

D-R-A-F-T

**DURHAM PLANNING BOARD
WEDNESDAY, JANUARY 5, 2005
TOWN COUNCIL CHAMBERS – DURHAM TOWN HALL
7:00 PM**

MEMBERS PRESENT: Chair Roberts, Amanda Merrill; Councilor Grant; Kevin Webb; Richard Kelley; Nick Isaak; Councilor Harris; Richard Ozenich

MEMBERS ABSENT: None

OTHERS PRESENT: Town Planner Jim Campbell; Planning Consultant Mark Eyerman

MINUTES PREPARED BY: Victoria Parmele

I. Call to Order

II. Approval of Agenda

Richard Ozenich MOVED to approve the Agenda as submitted. The motion was SECONDED By Nick Isaak, and PASSED unanimously.

III. Public Hearing on the Zoning Ordinance Revision - Non-residential zoning district provisions, definitions, table of uses, table of dimensional requirements, performance standards for light manufacturing, and lighting ordinance.

Town Planner Jim Campbell thanked everyone for coming to the first in a series of public hearings on the proposed revisions. He noted that in addition to the hearing itself, the Planning Board would convene to discuss housekeeping amendments the Board had been discussing since approval of residential sections of the Ordinance, much of them based on feedback from the Town Council.

He explained that on the following Wednesday, January 12th, there would be a public hearing on the proposed revisions to the Zoning Ordinance's overlay districts: shoreland, wetland, aquifer, historic district, flood hazard, and the personal wireless overlay.

He said a third public hearing, to be held on January 19th, would allow an open discussion on anything regarding the proposed revisions discussed on January 5th and 12th, plus the housekeeping issues if they were finalized in time for posting.

Mr. Campbell said members of the public could provide comments on the proposed revisions in writing, at the Town website, or at the Planning Office, also noting that the document itself could be downloaded at the Town website, or obtained at the Planning Office.

Richard Ozenich MOVED to open the Public Hearing. The motion was SECONDED by Nick Isaak, and PASSED unanimously.

Chair Roberts said he would like to read a letter from Roger Jaques, concerning the proposed Zoning changes for the new category of Coe's Corner.

Mr. Jaques said the High Quality Office space designated for this might be a bit ambitious for the current times. He noted that office space demand seemed to have been lagging in the Durham area, and said the business model that seemed to thrive in Durham was apartment rentals. He said that the entire downtown area over the years continued to rely on upper floor rental units in order to carry the buildings there, and justify their construction.

He said that prohibiting apartment and/or housing construction in the Coe's Corner area would disenfranchise the current land holders from this business model of apartment and basic unit rentals. He said in order to drive any desired office and business new construction activity with any certainty of success, the category of mixed use might be desirable or required, in order to satisfy lenders and investors.

He described favorable building characteristics of the Coe's Corner area, noting that a multi-unit complex such as a garden apartment, or business/apartment complex could be located in the wooded sections of the zone, and therefore screened by trees. He said the availability of Town water and sewer made that use viable, and also said this proposed use would not threaten the so-called gateway views of Durham.

Mr. Jaques requested that the area be zoned for Mixed Use (Office/retail down, Multiunit Residential up), subject to qualifications and conditions by the Planning Board. He said there was no reason not to permit it for the Coe's Corner area, if it was allowed for the professional office district, since the purposes of the two areas was similar in promoting office space in Durham.

Mr. Jaques also recommended that the category "Student Housing" be eliminated. He said he was not suggesting Student Housing for this land, but recognized the need for quality apartment complexes and accessible smaller business offices in Durham to serve a deserving UNH public of professors and graduate students, among others.

Mr. Jaques noted that a possible reason why demand for large office space was lagging in Durham was that UNH had partnered with NASA and other agencies to create a de-facto office park on Colovos Drive and other such development, instead of having the private sector participate. He said that if this trend continued, there might not be good reason to build strictly high quality office complexes in Durham.

Chair Roberts read a letter from **Janet Sanborn, 2 Hoyt Drive**, concerning an area on Mast Road that had been rezoned. Ms. Sanborn said this area had been in the RB district, and said there had never been an OR designation for the area. She said the proposed before and after comparisons were inaccurate, and said the proposed usage change would therefore be greater than if the area had previously carried an OR designation.

