

These minutes were approved at the February 11, 2004 meeting.

**DURHAM PLANNING BOARD-ZONING REWRITE MEETING
WEDNESDAY, JANUARY 21, 2004
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL
7:00 P.M.**

MEMBERS PRESENT: Chair Watt; Stephen Roberts, Vice Chair; Councilor Arthur Grant; Neil Wylie; Nick Isaak, Amanda Merrill; Richard Ozenich Annmarie Harris

MEMBERS ABSENT: Kevin Webb and Rachel Rouillard

OTHERS PRESENT: Jim Campbell, Mark Eyerman, Victoria Parmele, Minutes Taker

I. Call to Order

Chair Watt said that Richard Ozenich would be a voting member of the Board that evening.

II. Approval of Agenda

Amanda Merrill MOVED to approve the agenda, as presented. The motion was SECONDED by Nick Isaak, and PASSED unanimously.

III. Introduction (none)

IV. Deliberation

Chair Watt explained that the Board would be deliberating on the feedback received on the Zoning Ordinance during the Public Hearing held January 7, 2004.

Mark Eyerman explained that he and Jim Campbell had put together a “punch list” of questions, issues, etc. that had been raised at the Public Hearing, and had received from other sources. The list included:

1. Questions about the Zoning Map, and specific concerns about two or three areas now designated as OR.
2. Suggestion that the definition of hotel should be revised to include a time limit for occupancy. The definition currently says not more than 14 days of consecutive occupancy, and there had been concern that someone could check out after 14 days

and then check back in again. Mr. Eyerman noted that the same issue existed with respect to the definition of motel.

3. Suggestions to extend the limitation on occupancy by more than 3-unrelated persons to the Rural District. The limitation currently applies to the RA, RB and RC Districts.
4. Suggestion to increase usable area per unit requirement in the RA zone from 20,000 to 25,000 sq. ft.; in the RB district from 40,000 to 50,000 sq. ft.; and to add language about not making existing 20,000 and 40,000 sq. ft. lots non-conforming.
5. Suggestion that the criteria for deciding what usable area was should be moved out of the definitions section and put in a separate section.
6. Suggestion, concerning language about 50% of lot area being usable area – that in the body of the discussion, the word contiguous should be included.
7. Table of Uses needs to be corrected to reflect the December 17, 2003 discussion.
8. Comments about treatment of temporary sawmills, timber harvesting and religious use and facilities in the Rural District.
9. Suggestion that approval of conditional uses should require 5 affirmative votes of the Planning Board.
10. Suggestion that the Town Council should continue to be involved in the Conditional Use process.
11. Proposal to increase the roadside buffer for conservation subdivisions from 100 to 200 ft., and to increase the buffer requirement for individual lots that front on existing roads.
12. Question about whether there should be some minimum threshold for a single lot of record that was non-conforming in order to be buildable.
13. Suggestion concerning wording that currently says sewage disposal arrangements have to meet requirements - to also include water supply.
14. Concern raised about increasing the minimum lot size in Rural and RC zones, for lots that are not part of a subdivision, from the current 120,000 sq. ft. to 150,000 sq. ft., which would mean that existing lots not 150,000 sq. ft. would become non-conforming.
15. Suggestion to exclude lots going to conservation organizations from the exemption criteria for conservation subdivisions.
16. Question about the provision that said lots in a conservation subdivision served by private wastewater disposal had to have at least 10,000 sq. ft.
17. Issue raised by Code Administrator Johnson about language in the current Zoning Ordinance dealing inoperable motor vehicles on a lot.

Jim Campbell also noted a comment concerning zoning district provisions and coordination with the different overlay districts, which recommended changing the language from “are” to “may be located”.

Mr. Eyerman explained that he and Mr. Campbell had looked at the punch list, and then had put together appropriate language changes for the Zoning Ordinance.

Councilor Grant suggested they address Item 1 toward the end of the meeting because it would require more involved discussion.

Councilor Grant MOVED that the language concerning hotel, and motel occupancy be amended to include “in any thirty day period”, and that this language should be put in the performance standards section (but not in the definitions section.)

