Mower also said it would be good to have the public comment period at the beginning of the meeting, for people who were tuning in.

Councilor Cote said they would have to be careful that people wouldn't speak about a specific project, or else it would become a public hearing.

Councilor Mower said the point would be to discuss things other than applications. She said if the Planning Board agreed to allow the public comment period, this could be included in the Board's rules and procedures.

Chair Parnell suggested that the Board simply try this at its next quarterly planning meeting.

Councilor Mower said she could put the word out that there would be this opportunity at the next quarterly planning meeting. She noted that a resident had spoken to the Planning Board a few years ago about this idea. She also pointed out that the Master Plan process

was starting, and said there was really no other venue for residents to speak about these things than at the Council meetings, and said she wasn't sure that Planning Board members heard what was said there.

Mr. Campbell said the EDC had added this to its agenda, and they gradually started getting public comments.

Councilor Mower said people might bring up news items, things that were happening in other towns, or things that were happening at the State level that the Board hadn't heard about.

Mr. Kelley noted that during the Board's deliberations on things other than applications, it had been very liberal about allowing whoever showed up to speak. He said they had never said no to someone, but said he supported the idea Councilor Mower had brought forward.

Councilor Mower said right now there was no formal slot for such public comments.

Chair Parnell said he didn't see a downside, and recommended that the Board have a public comment period at its quarterly planning meeting in February.

Mr. Campbell said that on another issue, according to the Planning Board Rules of Procedure, a site walk was required before the Board's design review with Jack Farrell concerning his project. He also said a requirement was to invite the Conservation Commission to this site walk. He said Mr. Farrell would like the Board to consider a time to do the site walk.

Councilor Smith noted that this was a more diverse property than the Capstone property.

The Board agreed to do the site walk on December 17<sup>th</sup>, and said the Conservation Commission would be invited.

Mr. Campbell noted that the wording regarding the site walk requirement needed to be in the Subdivision Regulations, not in the Rules of Procedure, and said this would be fixed.

C. Next meeting of the Board: **January 12, 2011**

## **VI. Approval of Minutes –**

October 13, 2010



Page 1, line 14, should say alternate Town Council representative Bill Cote

Page 2, motion on the page should say "Susan Fuller SECONDED the motion..."

Under Planner's Report, line 34 should say "...an ordinance forward to the Council to place a stop sign on Quad Way."

Page 3, remove line under 2011 in line 38.

Page 16, line 6 should say "Mr. Wolfe noted that Michael Barhendt had spoken..."

Motion at the bottom of the page should be removed.

Page 17, motion on line 13 should say "...PASSED 4-0-3..."

***Richard Kelley MOVED to approve the October 13, 2010 Minutes as amended.  
Councilor Smith SECONDED the motion, and it PASSED 5-0-1.***

#### October 27, 2010

Page 1, line 8 should indicate Bill McGowan arrived at 7:13 pm

line 11, should say alternate Bill Cote

Page 3, line 22, remove "GET A BIT MORE"

Page 4, line 20 and line 33 should say "Councilor Mower..."

Page 7, line 10 and line 19 should read "Jenkins Court..."

Line 21, should read "...said she saw its location as..."

Page 10, line 34-35, should say "...felt about conservation subdivisions, but..."

Page 11, the paragraph on line 21-22, "Chair Parnell asked..." should be moved to the previous page.

Page 13, line 37, should read "...what the Planning Board did, but said it appeared..."

Page 14, line 25, should read "...the applicant had previously gotten a ..."

Page 15, line 2, should be eliminated.

Line 39, should read "...could be provided with..."

Page 16, line 43, should read "...the Capstone required amount of parking for a site..."

Page 19, line 11, should read "...another Capstone development was proposed."

Page 22, line 40, should read "In response to a question from Chair Parnell, Mr. Acken said the Planning Board would be seeing..."

Page 24, line 1, should read "...on December 15<sup>th</sup>, to work on..."

***Councilor Smith MOVED to approve the October 27, 2010 Minutes as amended.  
Richard Ozenich SECONDED the motion, and it PASSED 5-0-1.***

## **VII. Adjournment**

***Richard Ozenich MOVED to adjourn the meeting. Richard Kelley SECONDED the motion, and it PASSED unanimously 6-0.***

Adjournment at 9:30 pm.

Victoria Parmele, Minutes taker

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Susan Fuller, Secretary