She said some of the proposed permitted and conditional uses therefore needed to be removed, in order for the residents and businesses to live in harmony. She provided details on uses that should not be allowed, and the reasons for this. Ms. Sanborn said there were other OR areas in Town waiting to be developed, and said the RB designation for the Mast Road area should be reinstated. Ms. Sanborn was present at the meeting, and later spoke before the Board on this issue.

Jim Jelmborg, Park Court, noted for the record that a colossal amount of effort had been put in by the Planning Board concerning the Zoning Rewrite process.

Walter Rous, Adams Point Road spoke about the downtown design standards, specifically the 30 ft height limitation, which he said posed a problem with modern building designs. He note a current design he was working on for the downtown area where this was the case. He said this height was not adequate for a 3-story building, and said it should be increased to 40 ft. He said he believed the three-story limitation was sufficient, and said perhaps nothing should be said about the height itself.

Mr. Webb said the concern was to not develop an “urban canyon” through Main Street, noting if buildings were too tall, they cut off the sun. He said he was more concerned about higher structures on the north side of the street.

Mr. Rous showed Board members a schematic of his proposed building, and said any space of any decent size on the ground needed an 8 ft ceiling.

Mr. Campbell noted he had discussed this issue with Mr. Rous, and had explained that with Planning Board approval, the height could go up to 50 ft., and not necessarily for 4 stories.

Mr. Rous said he didn’t see that the Ordinance provided flexibility on this.

Planning Consultant Mark Eyerman explained that the Ordinance said that on the south side, there could be a maximum of 3 stores, and on the north side, there could be a maximum of 4 stories. He said the building could be as tall as 50 ft with either.

Mr. Rous said that was good. He noted another issue was the maximum setback requirement. He agreed that an effort to maintain the building line was important, but said there were always exceptions, and said there should be allowance for this.

He showed a schematic from years back for a building that was never built, located near the Ballard House, an historic building in Durham. He noted that it was impossible to meet the existing 15 ft. setback requirements because of mature trees there, and the desire to maintain some existing green space. He said the design had been to allow for a sunny, café space. He said the regulations might be eliminating some wonderful designs like this, if they didn’t contain not enough flexibility.

Chair Roberts noted the Board had discussed this issue.

Councilor Harris said it seemed there should be a way to accommodate the kind of design Mr. Rous was speaking about. She also questioned why the area Mr. Rous had referred to was not included in the Historic District.

Chair Roberts asked Mr. Rous if he could provide the Board with copies of the designs he had referred to.

Jan Sanborn said she would like to emphasize that some of the things in MUDOR were very incompatible with residential life, and said there were other OR areas that were more appropriate. She also said the vast majority of the land there was owned by the University, so the potential tax benefits were not that good. She also noted concerns about the vulnerability of water resources in that area, and said this had to be looked at very carefully.

Mr. Isaak suggested that the Board should research the issue of the OR designation.

Mr. Campbell explained that the area was RB until May of 2004, and was changed at that time because of what the Master Plan had said. He said the Board was now further defining the OR.

Councilor Harris said part of the reason for this zoning change was to encourage the University to put student housing on the other side of campus, in order to cut down on student density and traffic, and impacts on the downtown area and neighborhoods.

Councilor Grant said Ms. Sanborn had raised some good points, but said the problem was the Board had talked about that area almost exclusively as being for large student apartment complexes. He said that only recently had the Board added in the elderly housing options, and said there could possibly be noise and odor conflicts, with elderly housing in the area. He said the Board needed to look at this area as though it might be student housing, but also might also be something else completely, and that there could be compatibility issues between residential and business uses.

Mr. Isaak said it seemed to be an odd designation - combining multi unit dwelling and office research.

Chair Roberts said the Board thought it was important to introduce mixed uses when possible, noting it was understood that isolating industrial/ commercial development without residential development wasn't as safe as when residential development was included. He said the Board was trying to introduce mixed uses when possible, but also was listening to what residents had to say, and said the key was to get the right mix.