Mr. Eyerman said that in the spirit of keeping standards out of the definitions section, he had also written a performance standard item for hotels and motels that said essentially the same thing. After some discussion, it was agreed that the language would be in the performance standards section, but not in the definitions section.

Nick Isaak asked if this restriction would be legal. There was discussion about this. There was also discussion as to whether such a restriction was reasonable, especially when considering the needs of business people working in the area temporarily.

Neil Wylie noted that this limitation was to guard against subterfuge, not to guard against honest, paying guests, noting that if UNH could house its own students, the problem wouldn't exist. He said the language might seem harsh, but it could always be amended.

Amanda Merrill asked if this issue was discussed as part of the current Fall Line Properties hotel application.

Jim Campbell noted the language in the Conditions of Approval for the application was very similar to the proposed language.

The motion was SECONDED by Neil Wylie.

There was additional discussion about the language.

Mr. Roberts MOVED to amend the language to say “14 consecutive days in any 30-day period”. The motion FAILED for lack of a second.

Mr. Eyerman noted an issue that had previously been raised was that an occupant could stay for two weeks, check out on a Saturday night, check back in on Monday morning, and stay for two more weeks. He said that if the intention was to prohibit continuous occupancy, the simple 14-day consecutive provision could easily be gotten around this way, and that the comment on this issue at the public hearing was intended to provide a safeguard against this.

There was additional discussion about the addition of the word “consecutive”, and most Board members said it should not be included in the original motion.

The motion made by Councilor Grant PASSED 4-3, with Mr. Roberts, Ms. Merrill, and Mr. Ozenich voting against it.

Councilor Grant asked for a legal opinion concerning **Item 3** – the suggestion to extend the limitation on occupancy by more than 3 unrelated persons to the Rural District.

Mr. Campbell said he had checked with the Attorney Mitchell, who noted that the NH Supreme Court had addressed the unrelated residency regulations in 1975, with Durham v. White Enterprises, and it was upheld. Mr. Campbell said that Attorney Mitchell said he knew of nothing that would prevent the Town from extending the limitation on occupancy.

Councilor Grant said there was no question that occupancy by more than 3 unrelated persons was extending out into the rural areas of Durham.

Neil Wylie asked if they were going in this direction, why not extend this limitation to all districts.

Amanda Merrill asked if there had been problems because of allowing more than 3 unrelated persons in single-family houses in the rural zone.

Mr. Campbell said there had been a few instances of problems, including a situation where there was a fire. In answer to a question, Mr. Campbell noted that currently, the Central Business District, Office Research District and Rural District could have more than 3 unrelated persons, as long as there was enough square footage. He said he didn't think the wording should be included for the Central Business District, or other compact areas intended to have higher density, because the square footage requirements would be sufficient.

Mr. Wylie said that he liked the idea for the rural district, especially because the new zoning, if it passed, would allow houses on 10,000 sq. ft. lots, where it might be much more offensive to have a house populated by several students who might not abide by normal community rules.

Mr. Campbell said this was the reason why the suggested change was provided, and was based on a specific instance in the rural zone where there was a problem.

Chair Watt asked if anyone wished to speak against this suggested change to the Zoning Ordinance.

Mr. Roberts said this was an unreasonable restriction of property rights in the rural zone, and said that if a property met the 120,000 sq. ft. lot size requirement, more than 3 people could be supported there. He noted that in some ways, the Conservation Subdivision approach was destroying the very value of the rural zone in terms of an individual's right to use his property, but clarified that he was not against using this approach in all subdivision applications in the rural zone.

Richard Ozenich noted that parking was an aspect of this issue. There was discussion about parking provisions in the Rural Zone. Mark Eyerman explained that the off street parking requirements said that residential uses were required to provide two spaces per dwelling unit, for single family, duplex or multi-unit dwellings, or 0.75 parking spaces

per resident, for dwelling units where permitted to be occupied by 3 or more unrelated individuals.

Councilor Grant MOVED to extend the 3-unrelated provision to all Residential districts. The motion was SECONDED by Neil Wylie.

