

These minutes were approved at the February 5, 2003 meeting.

**DURHAM PLANNING BOARD MINUTES
WEDNESDAY, DECEMBER 4, 2002
COUNCIL CHAMBERS – DURHAM TOWN HALL**

MEMBERS PRESENT:

David Pease, Chair; Suzanne Loder; Neil Wylie; Amanda Merrill, Secretary; David Watt, Vice Chair; Arthur Grant, Town Council; Annmarie Harris, Town Council Alternate; Rachel Rouillard; Nick Isaak, Alternate

MEMBERS ABSENT:

Julian Smith, Alternate

OTHERS PRESENT:

Jim Campbell, Planner; Interested Members of the public

MINUTE TAKER:

Michael Bornstein

Chair Pease called the meeting to order at 7:00 P.M.

Jim Campbell introduced Nick Isaak to the rest of the Board.

I. Approval of the Agenda

Arthur Grant MOVED to approve the agenda. The motion was SECONDED by Suzanne Loder and was unanimously APPROVED.

II. Deliberations on setting a public hearing date on the proposed changes in Articles 1-3 of the Durham Zoning Ordinance

Jim Campbell stated the Articles were in part A. of the Zoning Re-write Ordinance and the Zoning Re-write Committee had decided to set a public hearing date for Wednesday, December 18, 2002. He stated the public hearing date must be approved by the Board.

Arthur Grant MOVED to have the Board set a public hearing for a special meeting on Wednesday, December 18, 2002 for proposed Articles 1-9 in the revised Durham Zoning Ordinance to replace Articles 1-3 in the current Durham Zoning Ordinance. The motion was SECONDED by Suzanne Loder.

Rachel Rouillard MOVED to amend the motion to add that the conservation subdivision design be a part of the public hearing. The motion was SECONDED by Amanda Merrill.

Neil Wylie stated he was unsure if the design was ready for a hearing.

In response to a question from Rachel Rouillard, Jim Campbell stated any changes made to the design would have to be done at this evening's meeting or at this evening's Zoning Re-write Committee meeting if the public hearing was to be on Wednesday, December 18, 2002.

David Watt MOVED for a recess until 9:15 P.M. The motion was SECONDED by Neil Wylie and was unanimously APPROVED.

(This is where the tape breaks.)

Neil Wylie stated he would not vote for the amendment to the motion regarding the public hearing.

In response to a question from Annmarie Harris, Mark Eyerman, Zoning Re-write Committee consultant, stated there was no draft of the design beyond the one dated for October 16, 2002.

The motion to amend was APPROVED with a vote of 4-3 (Chair Pease, Neil Wylie and Dave Watt voting against.)

Mark Eyerman stated he believed if the Board was going to include conservation subdivisions as a part of the public hearing then the hearing should be set in January in order for the Board to gather more information.

Jim Campbell stated that notice of the meeting needed to be posted 10 days prior to the meeting and that if someone came to him asking for information on items regarding the meeting he would have to have something to give them.

Arthur Grant WITHDREW his prior motion and Suzanne Loder WITHDREW her second.

Neil Wylie stated that the Board had all the information it needed to set the first public hearing and that there could be two hearings. One hearing would be for Article A. of the proposed Zoning Ordinance with the other hearing concerning the proposed conservation subdivisions.

Mark Eyerman stated that on the conservation subdivisions the Board would have to hold two public hearings. One being on the wording in the proposed Zoning Ordinance regarding subdivisions and the other hearing to set the regulations for subdivisions.

Arthur Grant REINSTATED his original motion and Suzanne Loder REINSTATED her second.

The motion FAILED unanimously.

Chair Pease stated he would support changes in the Table of Uses if the change to the Conditional Use process was not looked on favorably by the Council.

Neil Wylie MOVED to have the Board hold a public hearing on Wednesday, December 18, 2002 on the revised part A. of the Zoning Ordinance, which encompasses Articles 1 – 3 in the current Zoning Ordinance and as Articles 1 – 9 in the proposed Zoning Ordinance. The motion was SECONDED by Rachel Rouillard and was unanimously APPROVED.

Chair Pease stated he believed it was premature for the Board to take any other action on the conservation subdivision but that it could be done during the first public hearing.

Arthur Grant suggested the Board approve a 120 day moratorium on accepting applications.

Neil Wylie stated when the moratorium was voted down the first time many attorneys argued that the moratorium was too long. He stated he believed it was appropriate to have a moratorium when considering Zoning Ordinance revisions but not when only thinking about what the Town may or may not do. Mr. Wylie stated it may be the right time to include a public hearing regarding the moratorium at the Wednesday, December 18, 2002 meeting.

Jim Campbell stated one of the reasons the moratorium was not approved the first time was that some members believed the Town was not growing as fast as others.

Annmarie Harris stated that at the time the first moratorium was considered it was agreed that the Board could, at any time, enforce the scattered and premature portion of the ordinance but that the Board has not successfully done that.

Neil Wylie stated he was concerned about finishing the zoning re-write in a timely manner.

Chair Pease stated he had worked to draft the ordinance regarding the first moratorium and that he believed only one reason, out of the ones drafted, was adequate to justify a moratorium under the State statute and that reason was any thing beyond the Town's control that eliminated the Town's ability to expand the school system to meet the needs of the community. He stated that reason no longer exists today, that a moratorium would create temporary pent-up demand and that he would not support another moratorium.

Arthur Grant MOVED for the Board to hold a public hearing on Wednesday, December 18, 2002 regarding the proposed implementation of a 120 day moratorium while the Board revises its Zoning Ordinance. The motion was SECONDED by Suzanne Loder.

Rachel Rouillard stated the Growth Management Regulations allow for a moratorium.

Arthur Grant spoke in favor of a moratorium.

Chair Pease stated the regulations did not allow for a moratorium.

Arthur Grant stated the moratorium was needed to implement the 2000 Master Plan.

Neil Wylie stated that the regulations would fit into the zoning re-writing process if the re-write itself was considered part of the growth management process.

Amanda Merrill CALLED the motion to question. The call to question was APPROVED.

The motion was APPROVED with a vote of 4-3. (David Watt, Chair Pease and Neil Wylie voting against.)

Suzanne Loder stated the Board should not hold a public hearing on the moratorium while it is divided on the matter.

Neil Wylie stated the Board was attempting to move forward on a moratorium without knowing what they are discussing.

Arthur Grant CHANGED his vote on the motion and the motion FAILED. He MOVED to adjourn the meeting.

Annmarie Harris stated the Board had wasted its time discussing the moratorium and that it could have been done simpler.

The meeting was ADJOURNED.

Amanda Merrill, Secretary