Ms. Sanborn asked if perhaps the Ordinance could allow just the multi unit residential development, and not the OR part.

Chair Roberts said members of the Planning Board had different points of view on that idea, but said hers was certainly a valid point of view.

Mr. Kelley said the problem he had with this was that it was not clear what the University would be doing with this property in 20-40 years. He said a reason he felt the Office Research aspect should stay for that area was because of this uncertainty. He said it was hoped there would be public private partnerships located in the center of the University's western campus.

Maggie Moore, 3 Croghan Lane, thanked the Board for all their work, and said she would also submit a formal letter on her views. She explained that she lived in the middle of what was now to be the ORLI area, for over 30 years, and asked why the area had to be zoned for Light Industry.

Chair Roberts said the reason this area had been selected was that it was an area that would provide income to increase the tax base, where industrial activities would be shielded by trees.

Ms. Moore said there were residences out there, and said she wanted to represent them. She said there were real concerns about light industry. She noted that she was in favor of office research, and raising the tax base.

Chair Roberts noted that some communities in NH had rules concerning observance of hazards at the property line, as a way to allow light industry to coexist with residential neighborhoods

Ms. Moore asked if Board members had walked out there, and several Board members said they had done so.

Ms. Moore said she didn't see anything about noise regulations for this area, and noted that the air coolers at Goss droned all through the summer. She said this occurred on the back of Goss's building, but faced the front of her house. She asked if the regulations could be more specific in addressing this.

Mr. Campbell said the noise regulations were part of the Town code, but said there were some performance standards for light manufacturing that would address some of these issues.

Mr. Kelley noted Ms. Moore had spoken about the fact that the back of Goss's building faced the front of her residence.

Ms. Moore said there was noise from trucking day and night. She referred to Section 175-51.F. 2, on page 27, under Development Standard in the ORLI District. She said activities at the rear of Goss's building affected her property because it directly faced the back of the building.

Council Harris noted Section 175-51 F 4 referred to residential buffer.

Ms. Moore said she didn't know the science, but said the drone of noise could be heard all summer.

Chair Roberts said the company had to meet intermittent noise standards, and said neighbors could ask the Code Officer for enforcement on this if needed.

Mr. Campbell said the proposed performance standards for Light Manufacturing encouraged storage and trucking to be located on the side and rear of buildings.

Mr. Webb noted that Light Industrial was a conditional use, even in the OR district, so the Board was required to do a higher level of review. He said this allowed the Board to take a detailed look at proposed uses to insure there were minimal impacts.

Chair Roberts said as a member of public, Ms. Moore could be a part of the conditional use process, where it would be determined if the use would cause harm to surrounding properties.

Ms. Moore asked if review of the existing language was therefore not necessary.

Mr. Isaak said these issues was considered on a case-by-case basis, and said that through the public hearing process, they could be resolved.

Chair Roberts noted how possible negative impacts from the Hotel complex had received this kind of scrutiny.

Mr. Eyerman said he could not speak for the Board, but explained that following the public hearings on the previous set of amendments to the Zoning Ordinance, a list was prepared of various issues that had been raised by the public. He said the Board then went through this list and considered the comments, and said he envisioned the same process would occur this time.

Mr. Webb said there would be an additional public hearing on January 19th to consider all the issues raised at the two prior public hearings. He suggested that Ms. Moore should look through the Table of Uses, and determine if she was comfortable with what was permitted, and what was allowed by conditional use. He noted that none of the Board members actually lived in that zone, and were trying to determine what was appropriate there.

Town Councilor Jerry Needell, Bagdad Road noted that the bulk of the MUDOR area was owned by the University, and said the district seemed to have been carefully drawn that way. He said there were actually few properties that the revised Ordinance would have an impact on, because the Ordinance didn't apply to the University. He said having College Woods in the middle of it was aesthetically upsetting, but said clearly the University was encroaching all around that with office and research development. He asked whether MUDOR was actually a euphemism for a place to build private student housing.