Mr. Eyerman noted that the restriction appeared two places in the Zoning Ordinance – in the definitions section, and also on page 91 of the General Use regulation – Occupancy of Residences. He received clarification from Board members that the intention was to change the language wherever it occurred.

The motion PASSED 5-2, with Chair Watt and Stephen Roberts voting against the motion.

Chair Watt next addressed the suggestion to increase the usable area per unit requirement in the RA zone from 20,000 to 25,000 sq. ft.; in the RB district from 40,000 to 50,000 sq. ft.; and to add language about not making existing 20,000 and 40,000 sq. ft. lots non-conforming, so as not to increase the burden on property owners and the ZBA.

Mr. Wylie said he thought that the Faculty Road area, as well, should be resolved concerning this, because it was a huge, unnecessary burden to the ZBA, if the lots met all of the other requirements.

Mr. Campbell said he did a quick scan of neighborhoods in the RA zone, including Faculty Road, and of 45 lots, only 7 would meet the 25,000 sq. ft. requirement. He said he also sampled the Davis/Fairchild area and Woodridge in the RB zone, and found similar results – that there was significant nonconformity of the lots.

Mr. Eyerman noted that language was being added on page 57 that talked about alteration or expansion of a conforming structure or building on a nonconforming lot, and said that it shall be permitted as long as it remains conforming regarding setback, height and coverage requirements. He said this language would address most of the situations that would come up.

Mr. Wylie said the recommended increase in square footage was not a good idea, noting the burden on developers had already been increased significantly because of going to the HISS, soil based zoning. He said it was unfair to penalize developers, if there lots happened to have good soils, also noting that there wasn't that much land like that in Durham. He said there were other checks on density of development besides lot size. He also noted they were trying to encourage more development in the RA and RB zones, and not in the Rural and Rural Coastal zones, and in order to do this, it seemed fair to hold the square footage requirements constant.

Chair Watt said the reason for increasing the square footage requirement from 120,000 to 150,000 sq. ft. in the Rural and RC zones was because of inefficiencies that naturally occurred when one tried to shoe horn 3-acre lots into a given parcel of land. He said he

was not sure those inefficiencies were as prevalent when cutting land parcels up into smaller pieces, in the RA and RB zones.

Amanda Merrill asked what the argument was for the proposed increases in usable area requirements. There was discussion about this.

Nick Isaak said he agreed with Mr. Wylie, that HISS Mapping would provide sufficient restriction for a large subdivision.

Mr. Roberts said this recommendation worked against smart growth suggestions from the State, and Chair Sandberg's suggestions about concentrating growth. He said he supported the current ordinance concerning the RA and RB areas, which had sewer and water, and said there needed to be a place with moderate acreage requirements to concentrate growth.

Neil Wylie MOVED to keep the area requirements in the RA and RB zones as they presently are. The motion was SECONDED by Nick Isaak, and it PASSED unanimously.

A member of the public asked whether **Item 1**, concerning questions about the Zoning Map, would be covered, and Chair Watt explained it would be covered later at the meeting.

Chair Watt addressed **Item 5** – the suggestion that criteria for deciding what usable area was should be moved out of the definition section and put in a separate section.

Councilor Grant MOVED that the criteria for deciding what usable area was should be moved out of the definitions section and put in a separate section. The motion was SECONDED by Amanda Merrill, and PASSED unanimously.

Chair Watt addressed **Item 6** – the suggestion, concerning language about 50% of lot area being usable area – that in the body of the discussion, the word contiguous should be included.

Mr. Isaak said this language was overly restrictive. There was discussion on this. Mr. Eyerman said that given that all new subdivisions of any size were required to be conservation subdivisions, this provision might have the unintended consequence of encouraging a developer to create small lots on a parcel of land with a mixture of usable and unusable land.

Mr. Roberts said the 150,000 sq. ft. minimum lot size requirement, along with soils and ledge based withdrawals from usable acreage, were sufficient. He said further determination of the best siting for houses on a lot should be done by an architect.

Mr. Wylie said this Item was trying to prevent odd shaped lots, but agreed that this might be overly restrictive.

Mr. Isaak said that this restriction would make it hard to build anything in Durham, given the significant limitations already existing because of the extent of wetlands and other limiting land conditions in Town.