Chair Roberts said that was correct. He noted the Board had talked about expanding this, but said it was determined it was better to allow for this kind of development more gradually, as the University expanded, so the public could be educated about it, and get used to it. He noted the Master Plan asked for a larger area than the Board had designated.

Councilor Needell said he was surprised the district was as large as it was.

Mr. Campbell said there was one other zone that allowed Multi-unit dwellings, the Profession Office district, but said it allowed them as adaptive reuse of an existing building, in the area of Madbury Road and Garrison Ave. He said this was in case several fraternity buildings became available, noting it was realized they probably wouldn't all turn into mixed commercial/residential uses.

Councilor Needell said the language didn't say student housing, but asked if this was in fact what was being talked about.

Mr. Campbell said that multi-unit workforce housing would fit there as well.

Councilor Needell asked about allowing duplexes only for senior housing in that area.

Chair Roberts said members of the public felt that this was as intensive a use as they would like in that area, and was why non-elderly housing wasn't extended out there.

Mr. Eyerman said there was a sense that many retirement communities being developed often included a mix of types of housing units, including duplexes - for example, Spruce Wood.

Councilor Needell asked if something like Fitts Farm would be permitted, and was told it would be.

Councilor Needell asked whether the design guidelines or the Zoning Ordinance were enforceable concerning the Durham Business Park.

Mr. Campbell said the Council had the trump card, because it wrote the contract. There was detailed discussion about this.

Councilor Needell asked why the Table of Uses was so restrictive for the Durham Business Park. He noted that libraries were not permitted, as an example of this.

Mr. Eyerman said there was intent to say, the uses should be tax paying, and to reflect the fact that the Master Planning talked about community and public facilities being located downtown. There was additional discussion on this.

Chair Roberts said the uses reflected a concern by the Board as to what the maximum use was that could be allowed there, that would not harm the environment.

Councilor Needell asked if athletic fields could be included in the open space area for the Business Park. He said the existing provisions were not clear, and there was discussion on this. The Board said it would look at this.

Councilor Needell said there appeared to be some terms in the draft of the Lighting Ordinance that were not defined, for example accent lighting. He also asked why only continual lighting had to be shielded, when non-continual lighting could be just as annoying to neighbors. There was discussion on this, and Mr. Campbell said they would take another look at it.

Councilor Needell noted that Section 175-144. I. of the Lighting Ordinance seemed to be requiring that all residential properties had to be lit, and there was discussion on this.

Chair Roberts said the wording could be change to read “Other Nonresidential Lighting”, which was the intent.

Ms. Moore said she wanted to state that Harris Graphics (Goss International) had been a good neighbor.

John Bubar, 42 Dover Road, said his property had been rezoned into Coe’s Corner and asked whether a residence single family home would now be an acceptable use in that zone.

Mr. Bubar received clarification that he was grandfathered for this use, so could still use his property as a singe family home, and could sell it for the same use. It was determined that his lot was nonconforming, in size, but Mr. Bubar was told that he was still grandfathered.

Mr. Bubar asked the Board to explain the logic of the change in the zone from residential to nonresidential.

Chair Roberts explained that the Master Plan addressed this, noting that it was available on the Town web site. He said the posted ordinance was an outcome of the Master Plan, plus public comments, plus good planning process.

Mr. Campbell described this process. He said after the Board had finished its hearings, it would make its recommendations to the Town Council. He said the Council would review this, and would also hold public hearings. He said when/if the Council adopted the Ordinance, there would be a finished document.

Mr. Bubar asked how a member of the public could follow the various iterations of the Zoning Ordinance.

Mr. Eyerman said a punch list document followed this process. He also noted that Sections 3.33 thru 3.36 of the Master Plan dealt with Coe's Corner

Beth Olshansky, Packers Falls Road, said the fact that there were so few comments was a real tribute to the Zoning Rewrite Committee. She thanked the Board for their work and noted she was not as well versed on the nonresidential piece of the Zoning Ordinance as she was on the Residential piece. She said she hoped the Board would be as sensitive to public comments on rezoned areas as it been when the Residential piece was being worked on.

She spoke about the definition of elderly housing, and said she said she had just been educated about the distinction between 55 and 62. She noted that many new elderly housing units were coming along, and said it seemed like something like Spruce Wood was originally intended to be real elderly housing, noting she was not sure if age 55 was really elderly. She said if the Town wanted to build neighborhoods that allowed children; it should be upfront about this.

Ms. Olshansky also noted that impact fees should be imposed as a way to address the tax burden.

Mr. Campbell said the Town was in the process of developing an Impact Fee Ordinance, and provided details on this. He said he was hopeful that before too long, possibly in February, the draft would be provided to the Council for discussion.

Councilor Grant noted a consultant with expertise in this area had already reviewed the draft, and had provided recommendations on it.

Ms. Merrill asked if the Town Attorney had responded to the Board's question concerning the definition of elderly housing.

Mr. Kelley noted the Board had asked for advice on whether it could prohibit children in developments for age 55 and older.

Chair Roberts said the Board had had differing opinions on this, and there was additional discussion on it. Members agreed this issue had not yet been clarified.

Charles Goss said he owned land in the ORLI area, on the other side of Route 155, and said he was thankful that designation of the area was OR, versus Rural. He said the objectives for that area were good, in conjunction with the restrictions that were included. He said he was present to ask whether the Beech Hill Road area in the long run was to be upgraded, as a potential link to Route 4, and also to ask what the long term plan for this area was.

Mr. Campbell explained that this was still up in the air, noting it was something the Economic Development Committee was looking at. He said the Capital Improvement Program said the possible upgrade of roads, water and sewer in the area should be looked at, to show prospective businesses that the Town was interested in developing the area. He noted the Committee had sent letters to abutters, and was in the process of collecting comments, but said nothing was written in stone yet. Mr. Campbell also noted that since the late 1960's there had been discussion about the Northern connector coming down to Main Street. He said the State owned the right of way, but said whether an interchange was feasible was not clear.

Mr. Goss thanked the Board for considering his request of six months ago, and said he hoped he could be more active in this process.

Chair Roberts asked Board members if they had any further comments before the public hearing was closed.

Councilor Harris said that the Master Plan said that Coe's Corner should include Young Drive, and asked why it was not included.

Mr. Campbell explained that this had been discussed, and had been eliminated, but said he would put it on the list to look at the idea again.

Ms. Harris suggested it would be appropriate to allow adaptive reuse of properties along Madbury Road, near Bagdad Road before Davis Court, heading out toward Route 4. She said the four existing houses there would make nice conversions to some kind of professional offices, if this were allowed.

Councilor GRANT MOVED to continue the Public Hearing until January 19th, 2004. The motion was SECONDED by Amanda Merrill, and PASSED unanimously.

A 10-minute recess was declared until 8:40 PM.

Planning Consultant Mark Eyerman provided background on Housekeeping Amendments that had been made, in part based on the Board's comments to Council questions and comments, as well as other considerations. He noted two documents: DRAFT Memo on Miscellaneous Amendments; and "Proposed Amendments to Chapter 175 Zoning to Address Questions with Prior Amendments"

Mr. Eyerman said there were two loose ends still to be clarified, one regarding contiguous area.

Chair Roberts said he has a proposal for minimum contiguous area, under 175-55 E, and also said he had a proposed modification to 175-55-F 4,6 and 10, concerning calculation of usable area. He said he believed these provisions were far-reaching, also noting that some people might take exception to them. But he said the Board should discuss them.

Mr. Eyerman said the other loose end concerned accessory sheds, and how close they should be permitted to be to property lines. He said there had been a request for clarification on this from the ZBA.

Mr. Eyerman next went through the following proposed amendments, and there was discussion about them:

1. 175-7: A change in the definition of Community Center, in response to Council questions; and a change in the definition of Usable area, - limiting it to apply only to conservation subdivisions.
2. 175-7: Definitional changes for government facility, active recreation, and passive recreation, developed in response to Council feedback
3. Conditional use, eliminating benefit as a factor – he noted elimination of wording on benefit in one part of 175-21, but not the last sentence, which appeared to be contradictory. There was detailed discussion about this.

Mr. Campbell recommended that the sentence should say that the Conditional Use "is compliant with the approval criteria in 175-23".