Mr. Roberts suggested this recommendation should be tabled until the following year, and could be added later if there were abuses. Other Board members agreed with this.

Amanda Merrill MOVED to not include the word “contiguous” in Provision E, and to leave it in the heading for that provision. The motion was SECONDED by Neil Wylie and PASSED unanimously.

Chair Watt noted that Item 7 referred to the corrected Table of Uses, reflecting the December 16, 2003 discussion.

Neil Wylie MOVED to approve the corrected Table of Uses. The motion was SECONDED by Councilor Grant, and PASSED unanimously.

Chair Watt addressed **Item 8**, which referred to temporary sawmills, timber harvesting and religious use and facilities in the Rural District.

Mr. Eyerman noted that temporary sawmills and timber harvesting were permitted uses in the Rural district, and the comments at the most recent public hearing were that perhaps they should or should not be conditional uses.

Richard Ozenich also noted there had been a comment that the length of time allowed for these uses should be restricted.

Councilor Grant said he did not favor adding additional conditional uses, but said the time period of 90 days allowed for such uses was excessive.

Mr. Ozenich said he had checked with a friend who had the portable sawmill, and who said temporary timber harvesting for a typical forest lot in Durham shouldn't take more than two weeks. Mr. Ozenich also said the objections on length of time based on noise factors was not really valid, considering the size of the motor of portable sawmill.

Councilor Grant noted that Mr. McNitt had said there might be a few weeks of bad weather that would lengthen the amount of time needed to harvest and remove the wood.

Mr. Eyerman noted the performance standard related to this already limited the operation of a portable sawmill to 30 days. Mr. Wylie suggested it should be increased to 60 days.

Chair Watt noted the general definition of “temporary” included 90 days, and Mr. Campbell said the more restrictive time period of 30 days, in the performance standards, would apply.

Board members agreed that no action was required on temporary sawmills.

There was discussion on **Item 8** concerning religious use and facilities. Mr. Eyerman noted the comment at the public hearing was to make them either a conditional use or prohibit them in the rural district. He also noted Kevin Webb had sent Board members an email on Federal government regulation of religious facilities. There was discussion on this issue, and Mr. Campbell noted that there were many opinions on this. He clarified that the posted version of the Zoning Ordinance allowed in the rural zone as a conditional use, but not in the RA, RB, RC or LR zones.

Mr. Roberts noted that the current ordinance allowed it as a conditional use in the RA and RB zones.

Mr. Campbell said he had checked with Attorney Mitchell, who said the Town could not totally exclude this use by zoning or provide unreasonable restrictions, and if Town did restrict it, and this was challenged, the burden would be on the Town to prove that this “was not furtherance of a compelling government interest, and was the least restrictive means of furthering that interest.”

Mr. Eyerman clarified that in the current version of the Zoning Ordinance, religious use was a conditional use in the Rural, RA, and RB districts and was not allowed in the RC district. He explained the argument that could be made relative to churches was that many of the larger new churches were fairly large, high traffic uses, and if they were another use, like a theatre, would not be considered appropriate in a residential zone. He said federal law did not say that a Town had to allow them everywhere, but said they could not be prohibited everywhere, there had to be a reasonable basis for prohibiting them, and they had to be treated like similar uses.

Nick Isaak MOVED to keep religious uses and facilities as a conditional use in all Residential districts, and address them on a case by case basis.

Mr. Eyerman noted that conditions imposed as part of the conditional use process could not include criteria having to do with the form of religious worship, for example restricting hours and/or days of operation.

The motion was SECONDED by Stephen Roberts.

Amanda Merrill questioned the rationale for this motion, and Board members discussed the issue further.

The motion PASSED 6-1, with Amanda Merrill voting against it.

There was discussion about timber harvesting in the Rural District, and Mr. Eyerman noted there was testimony at the public hearing for and against making it a conditional use in all zones instead of a permitted use.

Nick Isaak explained that one of the means for getting points toward LEED certification, for building a “green” building, was to harvest wood on the site of the building. He said he was in favor of allowing harvesting on site, within an appropriate time frame.