Chair Roberts noted a possible situation where a proposal was contrary to the Master Plan, and not to the benefit of the community, and asked if the approval criteria gave the

Board the ability to stand up to this. He asked if there was any language that could say the Board could consider whether a project was a detriment to the community.

Mr. Campbell said the criteria, if answered in the affirmative, meant the project was of benefit to the Town.

Chair Roberts suggested there should be another criterion that asked whether the project furthered the objectives of the Ordinance and the Master Plan.

Mr. Campbell said 175-21 A was intended to address this, and related to the criteria under 175-23.

Mr. Kelley said Chair Roberts' idea had merit, but asked what happened if a great plan came in as a conditional use and the Board liked it, but it didn't fit with the Master Plan.

Chair Roberts said in a situation like this, the Master Plan should be changed to address this.

Mr. Eyerman said if something was not consistent with the Master Plan, but the Board thought it was a great plan, then the correct response was to change the Master Plan. He said if the Board didn't do that, it ran the risk of putting that action in legal jeopardy if someone challenged it.

Mr. Isaak asked if the Master Plan could be changed incrementally, and was told it could be. There was discussion on this.

Councilor Harris asked if would be spot zoning if a project wasn't in compliance with a designated zone.

Mr. Eyerman said there was legal spot zoning, and non-legal spot zoning. He noted that the Durham Business Park, where there was one commercial property in a residential coastal zone could be called spot zoning, but said this was legal, because it was part of, and consistent with a plan for the Town. But he said if someone across the street wanted to develop a business park, and the area was rezoned without doing something to the Master Plan, this would probably not be legally sustainable.

Mr. Webb asked if the Board should be changing the Master Plan to reflect zoning changes that had been made, and there was discussion about this.

Mr. Kelley asked whether, if the Board saw that a particular use in a particular zone was a conditional use, if that automatically meant it was outside of the Master Plan. Board members said no, and Mr. Kelley said he therefore would probably not be in support of adding a criterion in the Ordinance that referred to the Master Plan. There was discussion about this.

4. Amend the introduction of Section 175-23. D. Conditions of Approval There was no discussion on this.

5. Amend Section 175-53, Table of Uses by changing “Excavation and/or mining” from a prohibited to a conditional use in the Rural District.

Mr. Kelley said, regarding #5 on Excavation, that he would like to call for a vote on whether to make this amendment.

There was discussion about the proposed amendment. Mr. Eyerman said if the intent was to comply with State law, without providing substantial opportunities for this use, he cautioned the Board to at least provide a reasonable opportunity for it.

Mr. Webb noted that most of the minable resources in Town were located in the Aquifer Protection District, where mining was prohibited.

There was discussion about possibly allowing this use in the MUDOR district.

Mr. Kelley MOVED to approve amending Section 175-53. Table of Land Uses, by changing “Excavation and/or mining” from a prohibited to a conditional use in the Rural District. Kevin Webb SECONDED the motion.

Mr. Kelley said he would like the Board to consider the ramifications of allowing it in one of the Town’s biggest districts, where it potentially could happen.

Mr. Isaak said it would only be a conditional use, and Mr. Webb noted the limited amount of minable resources, and significant number of wetlands in the Rural District.

The motion PASSED 6-1, with Mr. Kelley voting against it.

6. A proposed revision to the dimensional table, creating two density provisions, a minimum lot area per unit for all residential uses, and minimum usable area per unit for conservation subdivisions: second and third lines of the table should read “Minimum Lot Area Per Dwelling Unit” (for minor subdivisions); and “Minimum Usable Area Per Dwelling Unit in a Conservation Subdivision”.

There was discussion that the table should display more clearly the standards that applied for Conservation subdivisions.

Mr. Webb noted there were minimal usable areas for most of the districts, but residential subdivisions weren’t allowed in most of the districts.

Mr. Eyerman explained that this information was put in because elderly housing was allowed.

Mr. Campbell said that when the Board had originally talked about Section 175-107, Conservation Subdivisions, concerning exempt subdivisions, it was noted that there should perhaps be wording that said if the subdivision was exempt, the usable area definition didn’t apply. He said a cross reference to this section would be useful to include in the Table.

7. Amend Section 175-55. E. concerning Minimum contiguous usable area. Chair Roberts said he had developed the proposed amendment based on researching other ordinances in other states, and said what he proposed would serve the purpose of what Councilor Needell had recommended. The wording was as follows: “At least 5% of each newly created lot in a conservation subdivision that is located in the RA, RB RC or Rural Districts shall be contiguous Usable Area with a minimum dimension of 50 feet.” There was discussion about this. Mr. Webb said this made sense instead of trying to force a rectangle of usable area onto a lot.

Chair Roberts also asked if the 50% rule for usable area was fair, for the Rural and RC districts. There was discussion about this. Mr. Kelley suggested that the Board look at the proposed amendments to Section 175-55. F as part of considering Chair Roberts’ question.

8. Amendments to Section 175-55. F. Calculation of usable area. Chair Roberts outlined the proposed changes in the criteria for calculation of usable area.

Mr. Eyerman said under #1, he had suggested that they eliminate the somewhat poorly drained soil category, since these were not non-developable soils. He said to disqualify them completely was over-reaching.

He also said that under #3, he had suggested elimination of shallow depth to bedrock and variable depth to bedrock categories, if onsite sewage disposal was used. He noted other proposed amendments to this section, including not using the category “50% of the area with moderate depth to ledge soils, as identified on the HISS”, and not using “50% of the area with a slope between 15 and 24%, as identified on the HISS”.

Mr. Eyerman said #10 was proposed to be changed to say “any otherwise usable area that is fragmented or isolated by unsuitable areas such that the contiguous area of usable land is less than five thousand square feet, or is narrower than 50 feet”.

Chair Roberts referred back to Section 175-55.E., and asked what the Board thought about the requirement that there be at least 50% contiguous area, in the revised definition. He asked if, for example, they should let someone build a house in the Rural zone on a site that was 60% poorly drained, but had wonderful soils on the rest of the property.

Mr. Eyerman said with the rectangle removed, in a conservation subdivision, this provision would not have a major impact. But he said for non-conservation subdivisions, this could be an onerous provision in the Rural and RC districts. But he said this was the counterbalance to applying the usable area only to conservation subdivisions, where otherwise one potentially created a substantial density bonus for doing a 2-3 lot subdivision that didn’t fall under the conservation subdivision.

There was detailed discussion about this.

The Board agreed that the Board should just take “conventional” out of the wording under 175-55. E., because contiguous usable area didn’t apply to a conventional subdivision.

9. Amendment to Section 175-56. A. Lot area, concerning density for elderly residential uses. Mr. Eyerman noted this change resulted from previous discussion by the Board.
10. Amendment Section 175-19.C. Accessory Apartments and Dwelling Units “ If the occupancy of the single family dwelling including the integral accessory apartment or accessory dwelling unit becomes an unrelated household, the total occupancy is limited to three unrelated persons (eliminate “for the entire occupancy”). There was no discussion on this.
11. Amendment to Section 175-09.G. concerning Hotels and Motels “should read as follows: “No occupant may stay in a hotel or motel as a guest for more than twenty one days in any forty five day period.” There was no discussion on this.
12. Accessory Shed –Mr. Campbell read through a proposed definition/performance standard for this. There was detailed discussion on this, including whether a setback from the property line should be required for accessory sheds.

Mr. Eyerman said he and Mr. Campbell could develop a definition for accessory shed, along with some standards for these sheds. He said these could be commented on at the public hearing on January 19th.

Mr. Eyerman said the amendments agreed upon that evening would be cleaned up, as discussed, and submitted for January 19th.

Mr. Campbell spoke about the issue of including provisions on alternative septic systems in the septic regulations. He noted that this had been discussed before, but hadn’t made the Board’s punch list.

The Board decided it was too close to the deadline to deal with this particular issue.

Councilor Grant MOVED to adjourn the meeting. The motion was SECONDED by Kevin Webb, and PASSED unanimously.

Meeting Adjourned at 10:00 pm

Victoria Parmele, Minutes taker