Mr. Eyerman noted there was presently no time limit on this land use, in the Zoning Ordinance. Amanda Merrill noted there was a performance standard for timber harvesting. She said that timber harvesting would have different impacts in different zones in Town, and recommended making it a permitted use in the rural district, but a conditional use in other zones.

Mr. Wylie said timber harvest activities, in their broadest sense, were appropriate in all zones.

Councilor Grant said he believed the issue was that timber harvesting could be a noisy operation, and in a residential area could be a problem. He noted the Town’s noise ordinance could help to limit this problem.

Chair Watt agreed that the Noise Ordinance gave neighbors standing to complain about the noise and get relief. He recommended that the Zoning Ordinance should not be changed concerning timber harvesting. Other Board members agreed.

Councilor Grant spoke about **Item 9**, noting he had proposed the 2/3 majority for approval of a conditional use permit application. There was discussion as to the best approach to take.

Councilor Grant MOVED that the language be changed to require 5 affirmative votes of the Planning Board for a conditional use permit application. The motion was SECONDED by Neil Wylie.

Mr. Wylie said that in all the time he had served on the Board, there were very few approval decisions that had not been virtually unanimous, so he did not see this language as inappropriate.

There was additional discussion on this, including whether there would generally be enough Planning Board members present to get 5 affirmative votes.

The motion PASSED 5-2, with Stephen Roberts and Chair Watt voting against the motion.

There was no discussion concerning **Item 10**, the suggestion that the Town Council should continue to be involved in the conditional use process.

Concerning **Item 11** - the proposal to increase the roadside buffer for conservation subdivisions from 100 ft to 200 ft, and to increase buffer requirement for individual lots to 5 feet less than the subdivision buffer.

Mr. Eyerman noted there was already a provision on page 5 that talked about a streetscape buffer adjacent to existing public streets, in the Conservation Subdivision language. He said testimony at the public hearing said a 100 ft. buffer was not adequate, and should be increased. He also noted the recommendation that the provision should be reduced to 25 ft. for lots that fronted on public streets. He said the Conservation Subdivision provisions, along with the limitation of lots on streets, were set up to prohibit in the residential districts creating new residential lots fronting on collector streets or arterials. He said new subdivision lots could technically be created that fronted on a local street, and the conservation provisions did not prevent this, but they did say that these lots had to meet frontage, area and setback requirements of regular lots. He explained that the reason for this was to continue the pattern already existing in an area. He said the philosophy underlying this was that new subdivisions with internal roads or built on collector roads should be buffered and hidden, but if there were to be lots along existing streets, they should be compatible with surrounding development.

Amanda Merrill MOVED to add Mr. Eyerman's language changes for item #11. The motion was SECONDED by Councilor Grant and FAILED 2-5 (Councilor Grant and Amanda Merrill voting for the motion).

Chair Watt noted **Item 12** – the question raised as to whether there should be a minimum size for construction on a single, vacant non-conforming lot (pg 56) and if a requirement relating to water supply be included.

Neil Wylie MOVED to add Mr. Eyerman's language in item #12. The motion was SECONDED by Stephen Roberts, and PASSED unanimously.

Chair Watt noted **Item 13** – the concern raised about increasing the minimum lot size in the R and RC for lots that are not part of a subdivision to 150,000 square feet and the potential for creating non-conforming lots (page 92).

Neil Wylie MOVED to add Mr. Eyerman's language in item #13, with the accurate date. The motion was SECONDED by Richard Ozenich, and PASSED unanimously.

Chair Watt noted **Item 14** - the suggestion to exclude lots going to a certified conservation organizations from the exemption criteria for conservation subdivisions.

Mr. Eyerman explained that he wrote this as a blanket exemption that any lot that went to a certified conservation organization did not get counted as a lot for the terms of this provision.

There were minor changes recommended concerning wording in this provision in order to make it gender neutral.

Mr. Wylie said his only concern was that the transferred property would be held as conservation land in perpetuity.

Mr. Eyerman suggested the wording should read “shall be transferred and restricted to conservation use/purposes in perpetuity”.

Councilor Grant MOVED TO include the wording, after Code “shall be restricted to conservation use in perpetuity”. The motion was SECONDED by Neil Wylie and PASSED unanimously.

Chair Watt noted **Item 15** - the question about the provision that said lots in Conservation Subdivisions served by private wastewater disposal had to have at least 10,000 sq. ft. He said that Mr. Eyerman’s notes indicated this seemed to be a reasonable minimum because the systems could be located in a common open space area and still meet the Town’s requirements.

Mr. Roberts spoke about 10,000 sq. ft. as being too small in the Rural Zone, even though there was buffering and open space protection as part of Conservation Subdivision developments.

Chair Watt said smaller lot sizes allowed more conservation land to be protected. There was discussion about how desirable it would be to live on lots this size, and the advantages and disadvantages of this. Chair asked if Board members wanted to do anything about this Item.

Mr. Wylie recommended that the current 10,000 sq. ft. minimum lot size should remain in the ordinance. Board members agreed.

Chair Watt noted **Item 16** - Code Administrator Johnson’s recommendation that language in the current provisions of the Zoning Ordinance dealing with storage of inoperable motor vehicles should be changed to allow not more than one vehicle per year.

Mr. Eyerman said the current provisions currently said that inoperable motor vehicles could not be stored on a property for more than 90 days, and explained that there were people in Durham who brought in, repaired and removed vehicles on a regular basis.

Mr. Campbell said the Town received a number of calls about this.

There was clarification that this only applied to vehicles stored outside, and to those that were not registered. Chair Watt asked what Board members wished to do concerning this Item.

Mr. Wylie MOVED to support Mr. Johnson’s language changes. The motion was SECONDED by Councilor Grant and PASSED 6-0-1 (Amanda Merrill abstained).

Councilor Grant spoke about another possible Item concerning the Zoning Ordinance that should be considered. He said he received a letter with two good, simple suggestions. He said one was that page 99, under Wetland Conservation Overlay District, 175:58 A, referred to a certified soil scientist approved by the Strafford County Conservation

District, and that this should say a State certified soil scientist. Board members agreed with this recommendation.

Councilor Grant said the other suggestion was that under Permitted Uses, page 100, 175:60, the descriptions for “somewhat poorly drained” was not included, and should be. Board members agreed with this, noting that this would be addressed in the next phase of the Zoning Rewrite concerning the overlay districts.

Chair Watt next addressed Item 1, concerning the Zoning Map. He said it was clear to Board members what the issues concerning this were, but said his questions were about the Town’s legal options.

Mr. Campbell said he had some information concerning this.

Chair Watt noted for the record that a friend of his living near Canney Farms had received an email that said he (Chair Watt) was trying to convert the land off of Route 4 that became Office Research, which was previously zoned RB. Chair Watt said he had no position on that particular land.

Mr. Campbell said he had received an email from Stuart Smith, President of the Canney Farms Community Association, and had given this to Board members. He explained that the Zoning Rewrite Committee had set a policy that they were going to try not to deviate at all from the Master Plan, and he also pointed out that the Strafford Regional Planning Commission had stressed that the Zoning Ordinance couldn’t deviate from the Master Plan.

Mr. Campbell said State statutes weren’t absolutely clear on this, and said Attorney Mitchell had noted that a Petition to change the Zoning amendment was not restricted to what the Planning Board might have recommended when it adopted the Master Plan. He noted Attorney Mitchell had also said the legislative body had the authority to enact a valid Zoning amendment, and could do so without regard to the Master Plan. Mr. Campbell said it basically came down to a policy decision – to differ or not to differ from the Master Plan, and where. He noted problems with several pieces of land in the RB zone that had been changed to OR, also pointing out that an association nearby in the RA district was also apprehensive about the change of RB properties to OR. There was also discussion about the concerns expressed by Madbury about the proposed change of some RB properties to OR.

Nick Isaak said the Board would still be following the spirit of the Master Plan if some small changes were made.

Mr. Campbell agreed that the spirit and intent of the Master Plan was being followed to a great extent in the work the Planning Board was doing.

Ms. Merrill agreed that small changes were appropriate, and specified that the OR designation for a few parcels should go back to RB, but not to Rural.

Mr. Wylie agreed with Ms. Merrill, and said they could respectfully agree with the Master Plan. He said they would probably still conflict with Madbury regardless of which way they went, because Durham currently allows more density than Madbury where there were adjoining properties. He said the Towns should talk to one another about their border districts, but noted that this had not happened much.

Amanda Merrill MOVED that the area north of Route 4 that was proposed to be changed from RB to OR should be left as RB. The motion was SECONDED by Richard Ozenich.

Mr. Eyerman suggested that for the record, the reasons for this should be provided.

Chair Watt said the reasons for this change to the Zoning Map was that would it maintain the history and character of the neighborhood, there was no suitable direct access that did not pass through a rural residential area, and there was no direct access to a collector or arterial road.

Mr. Campbell said all public comments had reflected this, and there had not been any comments that the change from RB to OR would be a good thing.

Mr. Eyerman said the discussion had essentially indicated that the area was not appropriate for the kind of development envisioned in the Master Plan.

The motion PASSED unanimously.

Councilor Grant noted a finger of land on Route 108 at the Madbury Town line, going to Dover. He said this land was also recommended to be OR, and extended on the east side of Route 108, from the Route 4 bypass access ramp to the Town line. He said the problem was that there was a small section of Madbury between Dover and Durham that had been proposed for conversion to Commercial and was strongly defeated. He said if Durham put a commercial zone right up to their Town line, Madbury might be forced to the same, and this would dramatically change the approach to Durham.

Chair Watt noted there had been discussion about this area.

Councilor Grant said it was not clear where things stood with the 5-6 OR districts designated in the Master Plan. He said permitted uses, performance standards, and dimensional requirements had not been decided yet.

Mr. Eyerman noted that there were, in what had been posted for public hearing, what he would call “interim land uses” and “interim dimensional requirements” that would apply to those OR areas on the map. He also noted that in accord with the Master Plan, the OR areas would require further sub-categorization, and corresponding permitted land uses and dimensional requirements. There was discussion about this. Mr. Roberts provided background information on what the thought process on this had been.

Councilor Grant noted the “interim” dimensional requirements seemed extremely “loose”.

Mr. Eyerman said that if Board members didn’t want to send the interim land uses and dimensional requirements for the OR zone as part of the Zoning Ordinance package going to the Town Council, they should be taken out.

Councilor Grant said the dimensional requirements for the OR zone had not been discussed, and he did not want forward something that had not been discussed.

There was discussion as to how to proceed. Mr. Eyerman provided background information, and noted a reason behind the generalized OR designation was concern that some of the area would be otherwise be carved up into residential subdivisions, and therefore lost to OR use before the non-residential district provisions were completed.

Chair Watt also noted there was a change to the configuration of some of the residential districts, which required a consolidation of the OR districts.

There was additional discussion on this, and the best way to proceed. Mr. Eyerman said the Table of Uses worked fairly well at present, but the tabular format used to present dimensional requirements was more problematic.

Mr. Eyerman pointed out that if the change was going to be made on the map, a new Zoning map needed to be created, with a new date on it, and the reference in the text needed to be changed to match the date on the map.

Councilor Grant MOVED to amend the date of the revised Zoning Map to January 23, 2004. The motion was SECONDED by Amanda Merrill, and PASSED 6-1, with Councilor Grant voting against it.

Neil Wylie MOVED to post the Zoning Ordinance, as amended, for Public Hearing on February 4, 2004. The motion was SECONDED by Richard Ozenich.

Annemarie Harris asked, concerning the dimensional requirements that Councilor Grant suggested might be deleted, whether this, and the fact that revisions would be made to those requirements, would be indicated to the Town Council when the revised Zoning Ordinance was forwarded to it.

Board members agreed this should be indicated for the Town Council.

The motion PASSED unanimously.

Neil Wylie MOVED to adjourn the meeting. The motion was SECONDED by Nick Isaak, and PASSED unanimously.

The meeting ADJOURNED at 9:45 PM.

Amanda Merrill, Secretary